







5th Presidential ROUNDTABLE BOOKLET

13TH NOVEMBER 2015 STATEHOUSE, NAIROBI

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The Kenya Private Sector Alliance (KEPSA) is the voice of the private sector in Kenya and is the umbrella body for private sector associations and corporate bodies in all sectors of the economy including trade associations. KEPSA speaks for multinationals, SMES and startups organized under different sector boards and working groups reflective of the 16 sectors of the economy. KEPSA has over 100,000 members through business member organizations and companies. It provides a platform for the private sector to engage in Public Private Dialogue at Local, National and International level. It also offers information, advisory and networking opportunities for members and is a key partner to government and other stakeholders in the formulation and implementation of policies and strategies geared towards spurring economic growth, wealth creation and national development.

The Established PUBLIC PRIVATE DIALOGUE PLATFORMS

1 **Presidential** ROUNDTABLE (PRT)



An engagement with the Head of State on issues of national importance affecting the economy as well as those issues that require his direct intervention as Head of State. Implementation of the PRT resolutions and commitments are cascaded down to the respective implementing Ministries and other arms of government.

2 Ministerial STAKEHOLDER FORUMS (MSFs)



A platform that brings together respective Ministries and KEPSA Sector Boards on quarterly basis (or as frequently as may be agreed) to address sector specific priority issues relating to policy, administrative and operational issues affecting them.

3 Speakers ROUNDTABLE (SRT)

An annual engagement platform with the National Assembly and the Senate. The SRT facilitates joint review of legislative matters involving respective parliamentary Departmental Committees and the Private Sector.



4 Council of GOVERNORS FORUM



A partnership with Governors that meets annually. The forum provides a platform of dialogue and stocktaking on devolution besides

establishing mechanisms for better interaction and coordination between the Private Sector and Council of Governors.

5 INTER-MINISTERIAL FORUM

This forum brings together various Ministries on cross-cutting business issues that require more than one Ministry to implement.

6 CHIEF JUSTICE FORUM

A forum aimed at improving the Commercial Justice process in a manner that ensures efficient resolution of Commercial and Industrial Relations Disputes as well as discuss other ways the Judiciary can facilitate an enabling business environment.



7 Platforms With SELECTED STATE AGENCIES



KEPSA meets with state agencies and departments among which are: Attorney General, Immigration, Kenya Revenue Authority (KRA, National Police Service Commission, Kenya Police Service, KPLC, and ERC on specific business issues that require resolution by the respective departments.

8 Development PARTNERS' ROUNDTABLE

This is an engagement that provides an opportunity for the private sector to inform and partner on the development agenda and priorities for the country's national development and private sector development.



9 Regional FORUMS



KEPSA meets with regional organizations created under the EAC Treaty, and other agencies with a regional mandate such as East African Legislative Assembly (EALA), Northern Corridor Integrated Projects (NCIP) Summit, EAC Summit and Regional Ministerial meetings.



The National BUSINESS AGENDA

KEPSA's consultative advocacy guide is built into a five-year National Business Agenda (NBA) with the current running from 2013 to 2017. The NBA is a collection of strategic business advocacy issues which informs business consultation with the public sector to address strategic and cross-cutting issues aimed at improving business environment and the economy. The present NBA (NBA-II) is constructed into five broad thematic areas of:



I. IMPROVING GOVERNANCE AND THE BUSINESS REGULATORY ENVIRONMENT



II. UPGRADING SECURITY



III. INFRASTRUCTURE DEVELOPMENT

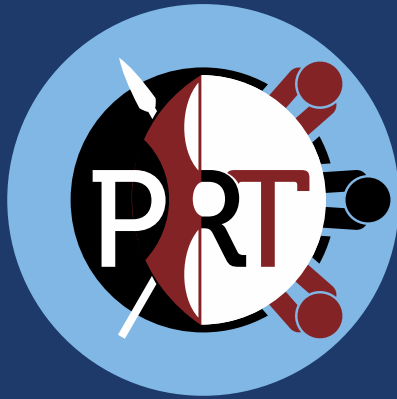


IV. ENHANCING TRADE & INVESTMENT



V. PROMOTING HUMAN CAPITAL DEVELOPMENT & ENTREPRENEURSHIP

KEPSA hopes that achievement of goals set under each of these thematic areas will significantly encourage economic growth in Kenya by mobilising various stakeholders to effect public policy reforms to boost business, investment, and job creation.



THEMATIC ACHIEVEMENTS FOR BUSINESS COMMUNITY ON ISSUES DISCUSSED DURING THE 4TH PRT



During the 4th Presidential Round Table (PRT) held in April this year, the Private Sector presented 14 top issues of concern to the business community; the issues were derived from three Thematic Areas under the National Business Agenda II:



IMPROVING GOVERNANCE &
BUSINESS REGULATORY
ENVIRONMENT



ENHANCING TRADE &
INVESTMENT



PROMOTING HUMAN CAPITAL
DEVELOPMENT & SUSTAINABLE
ENTREPRENEURSHIP

The implementation of the recommendations and commitments made to resolve these issues was mainstreamed into 15 Ministerial Stakeholder Forums (MSFs) that we have held in the course of six months following the 4th PRT and in other meetings we held with other government agencies and institutions such as KRA, CBK, Kenya Film Commission, Nyumba Kumi Taskforce, Office of the Inspector General and National Assembly. KEPSA is glad to report that the partnership with government to resolve these issues has yielded several achievements; some go beyond the issues identified by the business community and have had a significant effect on Kenya's business environment.



Improving Governance & **BUSINESS REGULATORY ENVIRONMENT**



1. Ease of business registration
2. Dealing with Construction Permits
3. Property registration
4. Taxation
5. Contract enforcement and commercial dispute resolution
6. County business environment
7. Energy (Electricity and Fuel)

| The Issue | Achievements |
|--|---|
| <p>Ease of business registration:</p> <ul style="list-style-type: none"> Lengthy process of registering a business, with multiple documentation which increases the cost of registration Access to basic public services | <ul style="list-style-type: none"> Business Registration Services Bill (BRSB), 2015 was assented to by the President in September 2015. The Act will create a one stop shop agency for business registration. The Companies Bill was also assented to by the President in September 2015. By legislating on protection of property and regulation of business, the Companies Act will be critical to ensuring corporate stability which will support and strengthen entrepreneurship and investor protection. 32 Huduma Centres have been opened in 28 Counties with each Centre covering over 25 services under one roof. |
| <p>Dealing with Construction Permits:</p> <ul style="list-style-type: none"> High cost and procedure of obtaining construction permits | <ul style="list-style-type: none"> The Nairobi City County improved their online construction permitting system for applying, tracking and obtaining construction permits to also include e-construction fee payments. This use of e-payments on the NCC web page will reduce the processing time by 3 days. |
| <p>Property registration:</p> <ul style="list-style-type: none"> Cumbersome land registration with multiple documentation which leads to higher transaction costs | <ul style="list-style-type: none"> The Ministry of Lands, Housing and Urban Development has adopted a unified form that combines application for land rents, consent to transfer, valuation and stamp duty, easing the registration process. National Titling Centre was rolled out to aid in bulk titling and generating new secure titles. Title Search for the Nairobi Registry is now available online under the e-citizen portal. |
| <p>Taxation:</p> <ul style="list-style-type: none"> Complicated tax filling procedures Lengthy dispute resolution between taxpayers and KRA | <ul style="list-style-type: none"> Tax Appeals Tribunal operational with effect from April 2015 Alternative Dispute Resolution (ADR) mechanism launched to ease dispute resolution between KRA and Taxpayers |
| <p>County business environment:</p> <ul style="list-style-type: none"> Duplication and multiplicity of charges and levies at county level | <ul style="list-style-type: none"> The Commission on Revenue Allocation and National Treasury launched a model County Finance law to guide counties when developing Finance Bills |

| The Issue | Achievements |
|---|---|
| <p>Contract enforcement and commercial dispute resolution:</p> <ul style="list-style-type: none"> Disputes between companies in distress and creditors leading to Receivership and liquidation | <ul style="list-style-type: none"> Insolvency ACT was assented to in September 2015 to help develop a more enabling legal regime that transforms insolvency into a second for debtors. This law will further help improve Kenya's business ranking as a viable and attractive investment destination that protects investors More judges appointed to the Commercial Court Division of the High Court Court User Committee established to facilitate a friendly interaction with the Court System A mediation committee has been gazetted by the Chief Justice to advice on alternative dispute resolution to be incorporated in the court process in realizing a faster turn-around of resolving disputes. |
| <p>Energy (Electricity and Fuel):</p> <ul style="list-style-type: none"> Long duration taken to get an electricity connection | <ul style="list-style-type: none"> Last mile connectivity project is currently under implementation at a subsidized rate of KES 15,000 down from KES 35, 000. KPLC has also modified the electricity connection application process to reduce the number of application steps from 6 to 3 in 2015. Under the Global Partnership on Output-Based Aid (GPOBA) programme Kenya Power has connected 375,897 households to the grid |



1. High cost of imports due to an Import Declaration Fee (IDF) of 2.25%
2. Addressing cross-border trade and export/import facilitation
3. Participation of the private sector in economic diplomacy and bilateral meetings
4. Support local SME and entrepreneurship to enhance consumption and use of locally manufactured goods.
5. Low export diversification and overreliance on primary produce for exports
6. Investors do not have access to adequate land for industrial setup and expansion.
7. Revising the tourism sector
8. Non-recognition, low implementation and adoption of the revised Rules of Origin
9. High roaming charges
10. Supporting local vehicle assemblers Effective elimination of Non-Tariff Barriers and non-implementation of Summit decisions



The Issue

- High cost of imports due to an Import Declaration Fee (IDF) of 2.25%
- Addressing cross-border trade and export/import facilitation
- Participation of the private sector in economic diplomacy and bilateral meetings

Achievements

Finance Act 2015 lowered the IDF to 2% from 2.25%.

- The Single Customs Territory (SCT) regime which is being implemented by regional revenue authorities has helped to reduce restrictive regulations leading to minimization of internal border controls. Sugar, cigarettes, Alcohol, Wines and Spirits, Bottled water are already trading under SCT.
- All importers and exporters directed to use the Single Window system to enhance transparency, accountability and governance and competitiveness – Increased revenue collection.
- Incorporation of private sector in the Northern Corridor Integrated Projects (NCIP). KEPSA has established a consortium to mobilize private sector participation in NCIPs

Economic Diplomacy:

- An inter-ministerial Committee with private sector representation, formed to develop and harmonize the national trade policy and the export strategy.
- The Government has been consulting the Private Sector while planning for bilateral, regional and multilateral trade positions.

| The Issue | Achievements |
|--|--|
| <ul style="list-style-type: none"> Support local SME and entrepreneurship to enhance consumption and use of locally manufactured goods. | <p>Building Local Enterprises:</p> <ul style="list-style-type: none"> Launch of KITP- Kenya Industrialization Transformation Programme to drive industrialization agenda is a positive step as it has an SME component. KEPSA is developing an SME maturity programme. There has been support for local content input for Government projects as we work towards achieving a minimum 40% local content. e.g Supply of cement and Steel to the Standard Gauge Railway ,(SGR) Project The private sector is currently developing a program to encourage local companies and multinational (MNCs) to procure from local companies. |
| <ul style="list-style-type: none"> Low export diversification and overreliance on primary produce for exports | <ul style="list-style-type: none"> Enactment of the Special Economic Zones Act to stimulate export and industrial development |
| <ul style="list-style-type: none"> Investors do not have access to adequate land for industrial setup and expansion. | <ul style="list-style-type: none"> 1000 acres of land have been set aside for industrial use while additional industrial parks will be developed between Mombasa and Naivasha. |
| <ul style="list-style-type: none"> Revising the tourism sector | <p>Tourism:</p> <ul style="list-style-type: none"> Sh. 5.2 Billion was allocated for tourism development including marketing Kenya on international Market Travel advisories from key tourists source markets have been revised Security has been enhanced in the Coastal region Government lifted the ban on public sector institutions holding meetings and conferences in private facilities and hotels An international PR firm(Grayling) has been contracted to market the country as a tourism and investment destination |

| The Issue | Achievements |
|---|--|
| <ul style="list-style-type: none"> Non-recognition, low implementation and adoption of the revised Rules of Origin | EAC Revised Rules of Origin (2015) are operational and all Partner States are expected to adhere to their provisions. |
| <ul style="list-style-type: none"> High roaming charges Supporting local vehicle assemblers | <ol style="list-style-type: none"> Reduced cost of mobile communication after the harmonization of roaming charges in Kenya, Uganda and Rwanda Increased Common External Tariff (CET) importation of used motor vehicles from outside the Community. This will spur more job creation of job opportunities especially Kenya that have a vibrant motor vehicle assembly |
| <ul style="list-style-type: none"> Effective elimination of Non-Tariff Barriers and non-implementation of Summit decisions | <ul style="list-style-type: none"> The Government has been engaging in bilateral discussions with EAC heads of States to resolve long standing NTBS, e.g. export of beef products to Uganda. |



Promoting Human Capital Development & SUSTAINABLE ENTREPRENEURSHIP

1. Supporting the use of ICT among the youth
2. Shortage in Technical skills
3. Lack of incentives to incubate, grow and transfer skills to enable SMEs to graduate into large enterprises



| The Issue | Achievements |
|---|--|
| <ul style="list-style-type: none"> Supporting the use of ICT among the youth | <p>Presidential Digital Talent Programme: The Presidential Digital Talent Programme has been created with the aim of transforming the manner in which ICT is utilized for efficient and effective service delivery. It is a partnership between Government, Public and Private Sector stakeholders which is to be implemented by the Ministry of Information Communications and Technology (MoICT) through the ICT Authority (ICTA).</p> |
| <ul style="list-style-type: none"> Shortage in Technical skills | <p>52 TVET institutions are operational, and 60 are under construction.</p> |
| <ul style="list-style-type: none"> Lack of incentives to incubate , grow and transfer skills to enable SMEs to graduate into large enterprises | <p>Kenya Industrial Transformation Programme incorporates SME development An initiative between government and the private sector dubbed, Enterprise Kenya, has been developed for the incubation and growth of SMEs in the ICT sector</p> |



Agenda For 5TH PRT



A COMPETITIVENESS AGENDA BUILDING A MORE PROSPEROUS KENYA

What is Competitiveness?

Competitiveness

1. Long-run productivity
(i.e. *value* of goods and services produced
per unit of human, capital and natural
resources.)
2. Ability of firms to *compete successfully* in the
global economy.

Prosperity

Dimensions of prosperity

1. Wealth creation
2. Sustainable employment and
wages

Competitiveness is **not** low wages, a weak currency or jobs per se

Enhancing Kenya's Competitiveness must be our overarching priority.

Kenya is an increasingly attractive investor destination



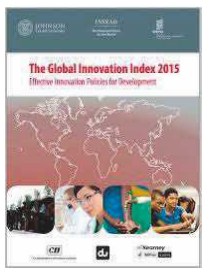
Kenya ranked **3rd most improved** economy globally in Ease of Doing Business

World Bank
Doing Business Report 2016



Nairobi ranked **the most attractive destination** for FDI in Africa

PWC - Into Africa;
The Continent's Cities of Opportunity,
2015



Kenya is **one of the two SSA** countries identified as an **innovation outperformer**

Global Innovation Index,
2015



Kenya singled out as **one of the 7 outstanding emerging markets** worth investing in globally; and the only African country on the list.

