

**THE POLICY AND LEGAL FRAMEWORK FOR SUSTAINABLE FOREIGN DIRECT INVESTMENT
IN NAMIBIA**

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ABSTRACT

By use of a qualitative research approach, this study sought to discuss the various key pieces of legislation that impact on foreign direct investments (FDI), and their sustainability in Namibia. The study found that current legislation is relatively adequate in attracting FDI into the country and allowing it to contribute sustainably to national development. However, the Namibia Investment Promotion Act (Act No. 9 of 2016), the Export Processing Zones Act (Act No. 9 of 1995) as amended, and the Infant Industry Protection Act were singled out and identified as being flawed, particularly with reference to maximizing the benefits for Namibia and allowing for sustainable FDI contribution to national development. The study recommends the review of these laws so as to ensure that it encourages investments that are in line with the sustainable socio-economic development priorities of the country as well as the need to guarantee repatriation of profits or capital from Namibia as in its current form, serves as a disincentive.

Keywords: Policy, Legal Framework, Sustainable Foreign Direct Investment, Sustainable Development; Namibia.

INTRODUCTION

The role of policies in attracting foreign direct investment (FDI) has over the years received renowned attention among the majority of state governments around the world, particularly those of developing countries. The result here-of is that governments in developing countries have now engaged in the continuous benchmarking of their policies with the intention of developing them into those characterised by best-practice policies for attracting FDI that is sustainable. A study by Alfaro and Chauvin (2018) indicates that recent trends in FDI have led to a proliferation of findings that emphasise that FDI may provide progressive effects such as market access, technology, finance and skills. In the same vein, FDI may also provide harmful consequences. It is for this reason that an increased quantity of FDI would not be singularly adequate for economic growth and reducing poverty. In lieu of the above, it is worth noting that the progressive/positive effects that may be derived from FDI is not automatic, but rather greatly depends on the policies host countries have in place, among other factors. Whereas some countries have prioritised the volume of FDI inflows, a paradigm shift towards the quality of FDI has been observed in the faster emerging economies such as Brazil, Russia, India, China and South Africa (BRICS). Contemporary literature suggests that the term “quality”, in the context of FDI, denotes to high-value added FDI that brings with it positive spill-overs and linkages to the host domestic economy (Farole & Winkler, 2014). While this provides developmental advantages to the host countries, they need to continuously engage in efforts that encourage foreign investors to branch into strategic independents that possess the prospects for high benefit returns for host countries.

In the history of development economics, policies that harness and promote FDI have been thought of as a key factor in propelling development in general. While this remains, there is a growing body of literature that suggests the greatest benefit FDI can offer is the development of local capabilities (Gerschewski, 2013 & Kurtishi-Kastrati, 2013). Empirical evidence provided in a study by Gerschewski (2013) suggests that the improvement of local capabilities is fundamental in benefiting from FDI. More significantly, there needs to be an increased drive towards the establishment of linkages among local business suppliers and foreign investors. As Kurtishi-Kastrati (2013) puts it, this may particularly aid in the development of local enterprises, thereby allowing them to expand their operations and simultaneously employ more locals. Emanating from the above, it becomes obvious that governments who wish to use FDI as a leeway to realising its development goals and objectives need to formulate and structure their policies in ways that will garner the attraction of FDI, upgrade existing FDI and encourage linkages between foreign multinationals and local enterprises. Formulating FDI attraction policies that speak to the developmental needs of the host country plays a fundamental role in the developmental direction the host country takes.

The Namibian government has given great importance to the role FDI can play in the development of the country. This is reflected in various key laws, policies and strategies such as: the Constitution of the Republic of Namibia, Vision 2030, the National Development Plans (NDP), the Harambee Prosperity Plan (HPP), the Namibia Investment Promotion (NIP) Act, the Export Processing Zone (EPZ) Act, Infant Industry Protection (IIP), Namibia’s Industrial Policy, the Growth at Home Strategy, the Labour Act, the National Environmental Health Policy. As reflected in literature, these have to some extent highlighted and incorporated the role of FDI in their execution and achievement. However, despite having what appears to be a good legal foundation for FDIs, the country has faced a number of challenges in its consolidation and drive towards the sustainable development of the country. This dilemma brought into relief the issue of FDI sustainability as crucial to the developmental aspirations of the country.

In light of the various mentioned legislations and policies, it is worth noting that in Namibia, these legislations are often formulated and realised through a system of representative democracy. Representative democracy is a form of democracy established on the principle of elected persons that represent a group of people and take policy decisions on their behalf, after consultations (in some cases) (Mattila, 2017). This is in contrast to a direct democracy, where Vladimir, Stéphane, and Zachary (2017) state that every member of a community, constituency, local authority, regional council or country directly participates in the public policy decision making process. Studies in comparative contemporary world politics suggest that almost all modern Western-style democracies constitute different forms of representative democracies (Mattila, 2017 & Schmidt, 2002). For example, the United Kingdom is a constitutional monarchy, France is a unitary state, and the United States is a federal republic (Loeper, 2017). Prominent writer on democracies, Albert (2010), states that representative democracies comprises of both parliamentary and the presidential systems of government. These are often manifested through a lower chamber/upper house such as the House of Commons of the United Kingdom, Lok Sabha of India and the National Council in Namibia. Proponent political theorists of democracies have described this form of democracy as polyarchy, where the power to take decisions lays in in the hands of the representatives who are elected by the masses (Dahl, 2005 & Houston, 2001).

Deducing from the above, the government of Namibia is structured within a framework of a semi-presidential representative democratic republic. This means that the President of Namibia is both head of state and head of government. Additionally, a multi-party system has been adopted where numerous political parties compete for seats in both the national council (upper chamber) and the national assembly (lower chamber) of Namibia's bicameral parliament. This is achieved based on a proportional representation basis. Executive power is exercised by both the President and the Government. Legislative power is vested in both the government and the two chambers of parliament indicated above. The national council recommends to the national assembly changes required to subordinate laws that emanate from the law making process in the national assembly (Hishoono, et al., 2011). This is done to ensure laws/policies represent the actual needs of the various regions and constituencies around the country, where these members (councilors) of the national council hail from.

