



Making Investments Work for people!

PROMOTING INVESTMENT REGIMES FOR SUSTAINABLE DEVELOPMENT AND IMPROVED LIVELIHOODS IN THE EAST AFRICAN REGION

Project Report



January- June 2017

Introduction

SEATINI Uganda in partnership with Diakonia Africa Regional Office has since 2016 been implementing a project under the theme “Promoting investment regimes for sustainable development and improved livelihoods in the East Africa Community (EAC)”.

The policy seeks specifically to enhance the technical capacity of stakeholders to influence investment policies and practices that are gender sensitive, promote ESCRs, are environmentally friendly and address the development needs of the EAC region; to increase stakeholder access to information on investment related issues; and to strengthen platforms, networks and alliance for stakeholder collective actions on investment issues and policy processes.

There are a number of developments within the investment regime at global, regional and national levels. At the global level, efforts towards the development of the UN Human rights treaty on Transnational Corporation and other Businesses continued to take shape with civil society input under the global consortium on Extra Territorial Obligations (ETO). The year 2017 started with engagement on the EAC – US model investment treaty, a process that has been ongoing since 2012. The process was suspended after the EAC tabled the EAC model investment treaty to be used as one of the basis for negotiating the Bilateral Investment Treaty between the two parties. After the U.S rejected the EAC model treaty, they proposed that the EAC should come up with a cooperation agreement on investment for consideration by the two parties. The negotiations for the cooperation agreement was also suspended by the U.S negotiating team until further notice.

Within the partner states, efforts towards increasing FDI inflows into their individual countries has continued to be emphasized causing competition among the partner states for FDIs. The incentives policy of majority of the partner states has generally resulted into loss of arable land to investments through land concessions on the one hand and loss of tax revenue through tax incentives.

Strategic actions, activities and outcomes

1. Information generation and dissemination

As a follow up from 2016, during which SEATINI Uganda developed EAC country studies titled “*Investment Policies of EAC Partner States: Linkages with National Development Plans, Human Rights, Gender and Environment sustainability*”. The studies which were consolidated into one report have been made available for access to various stakeholders on the SEATINI Uganda website <http://www.seatiniuganda.org/publications/research/160-investment-policies-of-eac-partner-states-research-study-report/file.html>. The research was also shared by the EAC group on influencing-eac-trade-and-investment-negotiations-strat-group@googlegroups.com. The study is a contribution to the body of knowledge on investment policy within the EAC region.

More specific papers on the issues of land based investments are also being developed within the individual partner states. The purpose of these technical papers which have been designed to be country specific are

being developed in partnership with specific civil society organizations within working on issues of human rights, extractives and governance, among others, with the aim to provide policy proposals towards reforming the investment regime around land based investments.

2. Capacity building and training

Following the development of the training manual in 2016 on “Enhancing stakeholders’ engagement in investment policy processes”, SEATINI embarked on a process to test the manual. SEATINI with support from Diakonia organized a training for civil society from the EAC partner states which work on issues of trade, tax, investment, extractives, gender, human rights and environment sustainability. The training which brought together 26 participants sought to provide civil society actors with knowledge on the linkages between investment and sustainable development. The training introduced participants to the basic concept of investment and investment policy at national, regional and global levels; and to provide them with an understanding of the linkages between investment policies on the one hand and human rights; environment; and gender and women’s rights on the other.

SEATINI Uganda also continued to enhance stakeholders’ capacity through information sharing to ignite debate on various investment related issues within the EAC region. These debates and discussions have continued to be undertaken through the google group and have contributed towards generation of policy alternatives to inform investment policy reforms.

3. Policy advocacy

Under this project, SEATINI Uganda continued to consolidate civil society’s input into ongoing investment policy processes and negotiations.

Specifically, SEATINI Uganda has been at the forefront in championing the implementation and utilization of the EAC Investment Model treaty, a process that contributed to the suspension of the unfair and reciprocal Bilateral Investment Treaty between the EAC and the U.S. SEATINI also played a key role in mobilizing civil society input in the analysis of the proposed cooperation agreement between the EAC and the U.S a process that was later suspended by the U.S. This was given the fact that the proposed cooperation agreement took on the more progressive nature of investment agreements, contrary to the interest of the U.S.