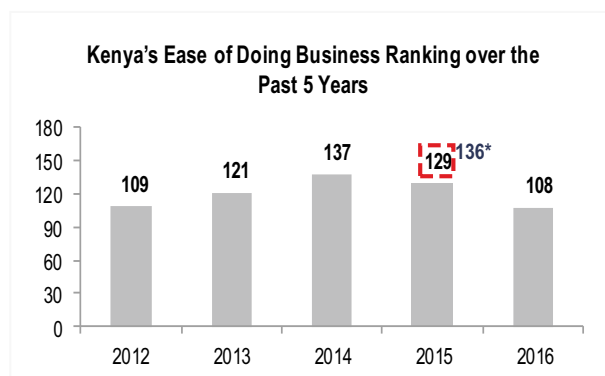
Fortune Magazine, 2015

The business environment reform process is yielding positive results

Kenya's ranking in Doing Business (DB)



Our best ranking in 5 years



Key Highlights in DB 2016 Report



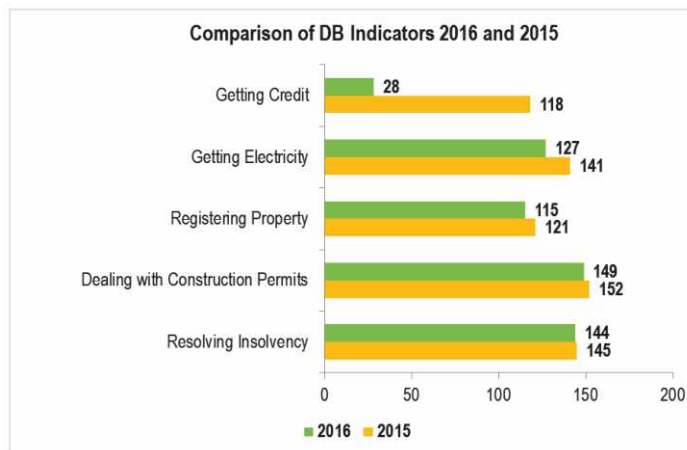
Source: World Bank, Doing Business 2011-2016

* The DB 2015 ranking was revised from 136 to 129 by WB to capture effects of data revision and change in methodology

Ease of Doing Business indicators

Areas where Kenya has made progress

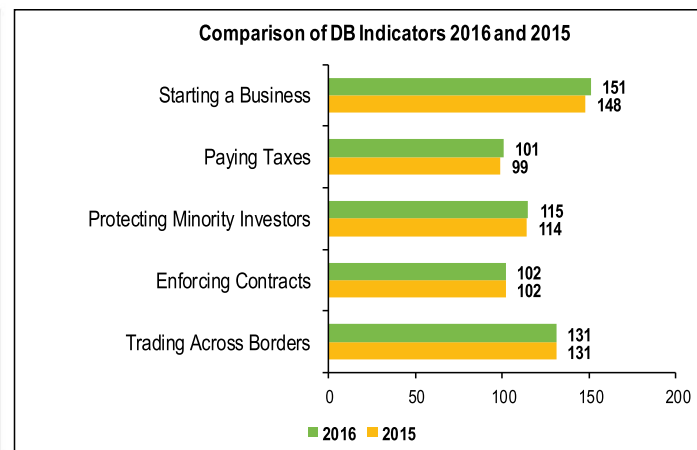
Kenya improved access to credit by passing legislation that allows the **sharing** of positive **information** and by **expanding borrower coverage**.



Source: World Bank. Doing Business 2016

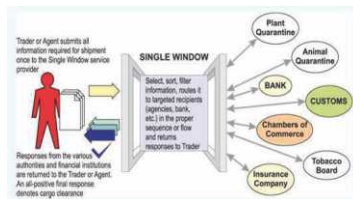
Areas where Kenya has not made progress

Kenya should continue prioritizing reforms that impact these indicators to positively impact the business environment.



Major strategic developments are raising investors' optimism

The *Kenya Economic Update Report, June 2015* cites **higher development spending** on major infrastructural activities e.g. the SGR and Geothermal power generation, as catalysts to increased investors' optimism.



IT & Telecomm

The Kenya National Electronic Single Window System is expected to increase ease of doing business



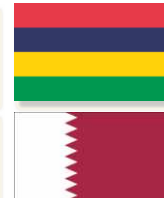
Energy

The *Boresha Stima Viwandani* Program to upgrade the power transmission and distribution infrastructure



Transport & Infrastructure

Completion of the SGR is expected to power economic progress

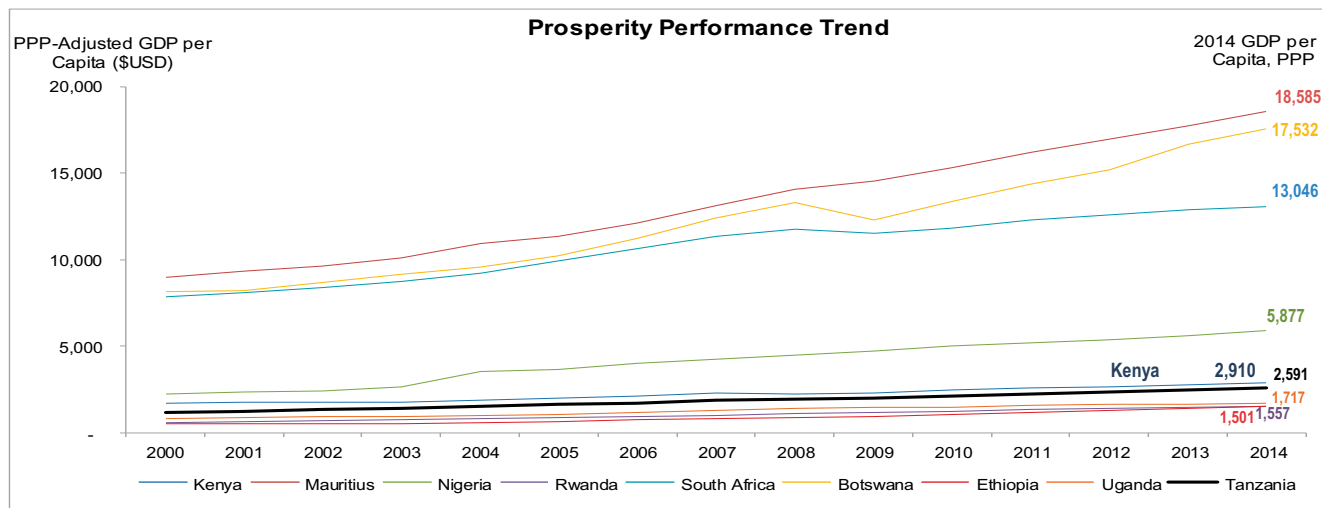


Strengthening Economic Diplomacy

Double Tax Agreements facilitating promotion and protection of investments

But despite the progress. . . Kenya's prosperity is lagging

Kenya's GDP per Capita growth- *a key measure of prosperity performance* - has been sluggish over the years when compared to other African countries.

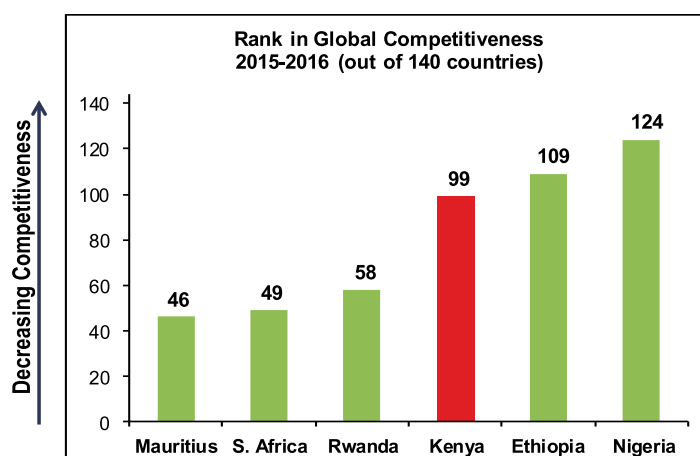


Kenya must **improve its competitiveness** to create **greater prosperity!**

Source: World Bank Data

Kenya lies in the bottom 1/3 in global competitiveness

Although there are numerous efforts to improve the quality of the business environment and make Kenya a globally competitive location there is still a lot of work that has to be done to make Kenya a preferred place of doing business.



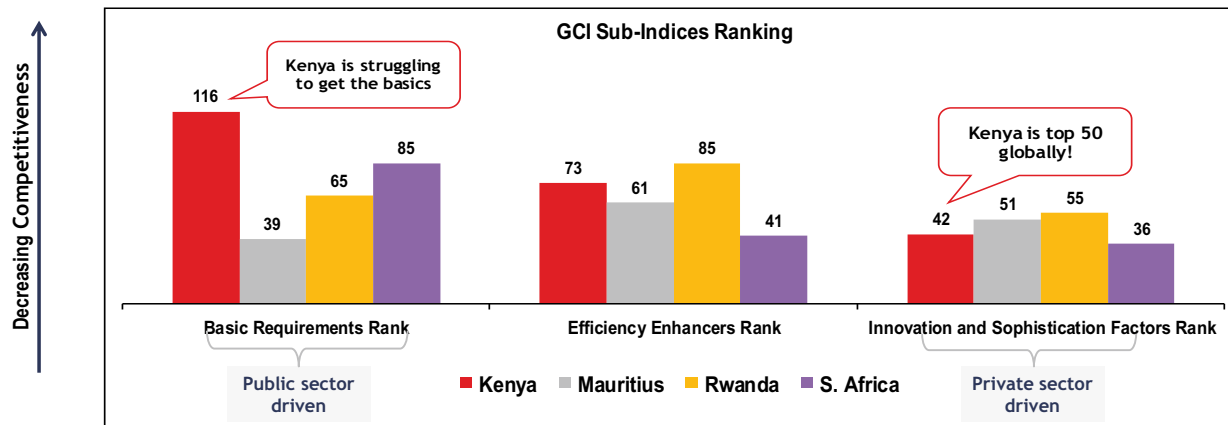
Source: The Global Competitiveness Report 2015-2016



Source: The Africa Competitiveness Report 2013 & 2015

The basics are critical if Kenya's competitiveness is to improve

- Kenya is struggling to get the **basic requirements of competitiveness** in place i.e. *institutions, infrastructure, macro economic environment & health and primary education*.
- Kenya is, however, top 50 globally in business sophistication and innovation.



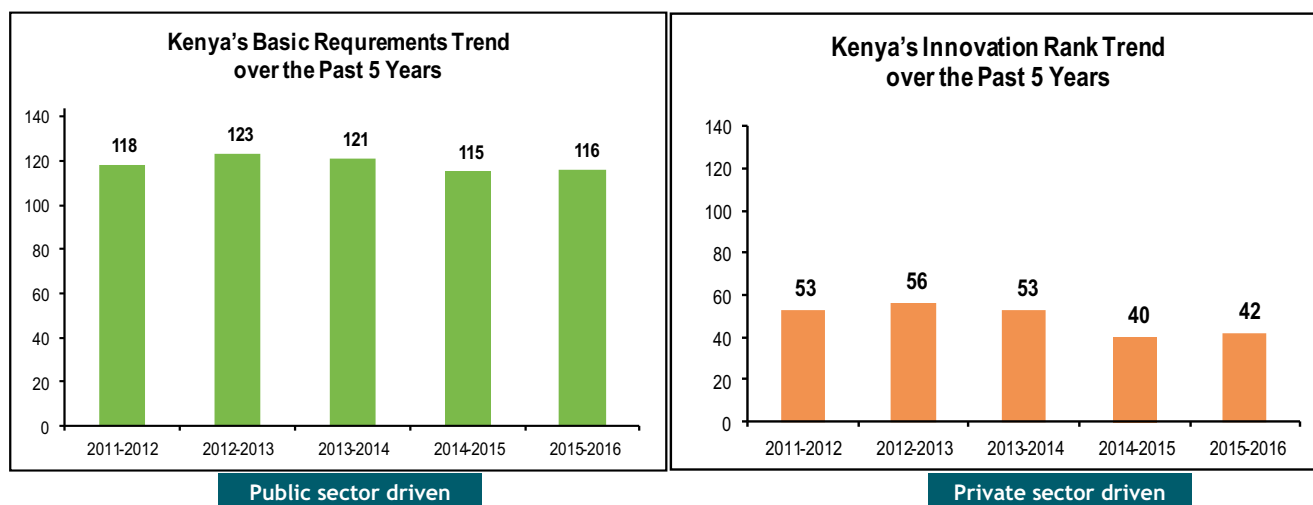
We must get the basics right!

Source: Global Competitiveness Report 2015-2016

Not enough progress in strengthening the social and institutional foundation

Kenya remains **among the bottom 30 countries** globally in basic public requirements.

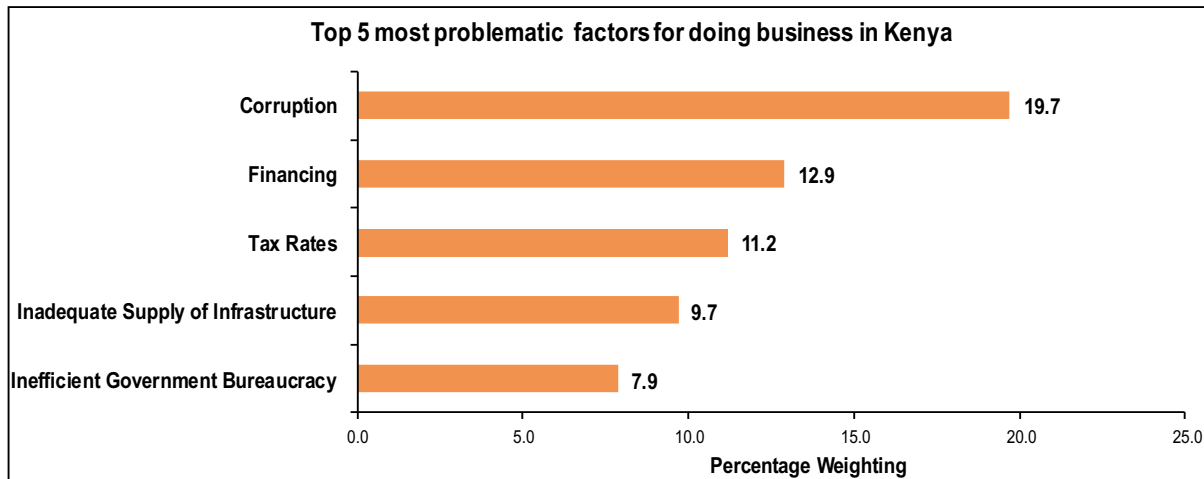
The **private sector driven** innovation and sophistication factors have been improving over the years.



Source: The Africa Competitiveness Report 2013 & 2015

Challenges hindering competitiveness of businesses in Kenya

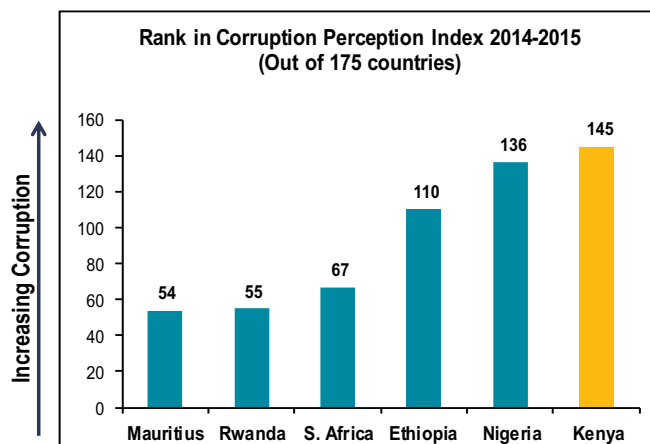
- **Corruption and perception of corruption** is listed as a key hindrance to competitiveness.
 - It is possible for Kenya to reduce its budget deficits and run a positive balance by closing off wastages and avenues for corruption.
 - Kenya's **private sector** has been listed **among the world's most corrupt** according to EY survey conducted in 2014



Source: Global Competitiveness Report 2015 -2016

Kenya's ranking on the Corruption Perception Index

- The Corruption Perception Index 2014 ranked Kenya in the **bottom fifth**.
 - **Over the decade** Kenya's scores on the CPI measure has improved only marginally indicating that **Kenya's fight against corruption has not been advancing**.



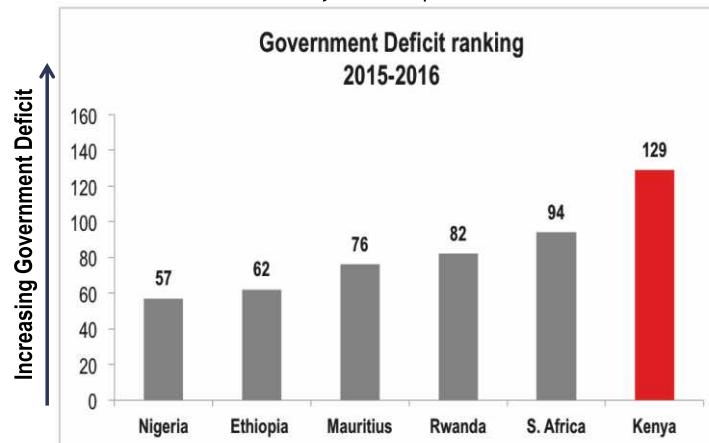
Source: Transparency International Corruption Perceptions Index 2014



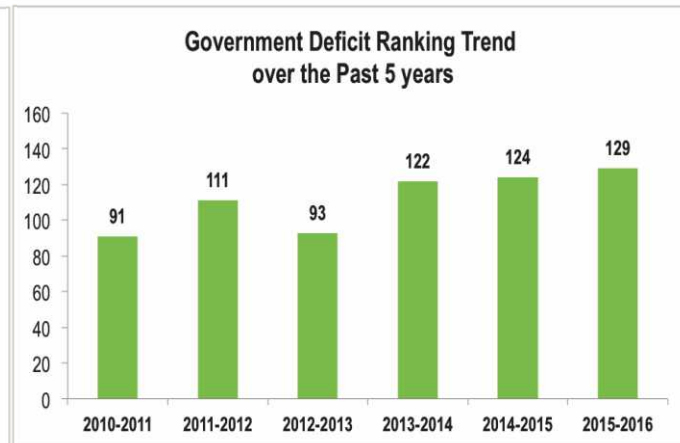
Source: Transparency International Corruption Perceptions Index 2010-2014

Consolidating Kenya's fiscal position is now urgent

- At 129th out of 140 countries in 2015/16, this is **Kenya's lowest ranking in 5 years** and progressively worse since the new constitution.
- Kenya's **fiscal balance has deteriorated** from 1.8 percent in 2007 to 8.3 percent of GDP in 2015.
 - According to the *Kenya Economic Update Report, June 2015* - it is the **lack of rationalization of spending** after devolution, the **duplication of functions** at the national and county level, and the **strong appetite for spending** at both levels of government that have worsened Kenya's fiscal position.