Writers such as Paradza, Mokwena and Richards (2010) have come to refer to regional councilors as the actual representatives of the masses, and ensure that the needs and aspirations of the people is included in laws. It is through this same process that all laws pertaining to FDI are passed. This is most important in ensuring that the country aims at attracting FDI that would best aid government achieve its goals and objectives. For instance, high unemployment in a country may prompt the government to pass a law that grants certain privileges to manufacturing, mining, retail and fishing FDIs (These have the highest prospects for providing the most employment opportunities) as incentives to entice them for investment. This is similar to those in the EPZ Act (Act No. 9 of 1995) in Namibia. However, this may only be achieved through the continuous consultations between councilors (members of the national council) and the constituencies, who then, may make incremental changes to laws to address an ever changing policy operational environment. Coglianese & D'Ambrosio (2008) lament that the incremental approach to policy making is most beneficial in making sure governments keep up to date with current challenges affecting its people, and are able to adopt and have laws that relate to the realities on the ground.

In addition to making sure the wishes of the electorate is communicated to members of the parliament, theorists such as Burke (1774) believe that representatives should be able to use their own decree while executing their duties through the powers

vested in them. This should be the case even if the views of the representative does not reflect those of the majority voters, but such a decision would be in the best interests of the voters, considering all alternatives. Hence, Burke (1774, p. 446) indicates that:

“...it ought to be the happiness and glory of a representative to live in the strictest union, the closest correspondence, and the most unreserved communication with his constituents. Their wishes ought to have great weight with him; their opinion, high respect; their business, unremitting attention. It is his duty to sacrifice his repose, his pleasures, his satisfactions, to theirs; and above all, ever, and in all cases, to prefer their interest to his own. But his unbiased opinion, his mature judgment, his enlightened conscience, he ought not to sacrifice to you, to any man, or to any set of men living. These he does not derive from your pleasure; no, nor from the law and the constitution. They are a trust from Providence, for the abuse of which he is deeply answerable. Your representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion.”

However, be as it may, the ability of a representative to fully execute their duties on the premise of the above quote by Burke (1774), is largely, among others, dependent on the literacy level. Dreher et al. (2009) states that low to no literacy among representatives especially in African states has been a major challenge that has confronted the policy making process. Political representatives need to be literate enough to have an apt understanding of socio-economic and political issues. This is particularly important when it comes to laws/policies that are of a technical nature, and that are naturally linked to many other local, regional, national and international laws i.e. laws on FDI and sustainable development.

Namibia's twenty-nine years of independence offers plenty indication that FDI has served as an essential component in the Namibian economic success story. This is witnessed in sectors such as manufacturing, mining, retail, banking and fishing, wherein FDI has played a vital role. Since independence, the establishment of FDIs in Namibia have brought varying degrees of advantages and disadvantages for the nation and in particular to its development agenda (Marenga, 2017). The ambiguous legislative framework in Namibia and the consequences it has on the quality of FDI inflows are an important, but understudied, cause for concern, hence an urgent need for an assessment of the current key laws and policies that govern and garner sustainable FDI in Namibia. Furthermore, an exposition on FDI laws and policies, particularly in the Namibian context has attracted very little attention from the scholarly community. This paper intends to fill this scholarly gap by specifically addressing the following issues: an exposition of the various key pieces of legislation involving FDI in Namibia, with an aim to identify weaknesses and shortcomings thereof; provide recommendations on how these shortcomings can be addressed are provided, especially in the advent of the drive towards sustainable FDI and its perceived benefits for host country development as emphasised by the United Nations. Furthermore, the above issues have been presented and guided by the following research question: Does the Namibian legislations on FDI provide the regulatory framework to adequately address the sustainability of FDI in Namibia? In the section that follows, this paper presents two influential theoretical models with the attempt of providing a theoretical understanding and grounding for this study.

THEORETICAL MODEL

In an effort to lend scope and a theoretical understanding of how public policies/laws emerge, it is necessary that a succinct understanding of the governance structure in Namibia is provided, and how that forms the parameters under which sustainable legislation is passed. As indicated elsewhere, the Namibian governance structure is based on the representative democracy model. It is on these grounds that policies and laws are often tabled and passed in parliament for deliberations as a result of community engagement with their respective constituency/regional council representatives. This allows for a system of continuous consultations between councilors and their constituents on issues affecting the community. Essentially, the councilor should remain abreast on various community challenges and would accordingly take policy action to arrest and mitigate the undesired realities.

Stemming from the above, this study draws on two theoretical models. These are: Incremental Model and Institutional Model. As Cloete, Wissink and de Coning (2006) indicate, theories are methodical, consistent and provide an unswerving description and expectation of relationships between definite variables constructed on several conceptions. Schofield and Sausman (2004) assert that there is a renewed need for superior theories whose influence on the public policy process should be studied. The implication hereof is the need to particularly draw a direct link between the public policy making process and how that has a bearing on the policy outcomes/end result. While this remains, Robichau and Lynn (2009) avow that public policy theories primarily aim to draw a cause-effect link between the following three components: public policy making, its implementation and its consequences. Ultimately, public policy theories undeniably have an impact on particularly the public policy design, and how that appraises the implementation phase. Furthermore, theories would also have a bearing on the implementation approach, be it top-down, bottom-up or a hybrid of both.

Public policy theories are said to best aid in providing a description on the processes of public policy making and implementation. It is for this reason that theories often focus on and propose a framework that provide detailed conventions that serve as a critical requisite for public policy analysts to diagnose a trend, illuminate its developments and forecast results (Hill & Hupe, 2009). Conversely, Howlett and Ramesh (2003) contend that theories are not perfect, and are distinctly flawed. The denotation from this is that apiece theory is in possession of its own merits and demerits and henceforth the public policy making process cannot be best described by one single theoretical model. It is for the above lamented justifications that the current study has adopted the use of two theoretical models. The combination of the incremental and institutional models provide a useful account on how policies/laws are formulated, and most notably, how such processes may have an impact on the policy outcomes. These theoretical models are best suited to inform and guide this study due to their primary assumptions as demonstrated here forth.

Incremental Model

Incrementalism is a model of public policy making that has been coined by American Philosopher Charles Lindblom. He states that lucid decision-making is difficult for most matters as there is often a multitude of disparity over objectives coupled by insufficient facts and evidence (Lindblom, 1958). As a result, policies are formulated through a diverse approach that is based on the principles of partisan and reciprocal modification. This is achieved when various stakeholders come together and consider various policy options that would be incremental to the existing status quo. Through such a process, substantial

changes to a policy may only be observed through the aggregation of small incremental changes, a process Lindblom has come to refer to as seriality (Lindblom, 1958). The Incremental Model of public policy making laments that existing government laws/policies continue to be implemented. However, room is made for incidental changes (often minor) with incremental implementations (Cloete, Wissink, & de Coning, 2006). Furthermore, various protagonists have advocated for this model and have offered the following justifications for their support, these are:

- public policy change that is incremental is often achieved quicker than full/complete change, thereby allowing the policy problem to be addressed sooner;
- the prospects for conflict is significantly lower compared to full-out radical changes; and
- incremental revision underwrites to the re-characterisation of public policy on an ongoing basis (Cloete, Wissink, & de Coning, 2006). Deducing from this, a reactive/preventative policy change may be effected to deter/foster a situation that may decrease unemployment.

