

SADC MODEL LEGISLATIVE PROVISIONS ON INVESTMENT IN TRANSPORT

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Southern Africa needs, amongst others, adequate transport assets and mobility services to meet successfully the challenges of modernizing and diversifying production, expanding trade, coping with population growth, alleviating poverty and improving the environment.

The SADC Protocol on Transport, Communications and Meteorology identifies growth and development of regional economies with a view to improving the quality of life of citizens as a fundamental objective. Central to this objective is the need to expand provision, maintenance and operation of transport assets and mobility services. But globally there is a high demand for scarce private capital. The challenge, therefore, for Member States is to create a sustainable, enabling environment which matches, if not surpasses that in other regions in so far as attractiveness to the private sector is concerned.

The SADC Model Legislation on Investment in Transport Act (ITA) responds pointedly to this reality and SADC governments have adopted ITA as a regional guideline to be considered when undertaking their national reforms. ITA's objectives are to maximize investment opportunities for the private sector; get Government to free investment opportunities which are locked up in existing assets and mobility services provided by Government or parastatals; restructure parastatals to become commercially-viable; and refocus Government on its core functions of planning strategically, facilitating investment and protecting the public interest in fundamental areas such as market access, competition and safety.

As such, ITA is a clear policy signal to the private sector of the approach which SADC Governments will adopt to encourage private investment or procure goods and services from the private sector. It is both a policy framework for government and a road map for the private sector to follow in approaching Governments or in responding to initiatives which Governments may undertake.

However, legislation by itself cannot guarantee investment stability. Neither can it by itself create the perfect investment environment. But legislation which carefully balances the interests of the public and private sectors, as ITA does, can go a long way in securing investor confidence.