Source: Global Competitiveness Report 2015 -2016



Source: Global Competitiveness Report 2010 -2016

Kenya's net Foreign Direct Investment performance is improving but more can be done

What is hindering FDI inflow into Kenya?

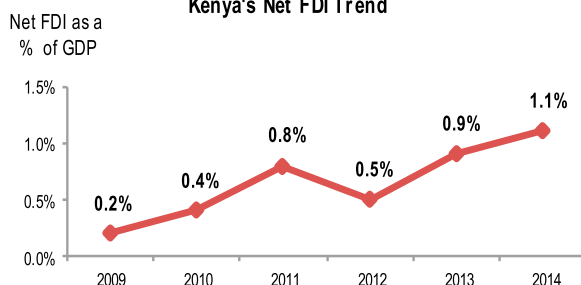


- Consistent low rankings** on international measures:

12th Most corrupt in SSA **9th** Ease of doing business in SSA

- Restrictive legislation** against FDI.

Kenya's Net FDI Trend



What is boosting FDI inflow into Mauritius?

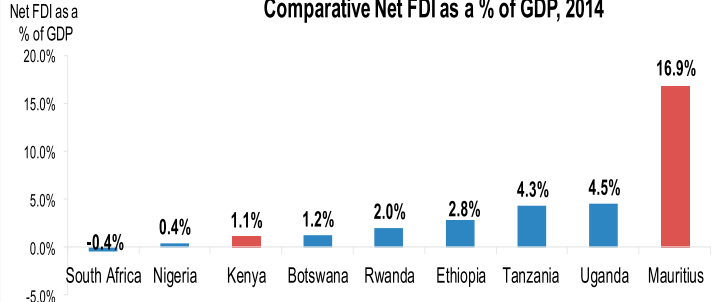


- Consistent good rankings** on international measures:

4th Least corrupt in SSA **1st** Ease of doing business in SSA

- A low tax jurisdiction** attracting global business corporations
37 Double Tax Avoidance Agreements making it a low-tax investment gateway.

Comparative Net FDI as a % of GDP, 2014



Source: Regional Economic Outlook SSA, 2015

A comparison of Kenya Exports and Imports performance

Kenya needs to **increase** its **capacity** for **value-addition** to boost external trade balance and competitiveness.

More than **50%**

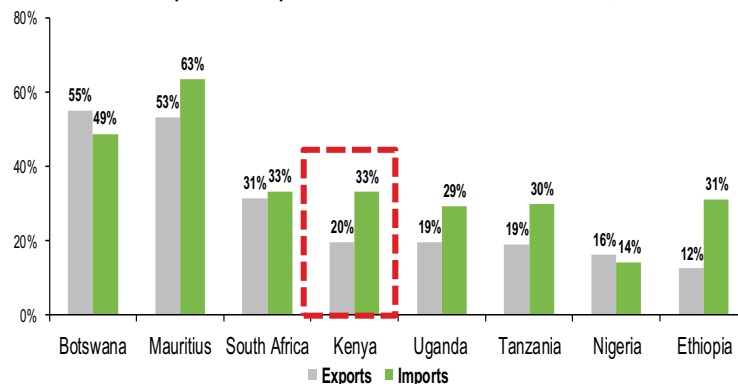
of exports are agriculture related

But

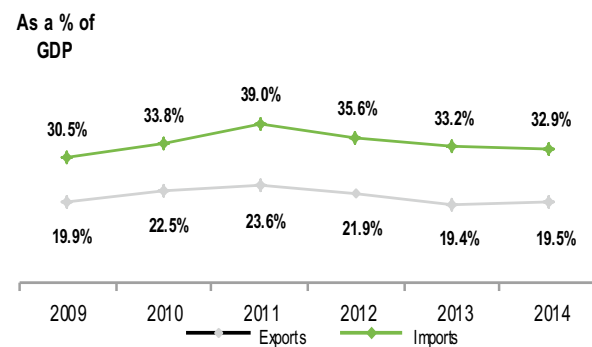
Approx. **84%**

are **low-value** i.e. **unprocessed**

Exports and Imports of Good and Services as % of GDP, 2014



Trend of Kenya's Exports and Imports



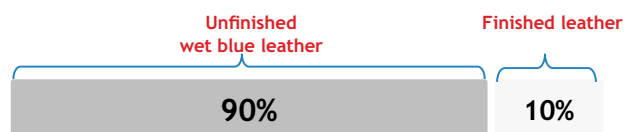
Source: Regional Economic Outlook SSA 2015

Potential for higher-value exports in strategic clusters

Broadening and strengthening clusters will increase Kenya's capacity for high-value export promotion.

Leather

Of Kenya's USD 94Mn leather exports:



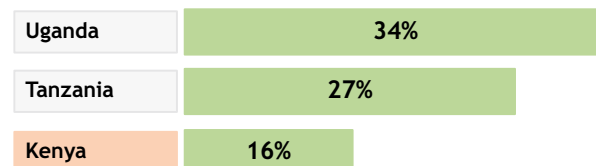
Further processing would lead to



- 1 An additional **35,000 jobs**
- 2 Additional USD **150-250Mn** in GDP
- 3 Contribute to **substituting** a portion of **USD 86 million** in shoe imports yearly.

Agro-processing

% of **processed** agricultural exports:



2x



If Kenya doubles amount processed

- 1 An additional **110,000 jobs**
- 2 Additional USD **600Mn** in GDP

Source: Kenya's Industrial Transformation Programme, 2015

Clusters are key to greater competitiveness regionally and globally

Developing and strengthening clusters in areas where Kenya has natural comparative advantage will lead to substantial increase in GDP and sustainable employment.

Construction

Kenya imports \$1.3 BN of iron and steel products:

\$200-400Mn of imported, processed steel products

Competes directly with locally produced products

Import substitution would lead to



- 1 An additional **28,000 jobs**
- 2 Additional USD **80-150Mn** in GDP

IT Related Sectors

Kenya can leverage:

1. Its reputation as an IT hub;
2. Advanced IT and Communications infrastructure &
3. Its competitive cost structure

Cost Advantage over:

UK **70%**

South Africa **50%**



Building on these advantages to create an IT service export hub within Africa would lead to

- 1 An additional **45,000 jobs**
- 2 Additional USD **200 Mn** in GDP

Source: Kenya's Industrial Transformation Programme, 2015

A real urgency | Immediate priorities to improve Kenya's competitiveness

| Priority | Recommendations | Results |
|---|---|---|
| 1. Tackling Corruption | <ol style="list-style-type: none"> 1. Government to establish a one-year Special Tribunal and Court to deal with corruption cases expeditiously as the current institutions are being overhauled and strengthened. Such courts have been used in Croatia, Slovakia and Malaysia. 2. Government to overhaul the EACC to take over after one year from the special tribunal and court. 3. Private sector has launched the 'Mkenya Daima' Campaign to promote a national values system. <ul style="list-style-type: none"> • Increasing a sense of patriotism and commitment to utilize one's abilities for the common good - Kenya first mentality and not 'me first mentality' • A peaceful and corruption free Kenya where citizens have equal opportunity, are well integrated and cohesive. 4. Private Sector to fast track enactment of the Anti-Bribery Bill. <ul style="list-style-type: none"> • The bill covers bribery in both the public and private sector and seeks to punish offences relating to bribery including soliciting or receiving a bribe; it broadens the range of those liable to penal sanctions to include intermediaries of bribery over and above actual recipients. • Seeks to address corruption in the tenders whereby if a tender involves corruption then the tender committee is sacked and prosecuted as well as any company that is found corrupt or that stops a tender that is tendered right. 5. Government to mandate a relevant authority to undertake Lifestyle Audits to increase transparency. | <ul style="list-style-type: none"> • Will enhance ease of doing business, increase FDI, encourage entrepreneurship and support job creation. |
| 2. Cluster Development & Value addition | <p>Private Sector through the KEPSA Competitiveness Center to work with relevant government ministries on the export strategy and value addition strategy.</p> <ul style="list-style-type: none"> • Providing a central point of public-private leadership on private sector side competitiveness matters. • Implementing an effective monitoring and evaluation system that will tie into bottom line impact indicators | <ul style="list-style-type: none"> • Will boost capacity to export high-value goods & services and to absorb growing unemployment |

A real urgency | Immediate priorities to improve Kenya's competitiveness

| Priority | Recommendations | Results |
|-------------------------------------|---|---|
| 3. Fixing the Basics | Treasury, Central Bank of Kenya, Kenya Revenue Authority, KIPPRA and KEPSA to develop and communicate, within 30 days, a Rapid-Results Plan to restore economic confidence, fiscal discipline and ensure monetary stability. | • Will create the economic-wide context for high productivity to emerge. |
| 4. Enhancing Investment Environment | <ol style="list-style-type: none"> 1. Government to reinvigorate KENINVEST and model it on leading investment agencies such as Singapore's Economic Development Board, Costa Rican Investment Promotion Agency and Rwanda's Development Board. KENINVEST should be positioned at the centre of all investment with a one stop shop complete and operational. 2. Government to fast track progress on Double Taxation Agreements at the EAC and other trading partners. 3. Government and KEPSA to continue to prioritize the Competitiveness Agenda and Ease of Doing Business Reforms under the business reform unit in Ministry of Industrialization. | <ul style="list-style-type: none"> • Enhance Kenya's position as a global hub for business and investment • Will reduce cost of closing deals for investors. |
| 5. Implementation & Follow Through | <ol style="list-style-type: none"> 1. The KEPSA Competitiveness Center and the Business Reform Unit at Ministry of Industrialization to follow through all business reforms and the competitiveness agenda. 2. The Public Sector to have a maximum of 3 areas for the next two years, based on core mandate to implement to drive growth and development. These should be entrenched in the performance contracts that are made public. | • Ensure consistency in implementation of policies that will drive economic growth |



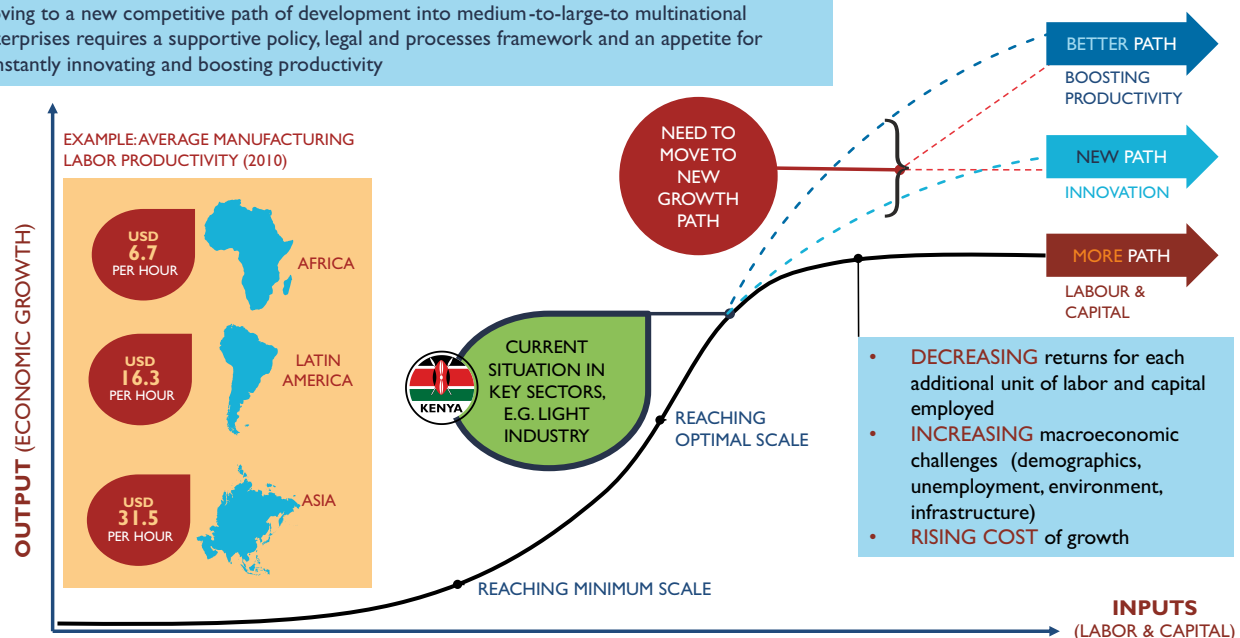
B ENTREPRENEURSHIP & SME DEVELOPMENT

A NEW ECONOMIC IMPERATIVE:

THE KENYA RISING STAR INITIATIVE

THE CONTEXT & FUTURE - THE NEW ECONOMIC IMPERATIVE FOR BIG RESULTS NOW

- Most Kenyan SMEs have remained SMEs for decades and there's a "missing middle" of SILVER & GOLD category enterprises.
- Moving to a new competitive path of development into medium-to-large-to multinational enterprises requires a supportive policy, legal and processes framework and an appetite for constantly innovating and boosting productivity

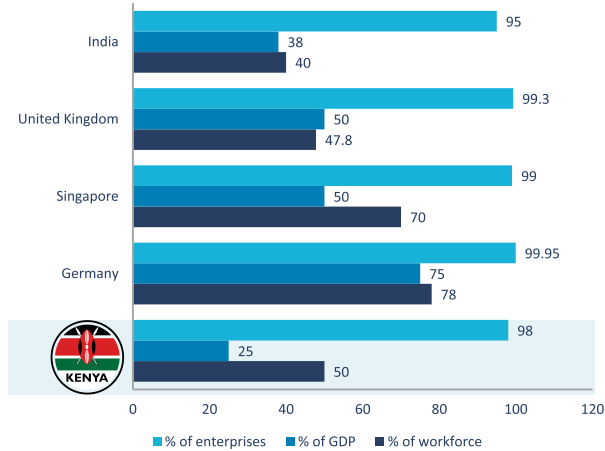


Source: Nigerian 2011 Socio-Economic Survey: Sectoral Wages: Manufacturing : Minimum Wage for Machine Tool operator in Kenyan municipality, 2014; International labor organization, 2013 Manufacturing labor costs per hour

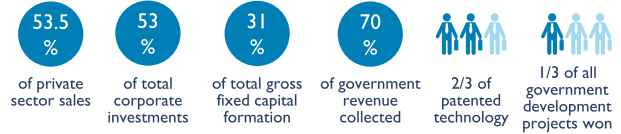
SMES: THE BIG PICTURE ACROSS SELECTED COUNTRIES

Across the world, SMEs are vitally important for driving economic health and employment in both high-income and low-income economies.

PERCENTAGE SHARE OF SME CONTRIBUTION TO VARIOUS INDICATORS IN SELECTED COUNTRIES

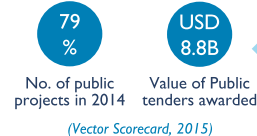


(2014) SMEs were responsible for...



SMEs & PUBLIC PROJECTS...

SMEs outnumbered MNCs in securing public tenders



Public tenders are a good source of projects and funding for SMEs, and also help these firms build up a good track record, brand, and certification of quality and standards.

(Vector Scorecard, 2015)



SMEs CONTRIBUTION...