In this context, the concept increment implies addition, meaning a process that makes additions to what already exists (policy), as opposed to a complete change/alteration. However, this theory has been critically assessed and found to only seek immediate problems and short term solutions. Policy solutions are made on an incremental basis (as problem arises) and does not seek to root out core problem(s), which often ultimately would undermine the incremental changes and have a bearing on the policy output (Cloete, Wissink, & de Coning, 2006). Deducing from this, a reactive/preventative policy change may be effected to deter/foster a situation that may decrease unemployment rates or increase foreign currency reserves through FDI.

Institutional Model

The Institutional Model of public policy making recognizes that public sector institutions play a fundamental role in the public policy making process (Gumede, 2008). By virtue of this, public institutions exert great influence on the formulation and implementation of FDI laws and policies. Inherently, they influence public policies and their implementation. Reinforcing the above, Fox (2007) asserts that public policies arise and are implemented through the structures of public institutions. This forms the edifice upon which the Institutional model is based and illustrates the inseparability of public policy to the Institutional model. Furthermore, one can also construe that that both government and non-governmental institutions have a bearing on the formulation and implementation of public policies. Deducing from the above, one could conclude that the institutional model persists to be a zenith upon which the public policy making process is embedded and develops. As a critic of the institutional model, Malik (2016) argues that a thorough investigations and studies among institutions within developing countries often find that there is an overlap of duties between numerous organisations/institutions. The implication hereof is that duplication occurs and creates a wastage of resources that could have been channeled to other equal priorities. This is especially the case where you have more than one policy formulation and implementation institutions/departments, as is the case on FDI in Namibia. The above theoretical assumptions will be compared with the case study results to delineate the differences and similarities.

A major corner stone upon which any country ensures the promotion of FDI is a sound legislative framework that reflects the socio-economic and political realities on the ground. It is at this juncture that it would be useful to draw attention on the best-

practice policy, especially with regard to the type of policies that warrants excelled emphasis, depending on prevailing conditions. This is achieved in the section here-below.

PROMOTING SUSTAINABLE FDI THROUGH POLICY DEVELOPMENT

As alluded to earlier, the determination of FDI promotion policy types is largely pegged against the varying socio-economic and political landscape that concerned countries are confronted with. This begs the following question as put forth by te Velde (2001, p. 12):

“do countries at different stages in their development need different type of policies?; do they need to transfer resources to promote inward FDI or should they improve economic fundamentals first?”.

Addressing the above question by te Velde (2001, p. 12) would require an appraisal of a country’s development challenges and priorities. Through this appraisal, a government’s development strategy and objectives should be well-defined. It is from this definition that a decision would be taken to ascertain whether the use of FDI is the best alternative that can aid a government achieve its development goals and objectives. Most pertinently, there needs to be a determination on the type of FDI that would best meet these goals. Government promotion strategies can therefore be effectively garnered towards identified FDI types based on sector(s) (i.e. manufacturing, mining, retail, banking and fishing FDI) to sustainably address high unemployment and low skills transfer). Hence, contingent on existing socio-economic demographics (local capabilities; presence of production factors such as labour, natural resources and capital; size of host country economy, etc) and dogmata concerning the extent of state interference, FDI policies may be encapsulated in the wider national sustainable development strategies. It is worth noting that pursuing FDI is not a strategy in itself, nor is the boosting of benefits from FDI as such. The defining factor here is the ability of a country to make certain that the use of FDI as part of its development strategy is more sustainable in comparison with following a different strategy that does not involve the use of FDI at all or with FDI to a lesser extent. As the World Bank (2017) notes, once a country is pursuing the route of FDI as part of its development strategy, there is an array of policy choices and approaches that may increase the probabilities of host country in maximising benefits and minimising costs.

Promoting FDI with the intention of propelling sustainable development to greater heights remains a priority for most developing states, especially those in Africa. Over recent years, there has been a notable observation on a new cohort of sustainable FDI policies that have come to the fore. These often target a wider and have a more elaborate sustainable developmental agenda, while simultaneously creating a favourable investment environment. The United Nations Conference on Trade and Development (UNCTAD) (2015) brought forth the concept of “new generation investment policies” that have prioritised sustainable development that is characterised by an inclusive growth approach as a benefit from FDI. These policies address specific challenges at national government level, while incorporating government development goals and objectives in FDI promotion related policies (UNCTAD, 2015).

UNCTAD’s Investment Policy Framework comprises of fundamental principles for FDI policy formulation that serve as a guiding tool. More specifically, these are:

- (i) Guidelines for national investment policies;

- (ii) Guidance for the design and use of International Investment Agreements (IIAs); and
- (iii) An action menu for the promotion of investment in sectors related to the sustainable development goals (UNCTAD, 2015).

From the above, it becomes clear that UNCTAD's Investment Policy Framework aims to serve as a point of reference for policymakers in formulating, negotiating and reviewing national investment policies. It is also useful in designing concrete policy initiatives to promote investment in priority sectors for sustainable development. A report by the UNCTAD (2015) states that the framework provides a common language for discussion and cooperation at national and international levels.

Namibia, in recasting its FDI policies to align them with this new approach to FDI, has made significant strides in attracting FDI. Admittedly, the country faces various challenges as will be outlined elsewhere. Despite these challenges, we have witnessed a steady inflow of FDI to Namibia, as the Bank of Namibia (2018) illustrates, direct investment inflows into Namibia in terms of the various sectors recorded a stagnant trend in 2017 and 2018 respectively. Yearly, the various sectors scored as follows in terms of dominance: financial intermediation with a share of 45.3%, mining and quarrying with 37.5% and manufacturing with 7.7%. By and large, this has been attributed by Bikalamesa (2016) to the favourable investment climate and a good legal framework for foreign investment. Being that this paper draws focus on the policy and legal framework for FDI in Namibia, the section below provides an overview on the investment climate within the country.