The organization is also currently mobilizing civil society input towards influencing the ongoing process to develop the United Nations Human Rights Treaty of Transnational Corporations and other businesses. This global framework will provide clarity and support towards balancing between the protection of investor rights on the one hand and community’s rights on the other.

SEATINI also mobilized key stakeholders to influence a decision by the government of Uganda i.e. the Ministry of Finance, Planning and Economic Development and the Ministry of Foreign Affairs to engage the Netherlands Government on the need to renegotiate the Uganda-Netherlands BIT which is slated to expire on 1st January 2018. The renegotiation provides an opportunity for Uganda to redefine the kind of BIT the country would wish to have with the Netherlands. This process also provides a stepping stone for the review of all other BITs that will expire soon.

4. Alliance building and networking

In order to strengthen the EAC regional stakeholder networking to keep stakeholders updated, a Google group on “*Influencing Trade and Investment policies and agreements*” has continued to be updated in terms of the membership. The group currently hosts 285 members from the civil society, government, private sector and academia from the EAC, Africa and global level.

At the continental level, SEATINI Uganda joined the Africa Coalition on Corporate Accountability, a civil society coalition which is based South Africa, with an aim to consolidate EAC civil society’s input and influence at the continental level, especially in the discussions on business and human rights.

Expected Outcomes

- 26 stakeholders have been trained in the substantive investment issues and policy processes and their linkage with human rights, environment sustainability and on gender and women’s rights.
- 13 Stakeholders’ policy recommendations have been developed and submitted to various investment policy making and negotiation fora at national, regional and global levels.
- 2 collective actions have been undertaken by the networks to which SEATINI Uganda is a member
- 20 copies of information materials on mainstreaming gender, environment and human rights issues have been made available to government Ministries Departments and Agencies in charge of investment policy making
- 8 Stakeholder policy recommendations are reflected in government policies, negotiation positions and agreements
- 2 stakeholder networks have been strengthened to debate on and influence issues of investment policy.

Institutional Development

1. Training on monitoring and evaluation

SEATINI Uganda also organized a training for the staff on Monitoring and Evaluation. The training aimed to provide the staff with an in depth understanding of the organizations’ M&E framework and reporting tool to ensure its effective utilization.

2. Technical support for M&E for SEATINI Uganda

In order to strengthen the M&E function of SEATINI Uganda, the organization now obtains part time support from an M&E person. This will help to ensure effective monitoring, reporting and evaluation of the organizations’ program implementation to ensure results.

3. Finalizing the development of the Communication strategy

The organization obtained support from a consultant to facilitate the finalization of the development of the organizations' communication strategy. The organization also broadened the strategy to include the branding policy. The document is in its final stages of development, subsequent to which it will be placed before the board for consideration and adoption.

Major lessons learnt

Information generation, awareness raising and capacity strengthening have a positive impact on stakeholders' capacity to advocate and influence policy change. The information generated and the formal meeting and engagements held provided an important platform for discussions and debate on the link between investment and development and the need for gender responsive investment regimes that protect human rights and the environment.

Networks and alliances are important mobilization tools for stakeholder engagement in various policy processes. Through networks and alliances, a multi-stakeholder approach can be used to influence a wide range of policy processes including human rights, gender and environment among others.

Challenges

There is a general assumption that investment is gender neutral and that overarching policies and laws like the Constitutions as well as Environment laws which make provision for human rights, gender and environment protection are sufficient legal frameworks to ensure mainstreaming on these key issues in investment policy implementation and practice. However, despite these provisions, these issues continue to be ignored.

Investments, especially FDIs have increasingly been politicized thus limiting the effective participation of citizens in holding investors and relevant government ministries, departments and agencies accountable in ensuring that they deliver on their promises. For example in Uganda, the President has on many occasions warned against people who "frustrate foreign investors". This is despite the fact that most of the civil society work on investment involves close monitoring and advocacy against the unfair treatment of the host community by establishing investors, especially within the extractive sector.