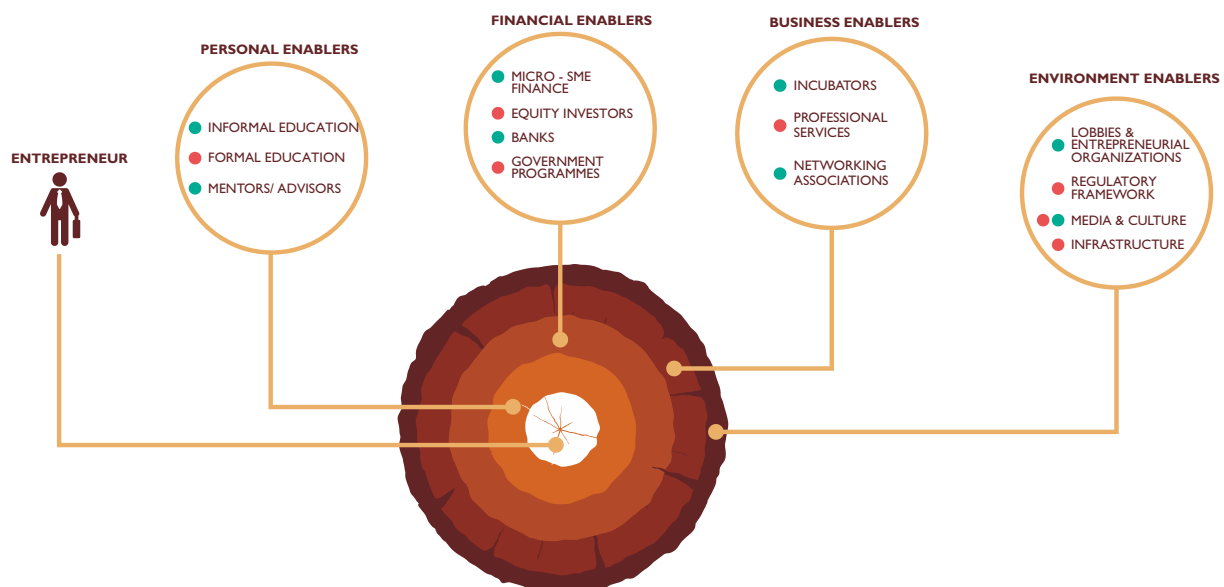


THE ENTREPRENEUR'S SUPPORT ECOSYSTEM AND KEY GAPS TO IMPROVE

While it is important to focus improvements at all levels of the SME support ecosystem, the government and respective business sector associations can pay higher focus on different areas

KEY ● Aspects of entrepreneurship ecosystem requiring high government focus

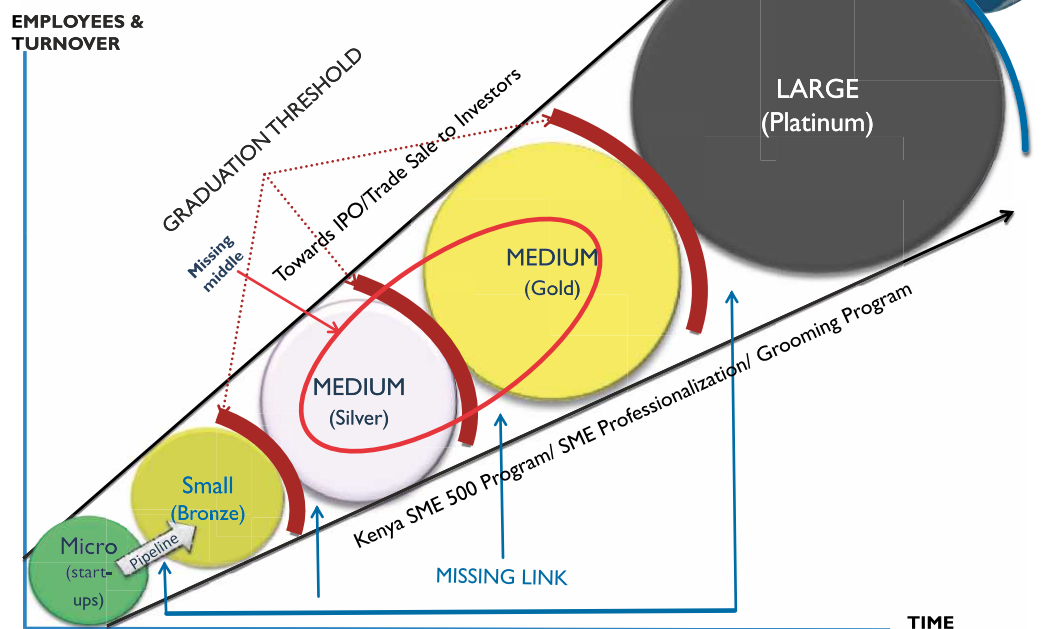
● Aspects of entrepreneurship ecosystem requiring high private sector focus



Development Goal: Graduate from Micro to Small to Medium to Large Kenya-based, globally-oriented companies

- ✓ Rising number of SMEs graduating the next level to bridge the missing middle dilemma.
- ✓ 100 Bigger and Better Globally-oriented **Home-grown Rising Stars** (SME Lions who are all Rounder - innovative, productive, competitive, etc.,)
- ✓ 10 Home-grown Globally-competitive Platinum Ltd. Companies in 10 years.
- ✓ Stable and Sustainable SMEs
- ✓ Rising employment and capital formation

| Stage | Business Strategy |
|-------------|-------------------------------------|
| GLOBAL MNCs | INNOVATION, EXPANSION & ACQUISITION |
| PLATINUM | INNOVATION |
| GOLD | EXTERNAL COLLABORATION |
| SILVER | CONSOLIDATION |
| BRONZE | INTERNAL COLLABORATION |
| STARTUPS | FUZZY |



10th Yr

8th Yr

5th Yr

1st Yr

10 Platinum

Target 10 Platinum Ltd Co. after 10yrs

GLOBALLY-READY 100 LIONS

Graduate New 20 Lions after 8yrs

Maturity program

TARGET 100 TO JOIN TOP 100 SMES

REGIONALLY-READY 30 LIONS

Target 30 Lions from league of Top 100 in 5yrs

Graduate 100 startups to Top 100 in 5yrs

IDENTIFY 500 STARTUPS

IDENTIFY KENYA TOP 100

ID. 50 HIGH-GROWTH REGIONALLY-READY LIONS

PROMOTE LINKAGES

PROMOTE LINKAGES

EMPLOYMENT, TURNOVER & INVESTMENTS

1. **OUTREACH** to the larger Kenyan SME segment & **IDENTIFY** a set of promising Start-ups, Top 100 SMEs and high-growth Silver and Gold SMEs to enroll to the program.
2. **ENHANCE** SME performance and growth excellence for all the candidates via Performance Development Ranking and Certification to mature/grow them to the next level.
3. **DEVELOP** supply-side investable SMEs for encouraging demand-side investor market interest.
4. **GROW** a stable and sustainable 100 Kenya-based globally-ready 'Lions' and 10 globally-competitive platinum companies.
5. **MAKE** Kenya the destination to attract high-net-worth innovative and investable start-ups and SMEs at various stages of growth

LINKING PROPOSED SME GRADUATION MODEL TO SPECIFIC NATIONAL & PRIVATE SECTOR DEVELOPMENT GOALS

Available PSD support initiatives:

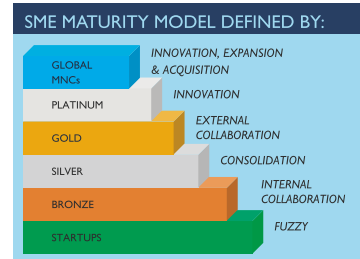
- Uwezo Fund
- Youth Fund
- Women Fund
- Biashara Kenya
- Tax breaks
- Economic Diplomacy
- Enterprise Dev't Fund
- Preferential procurement
- Buy Kenya-Build Kenya

National Development Goals:

- More jobs
- Economic Growth
- Uplift youth and women
- Increased tax collections
- Rising FDI
- Poverty reduction
- Healthy current account

Private Sector Development Goals:

- Productivity
- Value addition
- Wealth creation
- Innovation
- Technology attraction
- Effective market information



BY SUPPORTING THESE KEY SME GROWTH FACTORS:



Presently, these are key constraints to entrepreneurs (Post-GES reflections)

RESULT:



SOUTH AFRICA RAIL DEVELOPMENT CASE STUDY



A sustainable solution to deliver Transnet's Mandate:



1 Lowering the cost doing business in SA... by optimising freight movement

Technology

- Lowest life cycle cost solution...fuel, maintenance
- EVO 2% better than C30Aci/ Trip Optimizer
- Local warehousing, local Tech. Support
- Potential to upgrade to LNG
- Innovation Centre with strategic partnerships

Path to Real-time Railway

- Integrated with TFR control centre

Lowest Cost Local Suppliers

- 100+ Exclusive suppliers ... lowest SA cost
- 55% local content... lower ACO than prior locomotives



2 Social & Economic Transformation... inclusion of previously disadvantaged

Job Creation, Skills & Supplier Development

- 29,000 jobs created or sustained
- Supplier Development Vehicle (\$25MM GE) & up to \$300MM debt and equity from IFC & IDC
- \$50MM regional customer innovation centre

Increased Local Ownership and participation

- 25% equity partner with Mineworkers Investment Company
- 15% equity partnership with Suppliers as beneficiaries

Financing via EXIM and other external sources

Export

- ~\$500MM in Loco export value to Mozambique & other SSA

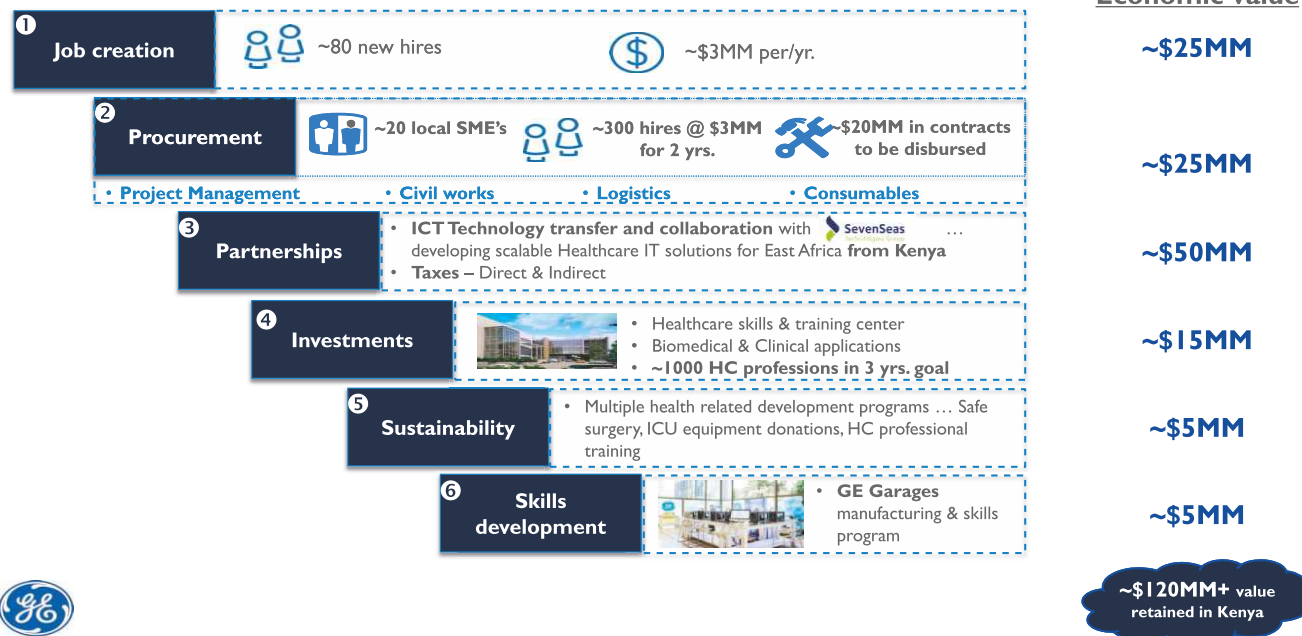
80%+ of total contract value delivered to South Africa



'15 TENDER = SUSTAINABLE DEVELOPMENT

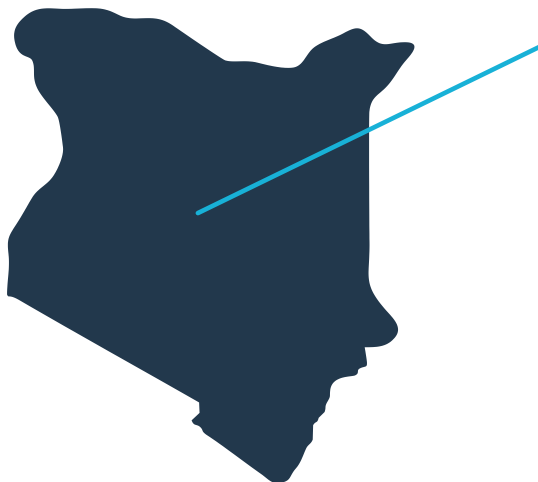


GE's ~\$0.2B 7 year MES tender illustration



WAY FORWARD FOR THE KENYA RISING STAR PROGRAMME

Initially as a country we have to pay a premium in investment to start off this program, understanding that the impact on jobs, wealth, competitiveness and economic growth is bountiful and sustainable.

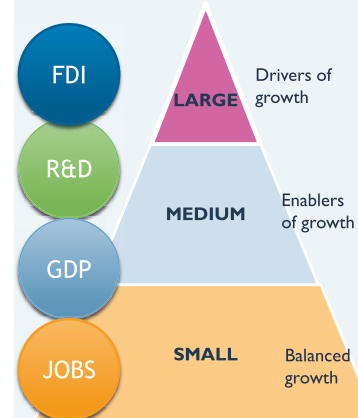


1. Identify the priority sectors/projects where Kenya can develop competitiveness.
2. Pilot this initiative in selected sectors/projects.
3. Evaluate the 'value' of past projects to determine how local they have been.
4. Review the way we do our national contracts/procurement to ensure they add value to a greater number of citizens in terms of jobs and wealth creation.
5. Tie next strategic national projects to this prism.
6. Inculcate a strong national value system to deal with challenges such as national behaviour, culture, corruption, cleanliness, and respect of law and order.
7. President to champion a 'People Mindset Change' process to shift national mindset from being a 3rd world to 1st world to inspire the required change.

FOUR INITIATIVES FOR THE KENYA RISING STAR PROGRAMME

| | | | |
|-----------------------|---|--|---|
| Policy | <ul style="list-style-type: none"> Develop a National Local Content Policy linked to | <ul style="list-style-type: none"> Strategic National Projects e.g. National V2030 Projects Skill Development, Academia and Centres of Excellence R&D and Enterprise Development, Effective Intellectual Property protection Future replicable exports | PDU, Treasury, MoIED, MoDP, PPOA, V2030 KEPSA |
| Exports | <ul style="list-style-type: none"> Develop & launch A Kenya Rising Star Companies Framework | <ul style="list-style-type: none"> Linked with SME maturity model and an Export Strategy Identify and select 500 SME's, 100 Middle-level and High-Growth enterprises to enrol into the 'Rising Star Program'. Honour and celebrate Sector/Industry Champions | PDU, MoIED, KEPSA |
| Funding | <ul style="list-style-type: none"> Set up the Kenya Exim Bank to drive up export revenues for next stage SMEs | <ul style="list-style-type: none"> Working capital guarantee Export credit insurance Borrow against export-related assets Win foreign projects that require bid and performance bonds | Treasury, MoIED, KEPSA |
| Sustainability | <ul style="list-style-type: none"> Establish Annual Certification Assessment/Audit for various classes/categories of SME's & SME Mentorship Programs | <ul style="list-style-type: none"> Includes Diagnostic and Evaluation Tools, Themes & Plan. Case Studies and Experience sharing by successful CEO's Celebrate Achievements annually Establish 'Young Business Leaders & Mentorship Program' Establish 'Young Entrepreneur Competition' in all levels of education & Award System' Report evidence of growth in tax remitted and jobs | MoIED, KEPSA |

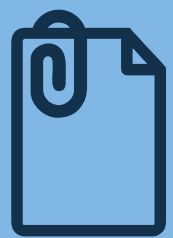
IMPACT



LEADERSHIP & CHAMPIONSHIP

- The President to champion this initiative as part of the GES legacy project
- Implementation and impact to be tracked and reported at every PRT
- A dashboard to be created to monitor impact





Appendices

KEPSA ENGAGEMENTS: APRIL TO NOVEMBER 2015

MINISTERIAL STAKEHOLDER FORUMS (MSFs)



1. INDUSTRIALIZATION & ENTERPRISE DEVELOPMENT



NBA Thematic Area:
Enhancing Trade & Investment



A Issue: Inadequate land for industrial setup and expansion

Recommendation

- Set aside land for industrial use
- Develop industrial parks to enhance access and availability of secure investment land

Progress

- 1000 acres of land have been set aside in Athi River. Ministry is working with KEPSA to identify investors to take up land in this industrial park.
- Five industrial parks are to be set up between Mombasa and Naivasha.

B Issue: Low export diversification and overreliance on primary produce for exports

Recommendation

- Enact Special Economic Zones Bill

Progress

- Special Economic Zones ACT, 2015 has been assented to

C Issue: Minimal optimization of Internal Market and heavy reliance on imports

Recommendation

- Finalize the 'Buy Kenya Build Kenya' Policy
- Incorporate local content in all government projects to promote technology transfer and product innovation

Progress

- Directive to implement **Buy Kenya Build Kenya** initiative issued under the FY2015/16 budget
- The Ministry of Industrialization and Enterprise Development is developing a local content policy

D Issue: Lengthy procedures of importing industrial sugar

Recommendation

- Streamline industrial sugar importation process

Progress

- Negotiations are ongoing between the sugar industry and the sugar directorate to streamline the process

E Issue: High Import Declaration Fee (IDF) making Kenyan goods uncompetitive within EAC

Recommendation

- Lower the IDF rate or scrap off IDF for raw materials for locally manufactured goods

Progress

- IDF Fee lowered from 2.25% to 2% in the current Financial year
- Harmonization of IDF within EAC member states is pending

F Issue: Introduction of excise duty on water and other non-alcoholic beverages Sh.10 per litre

Recommendation

- Streamline industrial sugar importation process

Progress

- Negotiations are ongoing between the sugar industry and the sugar directorate

G Issue: Slow pace of industrialization growth

Recommendation

- Develop and implement an industrialization road map

Progress

- Kenya Industrial Transformation Programme was launched in September 2015.