INVESTMENT CLIMATE IN NAMIBIA

According to Bikalamesa (2016), Namibia is a stable, democratic country, and its government is committed to stimulating economic growth and employment through foreign investment. The Ministry of Industrialisation, Trade and SME Development is the governmental authority primarily responsible for carrying out the provisions of the NIP Act (Act No. 9 of 2016). The government is increasingly emphasising the need for investors to sustainably partner with Namibian-owned companies and/or have a majority of local employees in order to operate in the country (Bikalamesa, 2016). The need to have majority local employees to operate in the country becomes a problem if the investment requires skilled labour, which according to Flatters and Elago (2008) and the U.S. Department of State (2015), is of limited access in Namibia.

The U.S. Department of State (2015) observes that there are large amount of Chinese foreign investments in Namibia, particularly in the uranium mining sector. Australia is another important investor in the uranium mining sector. South Africa has considerable investments in the diamond mining and banking sectors while the United Kingdom has investment in zinc and copper mines. Foreign investors from Brazil, Spain, the United Kingdom, Netherlands, the U.S. and other countries have expressed increased interest in oil exploration off the Namibian coast. European and Chinese companies have invested in the fisheries sector.

The U.S. Department of State (2015) adds that Namibia has a relatively small domestic market, high transport costs, high energy prices, and limited access to skilled labour. These disadvantages are offset by the main factors facilitating Namibia's inward FDI: political stability; a favorable macroeconomic environment; an independent judicial system; protection of property and contractual rights; good quality infrastructure; and easy access to South Africa. Namibia also has access to the Southern

African Customs Union (SACU); the Southern African Development Community's (SADC) Free Trade Area; and markets in Europe. The investment climate is generally positive (U.S. Department of State, 2015). The positive outlook on Namibia's investment climate above could be attributed to the legal and policy framework on FDI. Insight into this is provided by the section below that provides an overview on the policy and legal framework relating to FDI in Namibia.

LEGISLATIVE FRAMEWORK OF FDI IN NAMIBIA

The strategic direction together with the policy and legislative environment of a country have a profound impact on the investment climate and set the stage for foreign participation in the national economy. The strategy, legislation and policies impacting on foreign investment are important for foreign investors. It fundamentally affects the sustainability of “what”, “who”, and “how” of foreign investments. The nature of the regulatory framework affects the capacity of the country to attract FDI and to create sustainable agreements. The sustainability of FDI in any country is determined by laws pertaining to employment, labour, corporate governance, environment, social, economic and politics. These laws and policies should be coordinated to form a coherent whole and prevent any dispute that might occur and to ensure maximum benefit for all parties. Below is an overview of the legal environment in Namibia arising out of key legislations that impact on the sustainability of FDI.

The Constitution of Namibia (1990)

There are specific clauses in Namibia's Constitution that allows for foreign investment. Article 98 (1) of the Constitution outlines the principles of economic order and states that the economic order of Namibia shall be based on a mixed economy with the objectives of securing economic growth and prosperity for all Namibians (Republic of Namibia, 1990). The above clearly permits the involvement of the private sector, which includes FDI.

Additionally, Article 99 of the Constitution specifically proclaims that foreign investments shall be encouraged within Namibia subject to the provisions of an Investment Code to be adopted by Parliament. The adoption of the Foreign Investment Act (Act No. 24 of 1993) at the time was rather silent on the need for investments that are sustainable vis-à-vis the governments' development agenda. However, the amended Foreign Investment Act (Act No. 24 of 1993) has recently been replaced by the NIP Act (Act No. 9 of 2016) and now reflects the issues of sustainability as it guides the entrance, operations and divestment of foreign investors from the country as guided by strategic developmental path set by documents such as Vision 2030, among others.

Vision 2030

Namibia's Vision 2030 presents a long-term plan to improve the general welfare of the Namibian society to the level of their counterparts in the developed world. Vision 2030 is a framework that defines the current situation and indicates where Namibia wants to be in the year 2030 and how to get there. Vision 2030 is designed as a broad, unifying vision which serves the country's five-year development plans from NDP1 through to NDP7 (Republic of Namibia, 2004).

Chapter 6 of the Vision 2030 document speaks to the various enablers of development. The encouragement of more FDI has been identified as a strategy to achieving increased Development Co-operation (Republic of Namibia, 2004). From the above

mentioned, it is clear that FDIs have been acknowledged as a key strategy in achieving increased development cooperation as part of enabling environment creators towards increased and sustained development as stipulated in Vision 2030. Vision 2030 therefore allows and gives rise to a number of FDI opportunities. As referred to earlier, Vision 2030 gave birth to 5 year development plans. Although Vision 2030 had from the onset not placed greater emphasis on the need for sustainable FDI in relation to its goals and objectives, this was rectified by the various NDPs. We are currently in NDP5 (2017/18 – 2021/22). Insight into NDPs is provided below.

National Development Plans

After independence in 1990, the newly democratic elected government acknowledged the importance of planning as an integral part of economic and social development. In the first five years after independence, the government adopted a Transitional Development Plan (TDP). In 1995, the first formal National Development Plan (NDP) was implemented and known as NDP1. The NDP 1 focused on four goals, namely: boosting and sustaining economic growth; creating employment; reducing inequalities in income distribution; and reducing poverty.

Twelve years later in 2007/8, NDP3 came into effect. In this NDP, the goals were 21. Of this 21 goals, four were the same as NDP 1 and NDP2, namely; income equality; high economic growth; increased employment; and the eradication of poverty. The main aim of NDP4 was to focus on the execution of development strategies as well as monitoring and evaluation of development activities. Furthermore, NDP4 was characterised by fewer and more carefully selected goals and targets. The three overarching goals were: to achieve high and sustained economic growth, increased income equality and employment creation.

The current NDP 5 (2017/18 – 2021/22) has been formulated on the past achievements of the 4 previous NDP's. The NDP 5, similar to the previous NDP's, sets out a course towards the achievement of the various targets delineated in Vision 2030 (Republic of Namibia, 2017). This is realised in the policy document itself that also sets the stage for the implementation process. NDP 5 prioritises and aims to ensure that future generations are ripped of their ability to thrive. It is for this reason that the plan is based on the principle of sustainable development as expressed in its 4 key goals as follows: achieve inclusive, sustainable and equitable economic growth; build capable and healthy human resources; ensure a sustainable environment and enhance resilience; and promote good governance through effective institutions. The goal on effective institutions is attributed to the earlier discussed Institutional theoretical model that posits that public institutions exert great influence on the formulation and implementation of public policies, hence the need for institutional effectiveness. In targeting for an industrialised nation, the NDP 5 prioritises enterprise development, the manufacturing, agriculture, rural economic development, fisheries, mining, tourism and research and innovation. Evidently, this may be best achieved through linkages and capacity development spill-overs that could be derived from sustainable FDI.