2. AGRICULTURE, LIVESTOCK & FISHERIES



NBA Thematic Area:
Enhancing Trade & Investment



A Issue: Need to restructure sugar industry ahead of expiry of COMESA sugar safeguards extension in March 2016

Recommendation

- Establish measures to protect the sugar industry ahead of the expiry.

Progress

- Privatization has commenced and the process of preparing expression of Interest has begun

B Issue: Low enforcement of meat control Act

Recommendation

- Amend the meat Control Act to facilitate ease of implementation

Progress

- Amendment of Meat Control Act to remove some outdated sections to make it relevant to assist in market development.

C Issue: High cost of fertilizer and availability of the subsidized fertilizer to farmers.

Recommendation

- Develop measures to lower the cost through local production
- Facilitate development of a technologically- aided programme to sell fertilizer to farmers ahead of the factory establishment
- Conduct soil mapping and soil fertility tests across the country to inform fertilizer usage

Progress

- The construction of fertilizer blending factory in Eldoret was launched on 4th September, 2015.
- Fertilizer use recommendation launched in 2014 to guide the blending industry.
- E-wallet; an electronic fertilizer subsidy management tool has been finalized and awaiting field testing before the rollout. This platform will ease administration of fertilizer subsidy by involving Private Sector fully in fertilizer value chain processes.
- Soil fertility management policy which will guide future investments and regulations to be implemented by the government is under development.
- The Ministry is developing a policy to enforce the necessary Acts, license soil testing service providers, develop necessary protocols to govern soil management and accredit soil laboratories in the country.

D Issue: Misinterpretation of the Council of Ministers' Legal Notice No. EAC/38/2015, of 1st July, 2015 by KRA, (Subjecting wet blue and crust leather to 80% export tax)

Recommendation

- Amend Miscellaneous Levies and Charges Bill, 2015 to remove the VAT and revoke the legal notice

Progress

- Miscellaneous Levies and Charges Bill in discussion in parliament
- Legal notice revocation pending.

E Issue: VAT bill 2013 which enacted a standardized 16 per cent tax on previously zero-rated agricultural inputs, and livestock feeds, has resulted in significant increase in farm level production costs

Recommendation

- Zero rate taxation on repackaging as the local consumption is mainly on small packages of up to 10 millilitres
- Harmonize the taxation regimes to promote agriculture growth.

Progress

- The FY 2015/16 budget speech removed taxes on beer made from sorghum, finger millet and cassava.

F Issue: Multiple and duplicative taxes at the county and national levels. counties are referring to article 6 (1) of the Crops Act 2013 which allows them to charge up to 10% of the gate value

Recommendation

- Develop a model law to provide guidelines on cess collection for adoption by the counties.

Progress

- The Commission on Revenue Allocation and National Treasury launched a model County Finance law to guide counties when developing Finance Bills

- G** Issue: Commercial Government involvement in the agriculture sector, creating unfair competition as these organizations benefit from government subsidy

Recommendation

- Reduce the participation of Parastatals in the sector particularly the seed sector
- Reduce the government subsidies to allow for fair competitive practices, improved standards and quality

Progress

- A final report on restructuring of The National Cereals and Produce Board (NCPB) separate social functions from commercial functions and put the entity into profit making position has been presented and currently the implementation is ongoing.

- H** Issue: Hot iron cattle branding due to increase in cattle rustling and insecurity lowering the quality of hides and skins produced for export

Recommendation

- Expose and train cattle keepers to modern technology that can be used to sustain the quality of the hides and curb cattle rustling

Progress

- The ministry has introduced bolus strategy to discourage use of hot iron branding in livestock.

3. ENERGY & EXTRACTIVES



NBA Thematic Area:
Infrastructure Development



- A** Issue: Long duration taken to get electricity connection

Recommendation

- Reduce the cost, duration and procedures taken to get electricity connection

Progress

- Last mile connectivity project is currently under implementation at a subsidized rate of Ksh 15,000 down from Ksh, 35, 000
- A new application form has been launched collapsing some of the procedures reducing them from 6 to 3 and has been in implementation since May 2015. The form is also available online.

B Issue: High business disruptions and costs due to high number and duration of power outages

Recommendation

- Develop and implement power distribution and transmission infrastructure improvement programmes

Progress

- 809 feeders have been established under “Boresha Stima Viwandani” Programme whose implementation is ongoing
- KPLC is in the process of upgrading existing substations and constructing 37 new ones.
- KPLC has developed a five year strategy with 252 projects on upgrading substations and transmission lines

C Issue: High business costs due to high cost of power

Recommendation

- Reduce and stabilize the power costs

Progress

- Installation of 280 MW of affordable geothermal power has been connected to the national grid, resulting in a reduction in the Fuel Cost Charge from 7.22 in August 2013 to 2.81 in September 2015.
- Acquisition of land and way leaves for power infrastructure remains a challenge.

D Issue: Lengthy Power Purchase Agreements (PPA) negotiation process

Recommendation

- Speed up the review and finalization of the PPA process and standardised PPA documents

Progress

- Development of a standardized PPA is ongoing

E Issue: Provision of Government guarantees and letters of support for project sizes

Recommendation

- Agree with Private Sector players minimum guarantee/ support instruments acceptable to achieve bankability and revise excising and/or draft new documents as appropriate

Progress

- A Framework has been developed by the National Treasury to handle FiT/IPP projects

F Issue: Nonexistence of clarity of approach for acceptance, review and approval of FiT projects and the involvement of the PPP unit

Recommendation

- Discuss, agree and communicate procedure for project application, evaluation and award process under the FIT policy

Progress

- A guideline has been developed in consultation with the National Treasury

G Issue: Weak legislative and policy framework for the Energy Sector

Recommendation

- Review the National Energy Policy (2004) and the Energy Act, 2006 to align with the constitution and recent developments in the Energy Sector.
- Develop and enact a legal instrument to guide the oil and gas sector.

Progress

- Energy Bill, 2015, and Petroleum (exploration, development and production) Bill, 2015 have been tabled in parliament.
- National Energy Policy has been forwarded to Parliament for approval

H Issue: Depletion of biomass which forms 68% of the national energy demand in Kenya

Recommendation

- Put in place measures and policies to strengthen biomass supply from production, through conversion and end use.

Progress

- Subsidies on kerosene have been removed to promote adoption of cleaner Biomass
- A draft strategy and action plan on Bioenergy and LPG development in Kenya has been developed. The consideration of this draft to be prioritized by Ministry of Energy and Petroleum (MoE&P) before the next MSF

I Issue: Increased illegal LPG trade posing a threat to Public safety & Security given that LPG is highly safety sensitive and explosive in nature.

Recommendation

- MoE&P to liaise with Kenya Revenue Authority (KRA) and Energy Regulatory Commission (ERC) in closing down all the illegal dens and deterring illegal LPG imports.

Progress

- Several illegal LPG dens have been closed down and efforts to sustain this initiative are in place.

J Issue: Reimbursement of Yield Shift (Paper Stocks) to Oil Marketers after Kenya Petroleum Refineries Limited (KPRL) closure

Recommendation

- MoE&P to submit a Cabinet Paper for approval. The paper was drawn up in January 2015 after Industry and MoE&P agreed on a formula and recovery period.

Progress

- MoE&P is awaiting conclusion of the deed of termination between Government and Essar in order to progress the recovery process as proposed by Private Sector.

K Issue: Non-existence of a specific Local Content policy as provided for in the Kenya National Energy Policy & the draft Energy & Petroleum Master Plan

Recommendation

- Develop a local content policy to provide clarity on minimum local content levels, requirement for minimum equity participation, participation of Kenyan citizens in petroleum activities, technology transfer among others;

Progress

- MoE&P has commenced development of a local content study to inform development of local content regulations.
- MoE&P to share findings/outcomes of the study with stakeholders.

L Issue: Construction of a new Oil Terminal Berth

Recommendation

- Expedite finalization and construction of a Single Buoy Mooring (SBM) that has been pending since 2006.

Progress

- A feasibility study has been done and completed. This has seen the project categorized as one of the 47 high priority PPP Projects
- Construction of the Single Buoy Mooring (SBM) and tank farm is expected to commence once National Oil Corporation has procured a project partner within the framework of the PPP Act.
- A transaction advisor has been engaged to help in the tendering process for the project partner.

M Issue: Delay in infrastructure projects due to challenges in land compensation and way leaves acquisition

Recommendation

- Develop a national Policy on land acquisition and way leaves, to include safeguarding of agreements legally and procedurally entered into.

Progress

- Initiative by Ministry of Lands, Housing and Urban Development (MoLHUD) on land access policy for Infrastructure projects to be prioritized and expedited. KEPSA to be included in the Taskforce working on the policy

N Issue: High rate of Capital Gains Tax (CGT) and Withholding Tax on oil and gas sector

Recommendation

- Reduce CGT from the current 30%/37.5% applicable to oil and gas companies to 5% as applicable to other industries.

Progress

- MoE&P has initiated discussion with the National Treasury aimed at reducing the tax rates

O Issue: Low strategic oil reserves posing a threat of a possible national stock out situation

Recommendation

- MoE&P to fast track decision that requires interventions by ERC and KPRL to facilitate inclusion of KPRL into the KPC supply chain as additional storage facility and discharge point for Open Tendering System (OTS) product.

Progress

- A committee comprising of VVTI, KPRL and Petrocity has been set up to work on the integration and provide a report by end of October.
- KPRL Deed of Termination is pending execution.
- The legal process has commenced on disintegration with ESSAR and provide for 100% government ownership. There has been a principal agreement on utilization of inland storage facility pending setting of tariffs. between the sugar industry and the sugar directorate

4. TRANSPORT & INFRASTRUCTURE



NBA Thematic Area:
Infrastructure Development



A Issue: Lack of institutional and capacity training in the management of the transport sector

Recommendation

- Create a road transportation training Institute
- Formulate Road Transport Studies Curriculum

Progress

- Formation of a committee to deliberate and develop solutions to build human capacity in the public service roads transport sector is ongoing.
- A driving schools' Curriculum has been developed pending harmonization with the EAC curriculum on Training, Testing and Licensing of drivers is pending.

B Issue: Unpredictable policy environment making it difficult for the private sector to make long term transport sector investment decisions, due to a Long term National Transport Master Plan

Recommendation

- Create a 25 year National Transport Master Plan in County Transport Plans feed
- Create a long term Transport Investment policy in line with integrated National Transport Policy.

Progress

- Consultant hired to develop a 50 year master plan.
- Draft Airspace Master Plan developed

C Issue: High traffic congestion causing, high cost to businesses and high environment pollution

Recommendation

- Expedite the Bus Rapid Transit System, Traffic Management Centre and installation of Intelligence Traffic System.
- Install weigh in motion systems to reduce congestion at the weigh bridges

Progress

- A Nairobi Metropolitan Transport Authority Steering Committee has been established to oversee implementation of Bus Rapid Transit System (BRTS) pending Private Sector inclusion
- Weigh in motion systems installed in Mariakani and Mlolongo weigh bridges

D Issue: Lack of a platform for resolution of transport disputes, which are currently being handled through the courts which is a long and costly process.

Recommendation

- Establish the Transport Licensing Tribunal as stipulated in section 59 of the National Transport and Safety Authority (NTSA) Act
- Establish an Alternative Dispute Resolution mechanism to handle transport sector disputes

Progress

- Establishment of the Transport Licensing Tribunal is pending

E Issue: The 0.5% fee imposed on construction projects is high hence negatively affecting the cost of doing business impacting on Kenya's ranking in obtaining construction permits indicators

Recommendation

- Reduce the NCA to a rate commensurate to services provided in return
- Provide for a capping/ceiling of the maximum amount payable to NCA.

Progress

- KEPSA position on reduction of the fee to 0.25% of project cost above Ksh. 5,000,000 and a ceiling at Ksh 10,000,000 has been forwarded to the Ministry. Gazettement of reduced rate or amendment of the NCA regulations to provide for the reduction is pending.

F Issue: Lack of compliance to legal notice No:#1/14 of 2013 and National Construction Authority (NCA) Regulation on 40 % local component

Recommendation

- Enforce compliance of Legal Notice No.1/14 of 2013 and NCA Regulations on 40% local component

Progress

- Local content policy is under development by the Ministry of Industrialization and Enterprise Development
- Enactment of Public Procurement and Asset Disposal (Amendment) Bill is pending

G Issue: Congestion within and out of Mombasa causing high surcharge on empty containers

Recommendation

- Put in place measures to decongest the port and reduce cargo dwell time.

Progress

- National Electronic Single Window System has been rolled out reducing cargo dwell time at the port of Mombasa from 5 to 3 days.

H Issue: Minimal access of locally manufactured materials to the Standard Gauge Railway project

Recommendation

- Finalize negotiations to allow for 100% supply of locally manufactured materials in line with the required standards and all locally available materials

Progress

- Local industries allowed 100% supply of locally available materials including cement and steel to the Standard Gauge Railway

I Issue: Pending Bills to contractors amounting to Kshs. 30 Billion.

Recommendation

- Allocate funds to clear pending Bills to contractors
- Create alternative innovative infrastructure financing methods

Progress

- All pending Bills up to December 2014 have been cleared.
- Clearance of Bills that have accumulated since January 2015 is pending.
- Implementation of annuity infrastructure financing programme.

J Issue: Transport Integrated Management System

Recommendation

- Finalize and implement the Transport Integrated Management System

Progress

- The ministry is currently developing a database with Motor Vehicle Registration data currently 80% to completion awaiting funds release from the National Treasury

5. INFORMATION, COMMUNICATION & TECHNOLOGY (ICT)



NBA Thematic Area:
Infrastructure Development



A Issue: Limited ICT penetration has hampered development of sector due to regular disruption of internet connectivity occasioned by lack of dedicated infrastructure for ICT

Recommendation

- Classify ICT as a public utility with a dedicated and/or shared infrastructure alongside power, water and sewer.

Progress

- A draft Critical Infrastructure Protection Bill has been developed pending presentation to Cabinet for approval

B Issue: Increasing rate of cyber insecurity. According to the Kenya Cyber Security Report, 2014, Kenya loses Sh5 billion annually to cyber security with attacks having more than doubled to 5.4 million in 2014 from 2.6 million in 2013

Recommendation

- Enact a law to curb and prevent cyber-crime in the country.
- Allocate funds to complete the Forensic Laboratory

Progress

- A draft legislation on cyber-crime is under development in consultation with office of the Director of Public Prosecutions (DPP).

C Issue: Lack of a Government strategy on the use of Cloud computing as a way of improving services and also cutting down wastage.

Recommendation

- Need for coordination in implementation of shared services within government.

Progress

- National Cloud Strategy has been launched

D Issue: Inadequate legislative framework to govern the ICT Sector

Recommendation

- Develop, enact and implement a clear legislative framework to govern the ICT sector

Progress

- Draft Access to Information Bill, 2015 and Data Protection Bill, 2015 have been developed and tabled in parliament for debate and enactment.

E Issue: Need for improved governance of the Universal Service Fund (USF).

Recommendation

- Include an amendment in the Statute Law (Miscellaneous Amendments) Bill 2015 to provide for Private Sector participation in the USF Board

Progress

- Amendment in the Statute Law (Miscellaneous Amendments) Bill, is pending.

F Issue: Digital Learning Programme

Recommendation

- Create an understanding and clarity on role of the private sector in the programme
- Open the Education platforms to enable entrepreneurship and build new education based enterprises and ICT business in content and app development.

Progress

- Three oversight bodies are already in place to oversee implementation of the programme
- Education platforms to encourage development of content and manufacturing in the ICT sector is in place.

G Issue: Lack of incentives to incubate , grow and transfer skills to enable SMEs to graduate into large enterprises

Recommendation

- Clarity on the Operational & Governance Model to be adopted by Enterprise Kenya
- Clarity on areas of partnership with the Private Sector and source of finances to support programme operations

Progress

- All paper work on Enterprise Kenya has been finalized awaiting cabinet approval

H Issue: Presidential Digital Talent Programme

Recommendation

- Expand the programme to provide access to more beneficiaries nationally

Progress

- Implementation of Phase 1 of Presidential Digital Talent Programme is ongoing
- Presidential Digital Talent Programme phase two to be up scaled to benefit 400 beneficiaries.