The manufacturing, mining, retail, banking and fishing sectors are of particular interest to this paper. This is because, in Namibia, these sectors have since independence created the most employment opportunities and has resulted in significant contributions to the country's GDP (Republic of Namibia, 2012). Namibia has to date managed to attract FDI primarily, in the banking, retail, manufacturing, fishing and mining sectors respectively (Bank of Namibia, 2018).

According to the SACU (2008), the exploration of uranium in Namibia has increased significantly over the last few years, and accounts for a major share of FDI flow into the mining sector. NDP5 recognises the prospective role sustainable mining FDIs

can play during its duration. NDP strives to propel the mining sector into a profitable one that is irrepressible by the shocks that come with commodity price fluctuations. This will be achieved through the attraction of FDI within this sector, as facilitated by robust FDI promotion strategies that emphasise sustainability.

The manufacturing, mining, retail, banking and fishing sectors (dominated by FDI in Namibia), among others, has demonstrated significant multiplier effects on the economy, and therefore will stimulate economic growth and job creation in other sectors as well. It is of this background that emphasis has been placed by this paper on the importance of FDI for sustainable development in general. In addition to the NDPs, the Namibian government in 2016 introduced the HPP with the intention of aiding the implementation of identified development priority areas (economic development, including FDI). The HPP is covered in more detail in the section below.

The Harambee Prosperity Plan (2016/17 – 2019/20)

The HPP is an action plan that aims to fast-track development specific identified priority areas as a foundation for achieving prosperity in Namibia. The plan supplements the objectives of the current NDP5 and Vision 2030. HPP brings forth a component of elasticity in the Namibian planning system. This is done by accelerating sustainable development in areas where improvement is unsatisfactory (Republic of Namibia, 2016). The plan integrates new development prospects and intends to tackle obstacles that have arisen after the formulation of NDPs. The plan aims at aiding and building on the existing milestones other development policies have achieved to date (Republic of Namibia, 2016). The plan is built on four pillars that are made up of sub-pillars, these pillars are:

- Effective Governance;
- Economic Advancement;
- Social Progression; and
- Infrastructure Development.

The plan acknowledges that substantial FDI inflows were witnessed in the preceding years, primarily in the mining sector, which enjoys a globally conducive trade environment. The investment climate in Namibia is conducive not only for the mining sector, but also for all other economic sectors. The NIP Act (Act 9 of 2016) protects the rights of foreign investors in Namibia. Evidently, the HPP has identified FDI as essential to attaining the goals and objectives of the plan. However, the need to attract FDI that is sustainable remains pivotal and remains to be achieved primarily through the NIP Act (Act No. 9 of 2016).

The Namibia Investment Promotion Act (Act No. 9 of 2016)

The NIP Act (Act No. 9 of 2016) makes provision for the promotion of FDI in Namibia. According to the Act, under section 2 it objects to: a) provide a clear and transparent framework for investment in Namibia; b) provide for an efficient dispute resolution mechanism involving investment; c) provide for a mechanism for inter-ministerial coordination on regulatory provisions and incentives and support mechanisms for investments; d) promote sustainable economic development and growth through the mobilisation and attraction of domestic and foreign investments that:

“(i) enhance the economic development objectives of Namibia to build a prosperous, industrialised society with adequate direct investment to, among other things, encourage the creation of employment,

wealth, technology transfer, capacity building, value addition to natural resources and foreign currency generation; (ii) reduce unemployment, poverty and economic inequality in Namibia; (iii) accelerate the growth and diversification of the Namibian economy; (iv) facilitate domestic investments, particularly in priority economic sectors; and (v) provide for other matters on investment promotion, admission, treatment and management” (Republic of Namibia, 2016, p. 7).

The above reflects to the sustainable development goal (SDG) of Economy which aims to promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all (UNDP, 2016).

Part 2 deals with the administration of the Act which includes Section 3: Administration and implementation of the Act, Section 4: Powers and functions of the Minister, Section 5: Performance agreements with investors, Section 6: Namibia Investment Centre (NIC) and Section 7 on the integrated client service facility.

Section 5, subsections 1-4 allude to performance agreements to be entered into by the Minister, on behalf of the state, and investor. This agreement, according to the Act will be legally binding between the parties. Performance of the investor is based on the matters relating to the contributions of the investment to the development objectives of Namibia. This clause particularly evokes concerns about performance requirements. For example, joint ventures in sectors where the local partner is severely under capacitated often do not foster a productive working relationship, and can lead to much less skills and technology transfer than is intended when it is forced. This predicament is contrary to what Bikalemesa (2016) stated earlier that the Namibian government is increasingly emphasising the need for investors to partner with Namibian-owned companies.

According to section 6, the NIC continues to exist in this Act, though established by section 2 of the Foreign Investment Act (Act No. 27 of 1990). The NIC, according to section 6(2), functions to (b) to promote both foreign and domestic investment by identifying specific projects and inviting interested investors for participation in those projects.

Part 3 deals with investors, economic sectors and business activities. Herein, Section 8(1) states that the Minister, in recognition of the sustainable economic sectors, business activities and development objectives of Namibia, its national security interests and the public interest, may, by regulations, reserve certain categories of (a) economic sectors; or (b) business activities.

In the approval of investment proposals, section 14 states that the authorization of investments into Namibia should be done with due consideration for the possible benefits the country would stand to gain from such an investment. This is in particular reference to the expected positive contribution of such an investment to various economic, social, political and environmental priorities of the country.

Part 5 deals with the rights and obligations of investors. Section 18 adds that investors must carry out their activities at all times in full compliance with all the applicable laws of Namibia. These include among others, the amended Labour Amendment Act (Act No. 2 of 2012), the National Environmental Health Policy (2002), the IIP Act (2002) and the amended EPZ Act (Act 9 of 1995).

The Export Processing Zone Act (Act No. 9 1995), as amended

The amended EPZ Act (Act No. 9 1995), as contained in its preamble is to provide for the establishment, development and management of EPZs in Namibia and facilitate matters incidental thereto. The purpose and objective of the Act as contained in section 3 is to:

“(a) attract, promote or increase the manufacture of export goods; (b) create or increase industrial employment; (c) create or expand export earnings; (d) create and expand industrial investment, through foreign investment; and (e) encourage transfer of technology and development of management and skills in labour in Namibia” (Republic of Namibia, 1995, p. 6).