I Issue: Implementation of ICT projects under the Northern Corridor Integration Project

Recommendation

- Develop areas of collaboration with the Private Sector in implementation of the ICT projects under the Northern Corridor Integration Project (NCIP)

Progress

- The One Network Area on voice calls has been harmonized within NICP Partner states.
- Negotiations on One Network Area on SMS and data, and Financial Services are ongoing under NCIP.
- NCIP Partner states have signed an MoU on cyber security collaboration.

J Issue: Implementation of the National ICT Masterplan

Recommendation

- Need for private sector involvement in implementation of the National ICT Projects in line with the six caucuses under the ICT Master plan
- Monitoring of Buy Kenya Build Kenya through 40% Local Content and the Youth Empowerment
- Building Kenya Intellectual Capital through National ICT Flagship Projects

Progress

- Six caucuses under the ICT Master Plan have been launched and are operational with funds set aside to finance their operations.
- MoICT to work with the National Treasury in establishing electronic measures to monitor implementation of 'Buy Kenya Build Kenya' initiative.
- A steering team has been constituted to oversee delivery of National ICT flagship Projects.

K Issue: Low ICT Penetration of ICT in rural areas hampering access of government services to citizens in the rural areas.

Recommendation

- Resolve issues around National Optic Fibre Backbone Infrastructure (NOFBI) management and expand the NOFBI coverage.

Progress

- Discussions are ongoing with stakeholders to resolve NOFBI Management issues

6. EAST AFRICAN AFFAIRS COMMERCE & TOURISM



NBA Thematic Area:
Enhancing Trade & Investment



A Issue: Ineffective elimination of Non-Tariff Barriers (NTBs) and non-implementation of Summit decisions

Recommendation

- Fast track the ratification of the elimination of NTBs Law.
- Implementation of Summit and Sectorial Council Decisions.

Progress

- The East African Community Elimination of Non-Tariff Barriers Bill, 2015 is awaiting assent by the EAC Heads of States to become a regional law.
- The elimination of specific NTBs on motor vehicles, tobacco, milk and food products testing, as well as EABL products are being followed through the Sectorial Council on Trade, Industry, Finance and Investment (SCTIFI) for resolution.

B Issue: Disharmony of taxes in the EAC region particularly Excise Duty, Import Declaration Fee (IDF), Income Tax and VAT in the EAC Partner States resulting into less trade volume returns

Recommendation

- Develop a policy to guide harmonization of taxes within EAC

Progress

- Draft EAC Policy on Harmonization of Domestic Taxes was forwarded to the International Monetary Fund (IMF) for review and comments incorporation. This is yet to be finalized.

C Issue: Non- recognition of EAC Rules of Origin

Recommendation

- Fast-track the implementation and adoption of the revised Rules of Origin

Progress

- The EAC revised Rules of Origin were gazetted in all partner states who are expected to adhere to their provisions.
- The Ministry is following up with the Republic of Tanzania on the full implementation of the new Rules of Origin in regards to goods originating from Kenya.

D Issue: Low export diversification

Recommendation

- Fast track the finalization of the Export Development Strategy and EAC AGOA Strategy and Policy.

Progress

- Policies and strategies under development to be finalized by December 2015 include:
 - a. EAC AGOA Strategy and Policy
 - b. Export Development Strategy
 - c. Regional Integration Policy
 - d. EAC Trade Policy
- Revision of the duty remission scheme.

E Issue: Increasing illicit trade within the EAC region creates unfair competition leading to massive losses for businesses

Recommendation

- Put in place a legal framework to fight against illicit goods in all Partner States.

Progress

- Draft East African Community Anti-Counterfeit Bill, 2014 is under review by experts. It is also yet to be presented to the East African Legislative Assembly (EALA).
- Model laws have been developed at EAC level and it is upon Partner States to formulate and align their national intellectual property rights (IPR) laws to the regional laws which are based on international best practices.

F Issue: Disharmony of EAC trade with Kenya inter-county trade especially those counties bordering EAC Partner States

Recommendation

- Update on the Ministry's efforts to coordinate with the National Treasury and the Ministry of Devolution and Planning to develop guidelines on introduction and application of levies charged by Counties.

Progress

- Ongoing sensitization forums by the Ministry have been held to educate and sensitize the counties on the need of eliminating these charges and levies.

7. FOREIGN AFFAIRS & INTERNATIONAL TRADE



NBA Thematic Area:
Enhancing Trade & Investment



A Issue: Enhancing trade and investment.

Recommendation

- Capacity build the trade and economic expertise of Kenyan Missions abroad.

Progress

- Increased Kenyan embassies and high commissions abroad to 56.
- A list of individuals from the Private Sector that could offer support to Kenyan Missions abroad is to be developed.
- Development of the EAC AGOA strategy by MFA&IT and Ministry of East African Affairs Commerce and Tourism in consultation with the Private Sector to increase Kenya's export capacity following the extension of AGOA for another 10 year.
- Kenya to host the 10th World Trade Organization Ministerial Conference in Nairobi in December, 2015. Kenya will play a great role in driving the multilateral trade agenda.

B Issue: Duplicative and/or conflicting roles between different Ministries and agencies that support trade

Recommendation

- Better inter-ministerial coordination to promote international trade

Progress

- An Inter-ministerial committee comprising different Ministries; Institutions and KEPSA has been formed in order to undertake the harmonization of the national trade policy.

C Issue: Lack of a clear monitoring mechanism for the implementation and actualization of bilateral agreement between Kenya and other countries.

Recommendation

- Put in place a mechanism to monitor and evaluate implementation of the various trade agreements.

Progress

- Inclusion of the Private Sector in Joint Business Councils and Joint Trade Commissions that foster stronger economic ties and the growth of bilateral trade.
- Inclusion of the Private Sector in coming up with national trade positions on bilateral, regional and multilateral engagements.

D Issue: Lengthy and costly visa application processes to some key business destinations.

Recommendation

- Lengthy and costly visa application processes to some key business destinations.

Progress

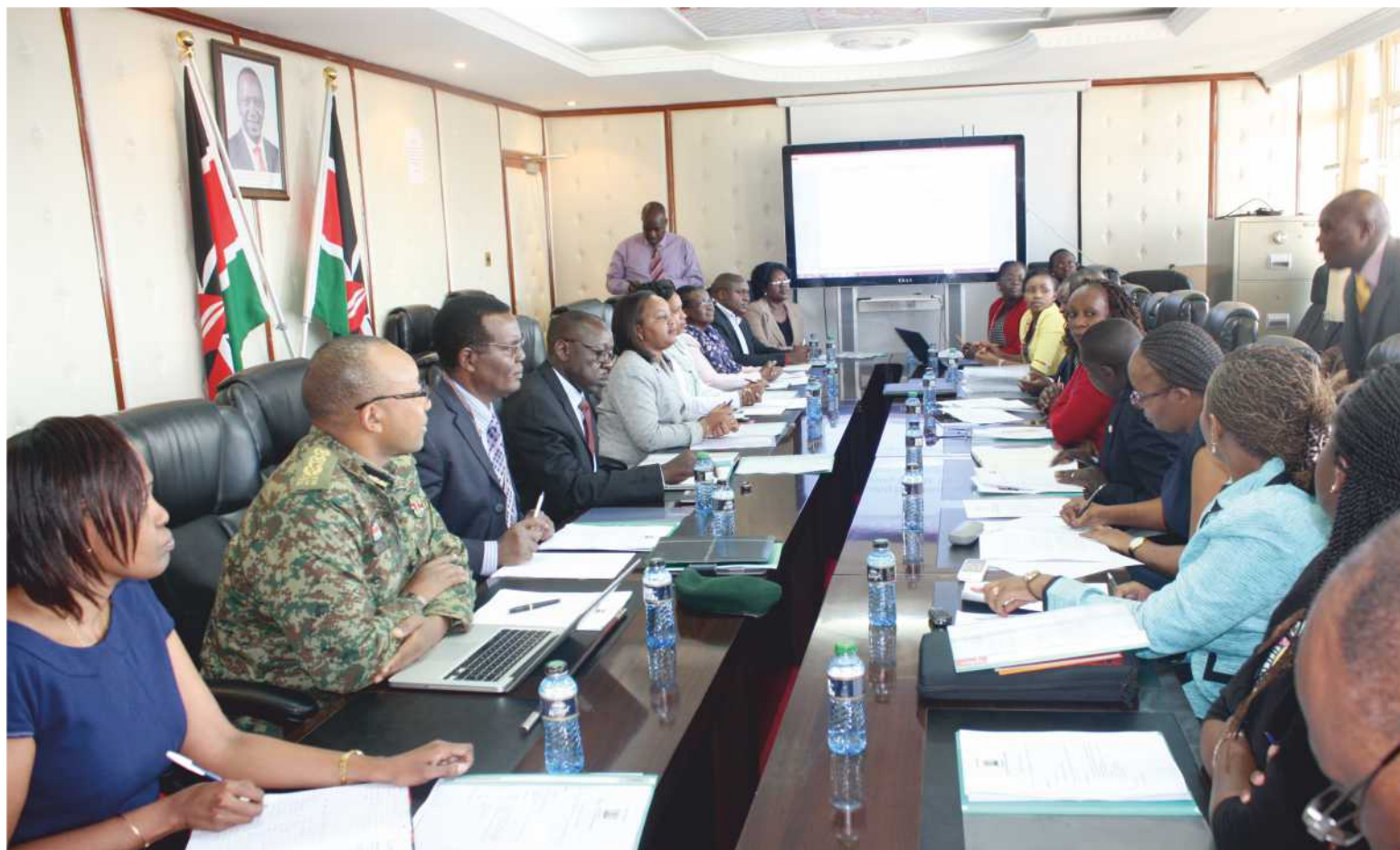
- In an effort to reduce barriers to trade and increase business opportunities, the Ministry has successfully negotiated:
 - a. Five year visa for frequent business persons to the United States.
 - b. Five year visa with Nigeria on reciprocal basis.
 - c. Visa on entry to India
- Ongoing negotiations on visa reciprocity with countries that are key business destinations for Kenya.



8. DEVOLUTION, PLANNING & GENDER DEVELOPMENT



NBA Thematic Area:
Governance & Business
Regulatory Environment



A Issue: DEVOLVED GOVERNANCE THAT PROMOTES EASE AND COST OF DOING BUSINESS

Recommendation

- Development of Policies that facilitate the ease and cost of doing business at the counties.
- Guide or harmonise county approach to taxes/Levies to facilitate a predictable business environment and ease of doing business at the counties.

Progress

- Five County Training Manuals have been launched under the National Capacity Building Framework and 220 trainers have been accredited to train at the counties.
- Launch of County Model Laws and two handbooks: constitutional and Legislative Policy Guidebook, Economic Policy Framework Guidebook by Commission on Revenue Allocation and Kenya Law Reforms to be adopted by the Counties.
- Multi-sectorial Committee constituted and coordinated by Ministry of Devolution formed to deliberate into County Taxes Harmonization.

Recommendation

- Increase uptake of AGPO opportunities by youth, women and persons with disabilities
- Develop an integrated AGPO campaign sensitisation programme and a communication plan to create public awareness for youth and peri-urban women and Persons With Disabilities
- Use of social media for continuous AGPO training.
- Sharing success stories to encourage uptake
- Quarterly monitoring and evaluation report on AGPO uptake by the National Treasury to be shared with private sector.
- Relook into the duration of AGPO certification from 2 years to 5 years and repeat business regulation.
- Shorten AGPO registration process

Progress

The NYS project curriculum and graduates progression :

- The remodelled National Youth Service (NYS) curriculum comprises of three parameters; national service, vocational training and paramilitary training
- 82,089 NYS youth cohorts have been engaged in Nairobi and 1000 engaged in Lamu West. So far, over 10,000 youth have been engaged across the counties.
- The Private Sector, EACC, Parliament and Kenya Ports Authority have engaged the NYS graduates.

AGPO (Access to Government Procurement Opportunities):

- Tenders worth Kshs 23,165,744,625 have already been accessed by youth, women and persons with disabilities to date.
- A total of 11,369 tenders have been awarded to youth, women and persons with disabilities as follows: youth 5549 tenders; women 5890 tenders and Persons with Disabilities 311.
- 16 Huduma Centres have AGPO Registration Services platform and issuance of AGPO certificates
- Guidelines for sharing AGPO between the categories have been released by National Treasury as follows: No group will get more than 50%; PWD reserved for 2% of the 30 per cent volume set aside for the group. Meetings with national council of Persons With Disabilities sensitization with a view of up scaling uptake of tenders by PWD's
- The Youth Enterprise Fund (YEF) and Women Enterprise Fund (WEF) is undertaking LPO financing of youth and women enterprises towards AGPO
- NYS staff have been seconded to Huduma Centres and the National Treasury to assist in AGPO registration
- E-booklet for procurement officials condensing all circulars on 30% program to address the procurement side is being developed by the Ministry.
- Reports will now reflect the AGPO certificate category to help in monitoring of uptake by category.
- Treasury circular 1/2015 clarifies that no further pre-qualification is required for all AGPO businesses meaning they are all pre-qualified suppliers.
- Sensitization programme on the AGPO programme to be rolled out in the current financial year 2015/2016.

C Issue: Efficient Service Delivery at Huduma Centres

Recommendation

- Decentralization of services

Progress

- 32 Huduma centres have been rolled out and spread across 27 counties.: KRA-itax services for VAT filling and income tax returns can now be accessed at 15 huduma centres
- Full business registration pilot is now being rolled out at the General Post Office (GPO) and City Square Huduma Centre.
- Launch of Huduma Smart Card.

D Issue: Status of 2/3 Gender Rule

Recommendation

- Implementation of the 2/3rd gender rule

Progress

- Two Bills are already at the Attorney General's Office.
- National Equality Bill has been validated by stakeholders.



9. SPORTS, CULTURE & ARTS



NBA Thematic Area:
Human Capital Development &
Sustainable Entrepreneurship



A Issue: Need to develop a legal framework to legislate the Sports, music and creative arts industries

Recommendation

- Enact the Protection of Traditional Knowledge & Traditional Cultural Expression Bill, 2015.
- Enact the Language Bill 2015
- Enact the National Museum and Heritage Bill, 2015

Progress

- The Protection of Traditional Knowledge & Traditional Cultural Expression Bill 2015, the Language Bill 2015 and the National Museum and Heritage Bill, 2015 have been published and are scheduled for debate in parliament.
- The music policy was launched on 12th August 2015
- Draft Film Policy and draft Film Bill to be completed by end of August 2015

B Issue: Need to streamline sports

Recommendation

- Fully implement the Sports Act to streamline sports in the country towards making Kenya a destination for competitive sports
- Put in place measures to curb doping

Progress

- The institutions under the sports Act; Sports Fund, Sports Kenya, Kenya Academy of Sports, Sports Registrar and sports tribunal are being constituted but at a slower pace due to limited budgetary allocations

C Issue: Need to enhance management of sports stadia

Recommendation

- Build new international stadia and rehabilitate existing sports stadia

Progress

- The Ministry of Sports, Culture and Arts is developing a roadmap on stadia management. Once complete, the Ministry will share this with KEPSA

D Issue: Need to expand sport financing and support professionalization of local sporting leagues across the various disciplines

Recommendation

- Establishment of a National Lottery Scheme

Progress

- Infrastructure laid for establishment of a sports lottery fund, pending legislation review to have the management of the lottery housed under the Ministry of Sports Culture and Arts. Currently this is under the Ministry of Interior and National Coordination

10. EDUCATION SCIENCE & TECHNOLOGY



NBA Thematic Area:
Infrastructure Development



A Issue: Public Private Dialogue between KEPSA and the Ministry of Education, Science and Technology

Recommendation

- Formulation of a high level working group of 7 people to be drawn from the private and public sector. These include: Ministry Of Education Science and Technology (Department Of Education), Ministry Of Education Science and Technology (Department Of Science and Technology), National Treasury, Ministry Of Industrialization and Enterprise Development and three KEPSA representatives

Progress

- The Private Sector forwarded its representatives to the working group. The government is in the process of constituting its representation from the following Ministries: Education, Treasury and Industrialization.

Recommendation

- Develop incentives for the Private Sector to invest in education
 - i. Removal of duty on imported educational materials- As per the Florence agreement where Kenya is a signatory
 - ii. Establishment of low-interest start up loans
 - iii. Innovative methods for affordable land acquisition to enable edupreneurs acquire land for their facilities - As recommended by Professor David Some Taskforce

- Allow for contribution by players from the Private Sector of relevant input into the programs and projects dealing with partnership with development partners such as; Tusome and Early Grade Math

Progress

- This will be discussed by the high level working group that is being constituted.

- This will be discussed by the high level working group that is being constituted.

B Issue: Technical and Vocational Education and Training (TVET)

Recommendation

- Curriculum development and Quality Assurance in TVET
- Expansion of vocational institutions
- TVET Public private dialogue
- Increase investment in TVET institutions

Progress

- Ministry will provide KEPSA with a progress report on quality control and curriculum development as being carried out by Curriculum Development Accreditation Council (CIDAC)
- There are 52 TIVET public institutions running, 60 being built and there are plans to build 70 more institutions.
- Permanent Working Group on Technical Industrial Vocational Training will provide update at the next MSF
- The Ministry is in the process of developing a TIVET fund.