Section 16 (1) of the amended EPZ Act (Act No. 9 of 1995) states that no property in an EPZ shall be expropriated except in accordance with the provisions of the Expropriation Ordinance, 1978 (Ordinance 13 of 1978) and subject to the provisions of Article 16(2) of the Namibian Constitution. Furthermore, this advocates for the respect of property rights in Namibia. The respect of property rights is one of the determinants of FDI especially in the manufacturing, mining, retail, banking and fishing sectors. Ordinarily, this would serve to be a factor that would encourage sustainable long lasting FDIs in that it creates for a conducive investment location. Where property rights are expropriated, Government of Namibia shall, subject to the provisions of section 17, (dealing with the settlement of dispute by arbitration) pay to the owner of such property just compensation in respect of such expropriation without undue delay and in freely convertible currency.

According to the amended EPZ Act (Act No. 9 1995), the incentives designed for the EPZ’s are as follows:

- EPZ investors are permitted to keep foreign currency accounts in local banks;
- enjoy industrial tranquil as no lockout or strike is allowable under the EPZ regime;
- foreign investors may locate their companies anywhere in Namibia; and
- through the Offshore Development Company (ODC), EPZ foreign investors enjoy access to factory facilities, which are rented at economical rates.

EPZ companies investing in upgrading skills and productivity of Namibian workers receive a grant to cover a substantial part of the direct costs of on-the-job and institutional training, an element that fosters sustainable FDI indeed. The EPZ Act aims at creating a conducive environment for foreign investors, with the hope that they will in return be sustainable and not disinvest.

Infant Industry Protection

Namibia is a member of the SACU and therefore the 2002 SACU Agreement that has provisions for IIP apply. Article 26 of the 2002 SACU Agreement provides for the protection of infant industries in all member states, with the exception of South Africa. To this end, Keck and Low (2004) state that developing countries should have the right to restrict imports to a greater degree than developed countries.

Article 26 of the 2002 SACU Agreement defines an infant industry and the instances when protection under this article may be invoked. An “infant industry” in article 26 is defined as an industry which has been established in the area of a member state for not more than 8 years. Such an industry may be granted temporary protection for a period not exceeding 8 years, after which

the Council of Ministers (CoM) may, or may not impose further conditions as it deems appropriate. The protection of an industry that qualifies as above is to be implemented by means of temporary import duties on goods imported into the area where the industry is located. This is done to enable it to meet competition from other producers or manufacturers in the Common Customs Area (CCA). The provision for this allowance is that the temporary duties must be levied equally on all like products grown, produced or manufactured in other parts of the customs union.

The definition of an infant industry in SACU needs some attention. The requirement that an infant industry must have been established in a member state for a period of not more than 8 years creates a problem for member states' industries with genuine concerns. For example, what would happen to an industry that has been "established" but does not carry out business on a commercial level until after 8 years? Such an industry is clearly not infant by definition. However, in practice it is because it only after the lapse of eight years, starts to produce on a large scale and therefore is still small and exposed to competition. Therefore, article 26 is not clear with regards to the criteria to be used to determine what an infant industry is. Namibia has recognised the provisions of IIP in the 2002 SACU Agreement. Under IIP, import tariffs are applied on imported products for 8 years to give local manufacturers an opportunity to grow. The need for growth at an industrial level is lamented more by Namibia's Industrial Policy of 2013.

Namibia's Industrial Policy (2013)

Namibia's Industrial Policy is a policy that facilitates the identification and removal of constraints to growth in priority sectors driven by the private sector, but equally preparing government to initiate and incubate industrialisation.

The vision of Namibia's Industrial Policy is anchored in Vision 2030 as depicted in earlier sections. According to the policy, by the year 2030, Namibia should be characterised as a prosperous and industrialised country, developed by her human resources, enjoying peace, harmony and political stability (Republic of Namibia, 2013). The policy further states that, as an industrialised nation, Namibia should be characterised by:

“(a) a high level of household income, based on purchasing power parity exchange rates to take into account that one US dollar at market-based exchange rates does not have the same value in all countries; (b) a more equitable distribution of income, as reflected in a reduction of the Gini-coefficient, while at the same time growing the size of the Namibian economy; and (c) a high human development index, reflecting high standards of education, health and other social development indicators (Republic of Namibia, 2013, p. 1).

In terms of the production and export structure, the policy adds that Namibia would have built the bridge from producing and exporting predominantly primary commodities to offering value added and service-orientated products (Republic of Namibia, 2013). The production and export structure would also be more diverse, enabling the economy to better withstand exogenous shocks. Moreover, Namibian society will be characterised as being knowledge and innovation-based, and as having a competitive and sustainable 'green' economy, with high employment levels and social justice. In other words, wealth would be shared equitably. In a nutshell, our future will be characterised by a significant improvement in quality of life for all people,

and the economy will be competitive and resilient enough to adapt quickly to rapid changes and external shocks (Republic of Namibia, 2013).

The specific objectives of industrialisation are also outlined in Vision 2030. The Vision emphasises the importance of a change in production structure, a change in export structure, and the contribution to be made to wealth creation by small- and medium-scale enterprises (SMEs). Vision 2030 also emphasises the need for job creation and labour-intensive growth strategies (Republic of Namibia, 2004). More specifically, the Vision states that, by 2030, the following targets with respect to industrialisation would have been achieved:

“(a) The manufacturing and services sectors constitute about 80% of the country’s gross domestic product (GDP); (b) The country largely exports processed goods, which account for not less than 70% of total exports; (c) Namibia has an established network of modern infrastructure that includes railways, roads, telecommunications and port facilities; and (d) Namibia has a critical mass of knowledge workers, and the contribution of SMEs to GDP is not less than 30% (Republic of Namibia, 2013, p. 2).

Clearly, the attainment of the above vision and objectives as depicted in Namibia’s Industrial Policy can only be achieved by use of various sustainable measures towards industrialisation. A key and potentially forceful stakeholder in this would be foreign investors. As Tirimba and Macharia (2014) indicate, foreign investors aid in the industrialisation process by filling the savings gap, trade gap, revenue gap, and management/technological gap. These, however, can only be beneficial in the longrun to Namibia if foreign investors are engaged by relevant stakeholders through adequately designed laws and policies that are premised on the principles of sustainability. In an effort to have a well structured implementation strategy of the Industrial Policy, the Growth at Home Strategy was adopted. This strategy is discussed in the subsection below.