C Issue: University Education

Recommendation

- Improve relevance of education and training to employer needs by developing a legal framework for attachments

Progress

- Ministry of Education is revising the current existing policy on attachments. The Ministry of Devolution and Planning is developing a Bill on attachments that will be shared with the private sector once completed

D Issue: Informal Schools

Recommendation

- Recognition of Alternative Provision of Basic Education and Training (APBET) schools and registration of their candidates

Progress

- Informal schools / The Alternative Provision of Basic Education and Training (APBET) guidelines are ready for circulation to the APBET schools. Ministry is developing the APBET Policy.

Recommendation

- Improve transition from primary to secondary schools from 9.5% to 20% over a defined time period.
- On contentious selection guidelines, the Education Permanent Secretary's office saw the establishment of a committee, to come up with a workable solution acceptable to all parties. The committee has up to August to come up with a workable solution acceptable to all parties.
- On examination certificates, Government be the custodian and issuer of school examination certificates. currently schools are the custodians of education certificates
- Private Sector would like to be involved in the curriculum review processes

Progress

- This will be discussed by the high level working group that is being constituted.
- Committee has completed its findings, submitted to ministry and these will be circulated to the relevant stakeholders
- Discussions have to be conducted with the National Treasury to allocate the funds for this; hence this will be discussed by the high level working group that is being constituted.
- Curriculum review is underway and ministry has pledged to work with the private sector in this curriculum review

11. ENVIRONMENT, WATER & MINERAL RESOURCES



NBA Thematic Area:
Upgrading Security



A Issue: Promotion of better environmental regulation

Recommendation

- Enact Water Bill 2014
- Enact Environment Management and Coordination Act (EMCA) Amendment Bill
- Enact Forest Bill
- Enact National Environment Policy
- Enact The Mining Bill
- Enact Benefits Sharing Bill
- Enact National Resources Classification Bill

Progress

- At the 2nd reading stage before the National Assembly
- Bill was enacted into Law and assented to by the President and published in the Kenya Gazette on 3rd June 2015
- The Forest Bill has been formally approved by Cabinet and will be sent to the AGs office.
- This has been approved by the Cabinet and sessional papers for parliamentary discussion are being prepared
- This was passed by the National Assembly and the Senate
- A privately sponsored bill originating from the senate, still being discussed at the Senate Assembly
- Currently at the Attorney General's Office

B Issue: Reduce impact of climate change on businesses and economy

Recommendation

- Enact and implement the Climate Change Bill

Progress

- Climate Change Bill passed in parliament currently at the Senate Assembly

C Issue: Double registration by NEMA and WARMA and double levying on waste water

Recommendation

- KEPSA called on the parties to expeditiously seek a lasting solution to the matter of the double levying on waste water.

Progress

- The Ministry of Water and Irrigation and The Ministry for Environment and Natural Resources will have an inter-ministerial dialogue and provide an agreed position on this issue.

D Issue: Bamboo Harvesting Ban

Recommendation

- Lift Bamboo harvesting Ban to allow private sector tap its commercial capability

Progress

- Bamboo harvesting Ban lifted on all non-wetland areas

E Issue: Investment in Rhino sanctuaries conservation to curb poaching

Recommendation

- As a key stakeholder, KEPSA would like to contribute in the development of incentives for stakeholders in conservation

Progress

- KEPSA to hand in proposals for Private Sector incentives on conservation so that these can be incorporated into the KWS Act regulations which are being drafted
- KWS with authorization from the Ministry asked KEPSA to nominate representatives to the Elephant conservation committee and the Rhino conservation committee

F Issue: Double registration of water drilling by NCA and MEWNR

Recommendation

- Convene inter-ministerial dialogue between The National Construction Authority (NCA) under the Lands Ministry and MEWNR to resolve this.

Progress

- The Ministry of Water and Irrigation has written a letter requesting for a meeting with the National Construction Authority to come up with a working modality

G Issue: Human settlement in water/environment conservation areas

Recommendation

- A mechanism should be set up to prevent human encroachment of these areas

Progress

- WARMA is working with National Land Commission to reclaim identified wetlands that have been encroached by human development. Will report progress at the next MSF
- Will share the inventory of water catchment areas with WARMA

H Issue: High water tariffs by WASREB

Recommendation

- Environment and water conservation efforts by the Private Sector should be encouraged and incentivized e.g. water harvesting while non-conservation should be penalized

Progress

- KEPSA will present a detailed position that will be issued to WASREB during a meeting between the two

I Issue: Promote investment in environment-friendly business opportunities

Recommendation

- Develop economic instruments for encouraging Private Sector investment in environment conservation
- Private Sector urged to develop their own proposals on the kind of incentives they would want from government

Progress

- Ministry of Environment and Natural Resources committed to follow up with NEMA to provide the economic instruments document that will encourage environment friendly investments

12. LAND, HOUSING & URBAN DEVELOPMENT



NBA Thematic Area:
Infrastructure Development



A Issue: Pending Legislation

Recommendation

- Enact Community Land Bill
- Enact Evictions and Resettlement Bill
- Enact the Physical Planning Bill
- Enact Lands Act (Amendment) Bill
- Enact Land Registration (Amendment) Bill
- Enact National Land Commission (Amendment) Bill
- Enact Minimum and Maximum Acreage Bill
- Enact Historical Land Injustice Bill

Progress

- Published and tabled in the house for debate
- submitted to cabinet for approval
- Published and tabled in the house for debate
- The Land Laws Amendment Act 2015 is at the committee stage in the National Assembly

B Issue: Tenure Of Land Owned By Foreigners

Recommendation

- Legal Interpretation Article 65 Of The Constitution of Kenya 2010

Progress

- Determination of the timeframe of the 99Years lease
- Ministry to have process in place for non-Kenyan citizens to have mechanism to convert freehold to a 99 year leasehold
- Regulations on renewal of Leases should clearly define what a Kenyan owned company as per Article 65 without making local businesses uncompetitive

C Issue: Review of the 0.5% Construction Levy

Recommendation

- 0.5 per cent construction levy on total project cost is unjustified burden on developers and should be subjected to a ceiling as a flat fee of a max amount and be considered as a tax deductible
- Digitize land registry and processes

Progress

- The cabinet has directed the National Treasury to work out a framework that will result in the creation of a Business Levies Regulatory Authority
- MOLHUD announced the availability of the following services online through E-citizen:
 - a. Land search in Nairobi County
 - b. Land rent payment
 - c. Applying for a land rent clearance certificate
- Ministry is in the process of setting up a Lands Management information system

13. NATIONAL TREASURY



NBA Thematic Area:
Governance & Business
Regulatory Environment



A Issue: Gazetting and implementation of Public Private Partnership Act 2012 regulations

Current Status

- An operational framework for PPP projects does not exist; lack of regulations hinders PPP projects at the County level.

Interventions Required

- Publish the PPP regulations and create an operational framework for implementation.

B Issue: Progressive harmonization of Import Declaration Fee with EAC member states.

Current Status

- IDF reduced to 2% during last Financial Budget statement

Interventions Required

- Harmonize customs and excise duties with other EAC member states.

C Issue: Business Regulatory Environment

Current Status

- There is need to develop a law to simplify and develop a predictable regulatory regime for businesses in Kenya.

Interventions Required

- There are consultations on how elements dealing with e-services can be rationalized.
- E-government online payment platform has been launched with all services being brought to a single portal.
- The Ministry is considering developing a Bill to harmonize the provision of services, including land transactions, business registration and provision of birth and death certificates

D Issue: Absorption of Government Fund at the National and County levels

Current Status

- Substantial funds are returned to Treasury due to slow uptake and conclusion of projects
- Slowed economic activities due to low utilization of funds
- Utilization of funds on recurrent expenditure as opposed to development activity

Interventions Required

- Finalize reforms to deal with the absorption of Government funds and include fund utilization in the Performance contracting.

E Issue: Finalization of Public Procurement and Disposal Act Review

Current Status

- Public Procurement and Disposal Bill 2015 passed by National Assembly awaiting presidential assent

Interventions Required

- Undertake study to review implementation of the Public Procurement and Disposal Act (PPDA) to focus on outcome-oriented procurement process
- Based on the above step, finalize the Public Procurement and Disposal Act review to set the regulations and to enhance participation of local businesses in government procurement and projects which will in turn assist in technology transfer especially in infrastructure projects.

F Issue: Pending VAT refunds

Current Status

- KRA verifying the claims before refunding

Interventions Required

- Status update based on the December 2014 PRT commitment - National Treasury to work with KRA to clear all pending VAT refunds amounting to KSh29 Billion by March 2015 and pay out the first tranche of KSh10 Billion shillings in January 2015 and the remaining 29 Billion by March 2015.

G Issue: Amend Income Tax Act

Current Status

- Tax Procedure Bill is currently being finalized and awaiting to be tabled in Parliament

Interventions Required

- Reform income tax through new / revised Act to increase the progressiveness of the tax system. It is proposed that tax brackets be expanded with the minimum tax bracket set at Ksh 25,000

H Issue: Strengthening of electronic filing tax system to accommodate more tax payers.

Current Status

- Tax Procedure Bill is currently being finalized and awaiting to be tabled in Parliament

Interventions Required

- Fully automate all tax processes and upgrade the Simba system to incorporate the new Module for Single Window Electronic System and Single Customs Territory (SCT).

I Issue: Lack of a conducive business environment arising from poor county policies, legislations and operations that impede growth of trade and investments to meet Vision 2030's 10 percent annual GDP growth target.

Current Status

- Still Pending

Interventions Required

- Develop a national guideline to guide counties in the development of the Finance laws to ensure that counties do not introduce arbitrary levies and taxes that subject business to double taxation.

J Issue: Financing of infrastructure Projects Annuity Program

Current Status

- The 10,000km Annuity programme has been launched, yet there lacks a clear framework to guide its financing

Interventions Required

- Expedite finalization of development of the Annuity Fund Regulations to provide clarity on financing of the Annuity programme

K Issue: Implementation of Foreign Account Tax Compliance Act ("FATCA") reporting.

Current Status

- The banking sector recommended a state agency to report all the information on behalf of the bankers. The National Treasury formed a committee to look into this matter but there has been slow progress.

Interventions Required

- Status update of the committee and the way forward on FATCA reporting

L Issue: Capital Gains Tax Submissions by KOGA and KBA

Current Status

- Lack of a clear guidelines on implementation of Capital Gains Tax

Interventions Required

- Suspend the regulations until implementation formula is developed through stakeholders consultation

M Issue: 20% Withholding tax of Gaming Sub-sector (Winnings and Lotteries)

Current Status

- Partially resolved through the Financial budget statement

Interventions Required

- Review the tax policy by replacing the 20% withholding tax with a direct tax on gaming value applicable to Casinos and bookmakers only but for lotteries and totalizer introduce a threshold on taxable winnings

N Issue: Excise Bill 2014 - First Schedule, Part III – Clause 2 on semi-annual automatic inflation-linked indexation of specific rates of duty

Current Status

- Excise Duty Bill passed by National Assembly

Interventions Required

- Delete all references to indexation of excise rates.

O Issue: The Tobacco Control Regulations 2014 Part V proposes a Solatium compensatory contribution of 2% of the value of goods manufactured for sale in Kenya.

Current Status

- President has vetoed the section on Excise duty on tobacco products

Interventions Required

- Delete Part V in its entirety

14. INTERIOR & COORDINATION OF NATIONAL GOVERNMENT



NBA Thematic Area:
Upgrading Security



From left: KEPSA Security Sector Board Chair Mr. Silvanus Sewe, Inspector General of Police Mr. Joseph Boinett, KEPSA Trustee Dr. Manu Chandaria, KEPSA Vice Chair Dr. Laila Macharia and Arch. Lee Karuri the KEPSA Foundation Chair

The Kenya Private Sector Alliance (KEPSA) held a meeting with top security officials from the Ministry of Interior and Coordination of National Government to discuss security matters and explore public-private collaboration. The in attendance were the Principal Secretary for the State Department of Coordination - Ministry of Interior and Coordination of National Government Josephtha Mukobe and Inspector General of Police Mr. Joseph Boinett and KEPSA leaders led by the Vice Chair Dr Laila Macharia.

Key issues discussed include:

Constant harassment of tourists by tourist police: Traffic police tend to target tourist vans for unnecessary harassment with the intention to extort bribes. This casts the country in a negative light especially when such experiences are shared on social media. Up to 2-3 incidents are reported every week and these have been shared with the commandant police.

The inspector general of police assured the private sector that he was aware of the unprofessional conduct of his officers and will seek to address the issue under the ongoing police reforms. He further assured the private sector that he fully supports them and is willing to work with them in any capacity to streamline the services of the national police service.

Illicit and counterfeit trade: The IG says that 40 officers have been posted to the Anti-counterfeit Authority to help in arrest and criminal procedures at the agency.

Police reforms: the IG assured KEPSA that the reforms are ongoing and that the NPS is willing to work with the private sector to accelerate the rate of reforms.

Chase cars: The cost of moving cash has increased due to the need for chase cars to accompany the money being moved. It was suggested that companies invest in armoured vehicles and do away with chase cars reducing the cost of cash movement.

IMMIGRATION

- Renewing permits: There were reported delays in approvals and processes for renewal of work permits despite the paperwork being filed on time. There was also a request to train immigration officials in customer service as they are the first impression of Kenya visitors get at the airport. The immigration department cautioned applicants against the use of unauthorised agents to process their permits application, noting that there was a likelihood of communication breakdown and use of illegal methods in the processing by unscrupulous agents. Members were also informed that should renewal of a permit delay by over a month, a special pass can be awarded to allow the applicant to reside legally in the country while the permit is being processed.
- Border and Airport Controls: there is a lot of illicit importations and exportation of minerals through porous borders and airport exit. This reduces the current revenue from the mining industry to only 0.8% of GDP. Foreigners are coming in illegally and buying minerals at the point of mining in places such as Migori and Taita Taveta. It was recommended that the county policing authorities be operationalised since most of these illegal practises are taking place at the county level.

Partnerships with the Police

The private sector has offered to train police officers on cyber security. The KEPSA foundation has “adopted” Kilimani police station with the intention to turn it around in to a role model police station and a Centre of excellence. This partnership will focus on upgrading the infrastructure at the police station from the building facilities to the living quarters of the officers.

As part of enhanced partnership it was suggested that a mechanism enshrined in institutional machinery of the police force be established to allow for private security and police

communication. This will go a long way in reducing turnaround time for incident reporting and response.

Legislation:

KEPSA has substantively contributed to the 5 police reform bills recommended by the Ransley commission after the post-election violence.

- National Police Service Bill, the National Police Service Commission Bill and the Independent Policing Oversight Authority (IPOA) Bill have already been enacted.
- The Private Security Bill 2014 is at the second reading in parliament and the KEPSA Security Sector Board has prepared a legal position on the bill.
- The National Coroners Service Bill implementation was hampered by lack of direction on where the forensic labs and other institutions in the bill should be domiciled; at Ministry of Health or Internal security (currently Ministry of Interior).
- The sector board had developed a CCTV policy, which would be effective in providing rules and regulations as well as leveraging private sector investments in technology.



SUMMARY OF OTHER KEPSA ENGAGEMENTS



1. CENTRAL BANK OF KENYA MEETING



NBA Thematic Area:
Governance & Business
Regulatory Environment



From Left: KEPSA CEO Ms. Carole Kariuki, Central Bank Governor Dr. Patrick Njoroge, Immediate former Chair, Mr. Vimal Shah, KEPSA Trustee Dr. Manu Chandaria and Former KEPSA Chair Karanja Kabage during a special breakfast with the Central Bank.

KEPSA met with Central Bank Governor Dr. Patrick Njoroge to discuss the status of monetary policy in the country on the 7th of September 2015. During the meeting the Central Bank Governor pointed out that the country has opened up its policies to expand the economic space and attract both local and foreign investment. Dr. Njoroge said that the opening up of the economic space has also exposed the county to global influences that impact directly on the local economy affecting the currency, interest rates and ultimately inflation. Dr. Njoroge however pointed out that despite the exogenous factors monetary policy regulation has enabled both the government and the Central Bank to keep inflation below 7% with a month on month decline in the rate of inflation. The rate of Inflation has gradually come down from 7% in June to 6.6% in July and 5.8% in August.

The private sector highlighted the following issues:

- High interest rates are affecting the ability of the private sector to access funds for investment and expansion
- SMEs are still unable to access credit
- The depreciation of the Shilling against the dollar has pushed up the overall cost of operations
- A higher rate of inflation and its impact on purchasing
- The disconnect between the actions of the monetary policy committee and the market

In response the Central Bank highlighted the following:

The focus of the central bank remains on long-term economic stability as opposed to short-term gains arguing that some of the factors affecting the economy were beyond monetary policy regulation. Key factors affecting the economy include fuel prices, agricultural production and exchange rates which the Central bank cannot directly remedy. According to Dr. Njoroge CBK's actions are targeted at containing inflation to ensure price stability.

On the issue of interest rates CBK is continuously seeking to have stable and predictable interest rates to ensure that the movement in interest rates does not affect the long-term ability of businesses to borrow and plan ahead. Through its Monetary Policy Committee CBK utilizes its Central Bank Rate (CBR) and the Kenya Bank Reference Rate (KBRR) as tools to manage market liquidity by adjusting the CBR to either mop up or increase liquidity in the market. CBK has had to raise interest rates as a means of containing inflation which had hit a high of 7% in June which is 0.5% below the government mandated inflation ceiling of 7.5%. According to Dr. Njoroge the main challenge that CBK's Monetary Policy Committee faces when adjusting the Central Bank Rate is the effectiveness of its interest rate policy mechanism and its ability to transmit the intended measure through the system.

CBK's concern is on the long-term stability of the shilling highlighting the fact that speculative tendencies among market players and analysts increase the volatility of the shilling.

Access to credit can only be addressed through innovation by financial institutions but cautioned against reliance on foreign currency denominated loans as exchange rates have a higher impact on repayments than interest rates.

Both parties agreed on:

More needs to be done to encourage the consumption of locally available goods and services as opposed to depending on imports. More local consumption will tilt the balance of payments in Kenya's advantage and ultimately stabilize the local currency.

Gradual easing of CBK's monetary stands in a bid to lower interest rates and avail credit to the private sector

Steer away from speculative reports on monetary policy issues as well as question analysis on projected currency trends before utilizing them in their financial projections

Hold regular engagements on monetary policy

CBK pledged to support the growth of the private sector which is key to sustaining Kenya's economic growth which it projects will grow by 6.5% this year. CBK said it expected the country's economy to gain further support from the IMF's Kenya review programme which was slated for the 16th of September. After the review Kenya was granted access to \$600 Million which will offer additional support to the local currency.



2. MEETING WITH OFFICE OF THE AUDITOR GENERAL



NBA Thematic Area:
Governance & Business
Regulatory Environment



Immediate Past KEPSA Chair Mr. Vimal Shah presents KEPSA publications to the Auditor General, Mr. Edward Ouko during the breakfast meeting.

The private sector under the leadership of KEPSA and the Auditor General's office led by Mr. Edward Ouko held a breakfast meeting on 2nd September 2015 in Serena to deliberate on the status of the public audit. The purpose of the meeting was to enable the private sector, who contribute about 60 per cent of the total tax revenue to gain an in-depth understanding of National Audit process and engage with the Office of the Auditor General (OAG) on how best to work together in improving public financial discipline and accountability.

The private sector sought responses from the Auditor General on the following issues:

| ISSUE | RESPONSE |
|--|---|
| <ul style="list-style-type: none"> Public institutions in some counties make payments to contractors without Certificate of Completion. Collection of County revenues without the issuance of receipts | <ul style="list-style-type: none"> Through the public audit the OAG will seek to enforce standards including the issuance of certificates of completion and receipts for revenues collected. |
| <ul style="list-style-type: none"> The integrity of the of OAG | <ul style="list-style-type: none"> Where integrity issues have been highlighted in relation to the OAG, OAG sends different auditors to validate reports and findings OAG has sent over 1000 auditors for training to improve its capacity |
| <ul style="list-style-type: none"> The need to introduce online auditing to avoid post-audit alterations. | <ul style="list-style-type: none"> There are plans to fully operationalize E-auditing. |
| <ul style="list-style-type: none"> Public sensitization and participation in the national Audit | <ul style="list-style-type: none"> The public should be sensitized to hold leaders accountable through the public audit and refrain from being drawn into defending leaders. The political class has been able to successfully relay in ethnic mobilization to evade the legal implications of the public audit. The OAG will undertake SMART audits, communicate to the “wananchi” and to give continued reports on the National and County budgets. |
| <ul style="list-style-type: none"> Use of the public audit to ensure value for money in the utilization of taxpayer funds | <ul style="list-style-type: none"> The IFMIS system needs to be fully integrated into all public spending to automate the procurement and payment process and safeguard public funds. |
| <ul style="list-style-type: none"> Failure to act on the findings of the auditor general’s report | <ul style="list-style-type: none"> The OAG is seeking to fast track the Public Audit bill which will enhance its independence |

3. MEETING WITH KENYA REVENUE AUTHORITY (KRA)



NBA Thematic Area:
Governance & Business
Regulatory Environment



From Left: KRA Commissioner General, John Njiraini, KEPSA Governor Habil Olaka, KEPSA Director Patricia Ithau and Former KEPSA Chair Karanja Kabage, during a meeting with KRA to discuss the overall business environment

The Kenya Private Sector Alliance (KEPSA) met with the Kenya Revenue Authority (KRA) on the 12th of October 2015 to discuss tax related issues affecting the overall business environment.

The private sector highlighted the following tax related issues:

- The handling of tax related queries and disputes between KRA and taxpayers results in slow and lengthy dispute resolution processes even for queries that can easily be addressed through taxpayer sensitization
- VAT refunds are yet to be fully remitted
- Tax procedures are yet to be full automated and those that are suffer long durations of system down time
- Proliferation of taxes and levy at county level with no verification system. Members sought to know whether KRA can assist and streamline the administration of county levies
- Conflicting procedures in the remission of statutory deductions
- Lengthy export procedures and process impacting on the competitiveness of Kenyan products as delays push up other transferable costs

KRA Commissioner General (CG) John Njiraini said the authority is repositioning its Marketing and Communication Department in order to enable it exhaustively respond to tax payer concerns and queries in a bid to avoid escalation of disputes that can easily be resolved through the provision of support services. The CG outlined the following measures that KRA is implementing in order to simplify tax administration:

- Investment in technology by strengthening the i-Tax system to make it user friendly
- Repacking the Simba system with a new model
- Consolidation of tax and other statutory deductions to consolidate collection and verification of all statutory deductions. This will start with NSSF deductions.
- On VAT refunds, KRA says that it is currently undertaking a verification exercise before making payments and appealed for patience from claimants. KRA requested KEPSA to highlight policy issues that

might have been occasioned by the new VAT Act to enable the National Treasury address any challenges arising from the Act. The taxman promised to re-look at the VAT withholding process so as to address the merging challenges of increasing refundable VAT.

- KRA is in consultations with the National Treasury and Council of Governors to develop a framework that will enable KRA to assist County Governments in Revenue Collection through automated systems.
- On rental income, KRA assured the Private Sector that the amnesty that has been extended to rental houses owners is aimed at bringing in more taxpayers into the tax bracket.
- KRA promised to facilitate exports by simplifying export procedures and processes. According to KRA all exporters should ideally be on the Green Channel, but those experiencing challenges are usually those with unresolved issues with tax authority.



4. ENGAGEMENT WITH PARLIAMENT ON LEGISLATION



NBA Thematic Area:
Governance & Business
Regulatory Environment



Members of the National Assembly led by Speaker Justin Muturi and National Assembly Clerk, Justin Bundi with members of the Private Sector during the Third Speakers' Roundtable held in June 2015

KEPSA has since the last PRT maintained a robust engagement with parliament on legislative matters of priority and concern to the Private Sector. A retreat convened under the aegis of the Speaker's Roundtable convened in Mombasa, June 5-6, 2015. During the retreat, KEPSA and the National Assembly reviewed various bills before the House and reiterated the need for mutual consultations towards creating an enabling business environment. It was agreed that parliamentary Departmental Committees would engage with the various Sector Boards to receive recommendations on specific bills.

KEPSA has since engaged various Parliamentary Departmental Committees in providing input and recommendations on various bills. These include:

- The Departmental Committee on Energy and ICT to which Kepsa has presented recommendations on the Energy Bill and Petroleum (Exploration Development) Bill
- The Departmental Committee on Trade, Finance and Planning with whom a retreat was convened on the Special Economic Zones Bill. A memorandum was also submitted on the Finance Bill (2015), Excise Duty Bill (2015), Tax Procedures Bill (2015), Miscellaneous Fees Review Bill (2015) and Betting, Lotteries and Gaming (Amendment) Bill, 2015.
- At the Ministerial level, KEPSA has engaged with the Ministry of ICT in respect of the Critical Infrastructure Protection Bill, Access to Information Bill and the Data Protection Bill. Further engagements were convened with the Ministry of Lands, Housing and Urban Development on various land laws including the Community Land Bill, Physical Planning Bill and Minimum and Maximum Land Acreage Bill which have since been consolidated under proposed amendments to the Land Registration Act.

5. EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)



NBA Thematic Area:
Governance & Business
Regulatory Environment



From left: The Current Chair of the Kenya Chapter Hon. Nancy Abisai, KEPSA CEO Ms. Carole Kariuki (third left), KEPSA Vice Chair Dr. Laila Macharia, EALA Speaker Rt. Hon. Daniel Fred Kidega, KEPSA Chair Amb. Dennis Awori and Former Vice President Hon. Kalonzo Musyoka (R)

The Kenya Private Sector Alliance (KEPSA) has since 2014, established a platform of engagement with the East African Legislative Assembly (EALA) based on the importance attached to regional integration.

KEPSA recognizes that a growing and dynamic regional market is important to the growth of the Private Sector. Promoting dialogue with the Private Sector will improve the implementation of trade policies, create certainty on the customs regime and strengthen the realization of a common market with minimal trade barriers.

In its engagement with EALA, KEPSA has provided proposed amendments to various bills including the EAC Cross Border Legal Practice Bill; the EAC Integration (Education) Bill; and, the EAC Cooperative Societies Bill. KEPSA has also opened deliberation on other legislation under consideration by the EALA such as the EAC Elimination of NTBs Bill, the Electronic Transactions Bill, the East African Community Anti-Counterfeit Bill and the EAC Joint Trade Negotiation Bill.

6. 11TH NORTHERN CORRIDOR INTEGRATION PROJECTS (NCIP) SUMMIT



NBA Thematic Area:
Infrastructure Development



The 11th Northern Corridor Integration Projects (NCIP) Summit was held on 17th October 2015 with considerable and improved participation by the regional private sector. In attendance were H.E President Uhuru Kenyatta (Kenya); H.E President Yoweri Museveni (Uganda); H.E President Paul Kagame (Rwanda); while South Sudan was represented by Mr. Aggrey Tisa Sabuni, Presidential Economic Advisor with delegates from the Democratic Republic of Congo, Tanzania, Burundi and Ethiopia as observers.

Of significant importance was the recognition and appreciation of the private sector's participation and interest in the implementation of the NCIP projects. According to the Joint Communiqué issued at the end of the Summit.

"Their Excellencies noted the growing interest demonstrated by Private Sector players and reaffirmed their readiness to continue nurturing the collaboration between the private and public sector. They observed that the established partnership will greatly enhance the realization of the collective vision and goals of transforming the regional economy. To this end, the Summit welcomed the support of the private sector and their engagement in identifying appropriate projects, their models of investment and financing mechanisms".

Subsequently, the Summit directed the Ministers for Finance/ Treasury to explore alternative financing options including Public- Private Partnerships to raise funds for the implementation of NCIP projects.

During the pre-Summit Ministerial Meeting, the private sector pitched their proposals for inclusion in the implementation process:

- a) On Standard Gauge Railway (SGR) and Oil Pipeline, the Private Sector committed to supply 100% local producible goods and services; Further, the Private Sector expressed interest in financing the oil pipeline through different mechanisms that have worked in other large projects;
- b) Involvement of the Private Sector throughout, from conceptualization, implementation and maintenance of infrastructure projects;
- c) Embed in procurement, requirements for local content component for all goods and services;
- d) Communication on and application of agreed Standards and Specifications in all projects;
- e) Deliberate effort to include capacity building, training and skills/technology transfer programs in the design of contracts for NCIP
- f) Government and political intervention in management of community expectations in relation to access to land and way leaves for projects especially in power generation and transmission as well as the oil pipeline.
- g) Requested for unbundling of the project components, and their implementation timelines/target in order to provide predictability and ease sourcing of funds for the projects
- h) Private sector committed to train certified artisans, technicians and craftsmen in order for absorption in the implementation of the NCIP.
- i) Private Sector committed to upscale production of cement, steel and other services for key infrastructure projects

The Summit gave directives that will also facilitate trade and integration within NCIP partner's states. These include:

- i. Communication regulators to ensure that telecoms fully comply with requirements for One Network Area (ONA) for SMS and Data, as well operationalize the Mobile Financial Services. This will harmonize SMS and data charges as well allow inter-portability of mobile money services across regional telecoms;
- ii. On power generation, transmission and interconnectivity, the Heads of State directed Ministers to closely monitor and ensure there is no delay in completion of the infrastructure necessary for trade in power among partner states;
- iii. Ministers responsible for Transport to engage the airline industry with a view of reverting to earlier directive on enhancing competition and reducing the cost of air travel in the region. Specific attention will be given to Juba-Nairobi- Juba and Entebbe- Nairobi- Entebbe routes;
- iv. On the Single Customs Territory, (SCT) and improved cargo clearance, the Summit directed that the list of SCT warehouse commodities be expanded from the current four (Sugar, Shoes, Containerized edible oil and alcohol and non-alcoholic drinks). Ministers of Finance were further directed to join the Revenue Authorities in harmonizing the Warehousing Regime and implementation, procurement, installation and integration of Electronic Cargo Tracking System (ECTS) platform

Way Forward

With the establishment of the NCIP committee, KEPSA will engage with the NCIP Clusters and implementing Ministries in order to actualize some of the agreed proposals while seeking the full involvement of the private sector in the implementation process from the technical level upwards. These Cluster consultations will be take place on regular basis before the next Summit. The 12th NCIP Summit will be held in December in Rwanda's Capital, Kigali.

7. NORTHERN CORRIDOR INTEGRATED PROJECTS PRIVATE SECTOR DINNER



NBA Thematic Area:
Infrastructure Development



On 16th October 2015, KEPSA hosted a dinner for the regional private sector delegates, high-level government representatives from the Northern Corridor Integrated Projects Partner states and development partners ahead of the 11th NCIP Summit.

The Northern Corridor Integration Project (NCIP) is the transport corridor linking the landlocked countries of Uganda, Rwanda, South Sudan and Burundi to Kenya's Maritime Port of Mombasa. The transport corridor also serves the Democratic Republic of Congo and Northern Tanzania. The Northern Corridor Integration Projects initiative is designed to generate sustainable political will necessary to fast track the implementation of the projects identified.

KEPSA welcomes the decision by the heads of state to actively incorporate the private sector in the implementation of key infrastructure projects noting that the inclusion of the private sector in regional projects will safeguard local industries and foster the development of value chains resulting in wealth creation and employment for member states.

The event sought to:

- Provide a unique forum for private sector players drawn from NCIP member states to discuss the available investment opportunities and forge partnerships across the region.
- Enable regional investors to identify opportunities that they can implement and seek joint ventures to implement those projects that they deem to be beyond their financial and technical ability
- Seek clear timelines for participation and implementation in all the projects to ensure that projects do not stall or lag behind.
- Seek the enactment of PPP Acts along with the supporting policies and regulations to enable the private sector take up a more active role in the implementation process.
- Seek to upscale the NCIP local participation from the current 12% to a minimum threshold of 40%.
- Seek interventions on land acquisition and the management of community expectations for various projects within the Northern Corridor through adequate and timely compensation

- Structure technology transfer and skills development to create a system for the maintenance and sustainability of the projects as each contract signed by the governments must have an element of technology transfer

Foreign Affairs and International Trade Cabinet Secretary, Ambassador Amina Mohammed, spoke on the importance of the private sector in the rollout of key projects noting the private sector participation holds the key to the successful implementation of NCIP.

She highlighted some of the key achievements within the region, which include:

- Mobilization of funds for regional road infrastructure projects.
- The use of identity cards as travel documents within the region thereby enhancing the free movement of people within the region.
- Waiver of work permits for EAC citizens in the Northern corridor.
- Removal of non-Tariff Barriers (NTBS) thereby reducing the cost of doing business.
- Establishing a One Network Area where roaming charges on voice calls have been harmonized and drastically reduced.
- Major rehabilitation of highways within the Northern Corridor.
- Introduction of the Single Customs Territory - Cargo tracking system, which has reduced the cost of doing business e.g.
 - ✓ Reduced days of cargo trucks travelling from Mombasa - 4-5 days from Mombasa to Kampala down from 16 days.
 - ✓ Trucks travelling to Rwanda now take eight days down from 22 days.

The Dinner was attended by Senior Government officials from Kenya, Uganda, Rwanda and South Sudan; private sector players from NCIP implementing Countries, the East African Business Council (EABC) and Development Partners.



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