Growth at Home Strategy

Growth at Home is Namibia’s Industrial Policy Implementation Strategy. In other words Growth at Home provides a road map for the execution of Namibia’s Industrial Policy. It must be seen in the context of Vision 2030, Industrial Policy and the current NDP4. It focuses on three Strategic Intervention Areas that have been derived from the Policy framework, sector consultations, and stakeholder discussions, including the growth at home conference (Republic of Namibia, 2013).

According to the strategy, Growth at home focuses on three strategic intervention areas:

- Supporting value addition, upgrading and diversification for sustained growth;
- Securing market access at home and abroad; and
- Improving the investment climate and conditions.

The above, which is aimed at facilitating the implementation of the Industrial Policy of 2013, through its strategic intervention areas would clearly be expedited through the developmental support that can be provided by sustainable FDI as evidenced by Nyambura (2013), and Tirimba and Macharia (2014).

The Labour Amendment Act (Act No. 2 of 2012), as amended

The amended Labour Amendment Act (Act No. 2 of 2012) allows for the formation of independent trade unions to protect the rights of workers and to promote sound labour relations and fair employment practices. The Act stipulates basic conditions of employment, prohibits discrimination in the workplace and establishes new protection for pregnant workers as well as employees infected with HIV/AIDS (Republic of Namibia, 2012). The Act provides for arbitration and conciliation as a means to resolve labour disputes more efficiently and quickly. The Act also prohibits the hiring of temporary or contract workers. The Act furthermore makes provision for the registration of rights and duties of Trade Unions; the appointment, powers, duties and function of the Labour Commissioner and inspectors; the establishment of a Labour Advisory Council; a Labour Court, District labour Courts and a Wage Commission (Republic of Namibia, 2012). Other pieces of legislation relating to the labour market in Namibia include:

- The amended Employees Compensation Act (Act No. 30 of 1941) makes provision for the compensation of workers or their dependents if the worker is injured or killed in the course of employment (Republic of Namibia, 1941).
- The Affirmative Action (Employment) Amendment Act (Act No. 6 of 2007) established the Employment Enquiry Council and provides for affirmative action measures to achieve equal opportunities in employment for racially disadvantaged persons, women and persons with disabilities (Republic of Namibia, 2007).
- Social Security Act (Act No. 34 of 1994) makes provision for the payment of maternity leave benefits, sick leave benefits and death benefits to employees and to establish for that purpose the maternity leave, sick leave and Death Benefit Fund; to provide for the payment of medical benefits to employees and to establish for that purpose the National Medical Benefit Fund (Republic of Namibia, 1994). The Act further makes provision for the payment of pension benefits to retired employees and to establish for that purpose the National Pension Fund; to provide for the funding of training schemes for disadvantaged, unemployed persons and to establish for that purpose the Development Fund; and to provide for incidental matters (Republic of Namibia, 1994).

From an FDI perspective, it is important that all labour issues be addressed properly in terms of the acts related to employment issues in order to ensure that FDI's in Namibia succeed and be sustainable. Compliance to these laws by foreign investors is particularly important in ensuring sustainable employment for the locals.

The National Environmental Health Policy (2002)

The National Environmental Health Policy, which was implemented in March 2002, reiterates the unrelenting obligation of the Ministry of Health and Social Services to advance Namibians' employment and living conditions. Furthermore, the policy aims to prepare the environmental health services different and changing hazards and risks, as well as expanding its ability to deal the prevailing ones. According to the policy, one of its objectives is to preserve and support the health and social well-being of all inhabitants via preventative, promotive and disease control efforts in partnership with appropriate partners, in particular the communities concerned (Republic of Namibia, 2002). This implies and speaks to the workplace Namibians are subjected to. Foreign owned companies should maintain a high standard of working conditions, especially those that may be of a hazardous nature, as often found in the manufacturing and mining sectors.

The legislations pertaining to FDI in Namibia provided an overview of the legal, regulatory and political environment in Namibia. The ambiguities of the provisions of the Acts discussed above allow foreign owned companies greater leverage vis-à-vis government. The Acts similarly do not dictate the conditions under which foreign owned companies may exit the country so as to minimise the after effects that may arise. Indeed, the various Acts do not sufficiently promote the satisfaction of local and national goals and interests by foreign investors. What has become clear from the reviewed literature is the absence of adequate emphasis on sustainable FDI and the role it can play in aiding with development of a country.

DYNAMICS OF POLICY IMPLEMENTATION

Policy Implementation

As emphasised earlier, scholarship (Tembe & Xu, 2012) suggests that there is no uniform approach to implementing policies. The implementation of policies should however be based on the prevailing policy environment, and therefore requires a tailor made approach. Similarly, the implementation of FDI attraction/promotion strategies rests partially on identified prevailing circumstances. For example, a big country characterised by a majority of unskilled labour and inadequate trading infrastructure decreases its prospects of benefiting from promoting and attracting high-tech FDI. Countries with adequate government resources and human resource skills may opt for a strategic approach that would prioritise the sustainable development of key sectors, spending on sustainable FDI promotion and preparing industrial estates, while those without skills may want to develop local capabilities first. However, as will be illustrated elsewhere, the sound achievement of the above primarily rests on the abilities of the policy implementing agencies.

Policy Implementers

In a majority of developing countries worldwide, the implementation of FDI promotion policies is often spearheaded by investment promotion agencies (IPAs). IPAs are often tasked with the responsibility of coordinating the investment of foreign companies (Wells, *Revisiting Marketing a Country: Promotion as a Tool for Attracting Foreign Investment*, 1999). With reference to IPAs, these come in various forms of organisations, ownership and funding arrangements, and can be grouped into 1) government organisations, 2) more autonomous, quasi-governmental organisations, and 3) private organisations. These organisations provide four different type of services: 1) image building, 2) investment generating, 3) investor services (see Wells and Wint, 2000) and 4) policy advocacy (Wells, 1999). In the case of Namibia, the above services are primarily performed and coordinated by the NIC, a government organisation/department.

The daunting reality of most government IPAs in developing states is that quite often, they lack adequately qualified personnel to facilitate FDI, assess and approve investments. Contrastingly, the observation in Ireland and Singapore is that their IPAs are quasi-autonomous government organisations that remain under the realm of government, but operate with private sector principles and are often better in touch with the business side. The ability of these organisation to attract and recruit duly qualified human resources rests in their ability to set wages based on business values, as opposed to conventional government IPAs whose wages are determined through central government. According adequate autonomy and power to quasi-autonomous government IPAs may greatly aid in, e.g. timely business approvals for investors with government. Having one principal agency

that deals with foreign investments (screening, approval of and obtaining permits for foreign investors) would generally increase the ease of doing business for foreign investors in that particular country, and may serve to attract more international investors. However, when it comes to private investment agencies, such an organisation would have the necessary contacts within the business community, but may fall short on these within the public sector.

It should be noted that the implementation of FDI policies is not limited to IPAs. Quite often, such policies may be executed by government ministries, sometimes in partnership with other organisations. This, may result in the duplication of functions and wastage of resources as lamented by the institutional model. te Velde (2001) argues that benefits from FDI can be maximised through the adoption of various policies that are aimed at attracting FDI, to enhance current FDI, and establish more linkages between local firms and foreign investors. The common denominator stemming from this is that policies implemented by IPAs may originate from numerous other policies that are working towards the maximization of benefits from FDI.

The approach used by IPAs in implementing FDI policies is a significant factor in attracting foreign investments. IPAs need to acquire a culture of consistency in policy application while similarly being responsive to the needs of foreign investors. These IPAs tend to emerge more successful in their quest of promoting FDI. The implementation of policies in a consistent way over time stems to be more fundamental in this regard. Ambiguity deters investment, and the case of Ireland has proven that the constant implementation of financial and fiscal incentives as well as the steady skill upgrading (FitzGerald, 2018) have gesticulated a long-term obligation to develop an ideal/positive business environment for foreign investors in Ireland.

METHODOLOGY APPROACH

In an effort to address the earlier identified research question, a qualitative research design was adopted. The population comprised of key stakeholder organisations such as the NIC, Ministry of Finance, Labour Resource and Research Institute, A Labour Researcher and Educator, and Irwin, Jacobs, Greene (IJG) Securities. Interviews were conducted with one individual from each of the above-mentioned 5 organisations.

During the interviews, the researcher was directed by an interview schedule that contained the questions to be posed to the respondents in a predetermined sequence. These interviews were recorded on a multimedia recorder, with consent obtained from the respondent. The process of conducting interviews was characterised by the researcher asking the participants a series of semi-structured questions of which they were required to respond to, if comfortable with the posed question.

Information obtained from the interviews was transcribed and coded in a comprehensive manner that would make participant responses appear in clear and sensible. Furthermore, the use of open-ended questions, in some cases, resulted in information given by the participant that is irrelevant to the study at hand and the researcher, therefore, had to filter such information in preparation of presenting the research findings.

DISCUSSION OF FINDINGS

Consensus has been that legislation pertaining to FDI in Namibia is adequate. However, key legislations such as the NIP Act (Act 9 of 2016), EPZ Act (Act No. 9 of 1995) have come under scrutiny. Section 8 (1) of the NIP Act (Act 9 of 2016) makes provision for the reservation of various economic sectors for government and domestic investors. The study found that this has the potential to deter FDI into certain sectors other than natural resources, where investors would likely have alternative country options to consider. This clause is unsustainable and would clearly will result in FDI's not choosing to invest in Namibia or divest from the country. Natural resources in Namibia give the country a competitive advantage in terms of favorability, hence, if taken away by this clause, will result in less FDI coming into the country. Furthermore, section 1 (b) of the NIP Act (Act No. 9 of 2016), states that there is no guarantee that foreign investors would be able to repatriate their capital or profit out of the country. This would negatively affect investor confidence and might serve to discourage potential investors from investing in Namibia.

With reference to the EPZ Act (Act No. of 9 of 1995), it has proven not to be successful in attaining its goals and objectives. The EPZ Act (Act No. of 9 of 1995) did not fulfil its aims and objectives with regards to creating 25,000 jobs, but only managed to create 10,000 jobs, increasing the amount of manufactured goods produced, expanding industrial development and assisting in the transfer of skills and technology in the zones. With only these two laws having come under scrutiny, general consensus was that the implementation and enforcement of laws needed to be improved.

Contrary to the above, the invest of Ohorongo Cement in Namibia suggests that the IIP Act (2002) has in fact proven to yield the desired results. Furthermore, it came to light that by utilising the IIP Act, the Ohorongo Cement investment was secured together with its derived benefits for the economy as a whole. These include, inter alia, direct and indirect employment, the transfer of knowledge and a fiscal injection through new direct and indirect taxes. Additionally, the CSI activities of Ohorongo Cement have been highly beneficial and has contributed to the sustainable development of the country at large.

CONCLUSION AND RECOMMENDATIONS

The current paper has made it obvious that the successful coordination for increased sustainable FDI inflow into the country rests on numerous laws and policies and institutions alike. However, developing countries such as Namibia need to ensure the applicability of such laws and policies in an effort to ensure they reflect the developmental needs and aspirations as determined by the populace. Notwithstanding the fact that numerous flaws have been identified among the reviewed laws/policies, the current paper has demonstrated that laws and policies pertaining to FDI in Namibia generally allow for a favourable investment climate. From the onset, it should be made clear that FDI's are a double sided sword that may provide pros and cons for the host country. Be as it may, the present paper has illustrated that existing laws and policies on FDI have the greatest impact in determining these pros and cons. Though thwarted by various challenges, the ideal is to maximise on the pros, and minimise on the cons thereby striving for FDI that is of a sustainable nature, thereby propelling sustainable development.

In an effort to remedy some of the challenges of ensuring sustainable FDI, the following suppositions have been reached:

- Though briefly highlighted in section 28 (1) of the NIP Act (Act No. 9 of 2016), there is a need to further reinforce operational conditions on foreign-owned companies in terms of the damage they may cause on social, economic and environmental issues.
- Government should aid foreign investors to overcome various operational challenges, thus increasing their probability of becoming sustainable.
- There should be improved monitoring and supervision that ensures foreign investors and importers adhere to quality standards in the products they produce.
- There is a need to fully implement the various laws pertaining to FDI to ensure issues such as competition through the Competition Act (Act No. 2 of 2003) and the IIP Act (2002) are adhered to.

Based on the findings, this paper has found the following recommendations to be relevant.

Recommendation 1

Namibia's current amended EPZ Act (Act No. 9 of 1995) should be reviewed to ensure that it encourages investments that promote the sustainable socio-economic development of the country, as opposed to its current form that drains national resources. Additionally, in reviewing the Act, there should be an improved synchronization of the Acts objectives in relation to other developmental policies of the country.

Recommendation 2

Section 1 (b) of the NIP Act (Act 9 of 2016) should be reviewed for it to guarantee repatriation of profits or capital from Namibia. In its current form, it states that in times of an economic crisis, foreign investors need to obtain permission from the Minister to repatriate money from the country. This clearly does not build investor confidence and might result in Namibia being less of a favorable investment destination.

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