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DEVELOPMENT OF A NATIONAL INVESTMENT STRATEGY FOR KENYA

Draft Strategy Document

Submitted by
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To. TradeMark Africa and
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(Ministry of Investment, Trade and Industry, Government of Kenya).

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Abbreviations and Acronyms

ACA	Anti-Counterfeit Authority
ADR	Alternative Dispute Resolution
AfCFTA	African Continental Free Trade Area
AGOA	Africa Growth and Opportunity Act
ASCM	Agreement on Subsidies and Countervailing Measures
AU	African Union
B2B	Business to Business
BEEEP	Business Environment and Export Enhancing Programme
BETA	Bottom-up Economic Transformation Agenda
BESS	Battery Energy Storage Systems
BIT	Bilateral Investment Treaty
BLA	Bilateral Labour Agreements
BPO & ITES	Business Process Outsourcing and IT Enabled Services
BRAPDC	Business Reform Action Plan Development Committee
BRS	Business Registration Services
BRETIX	British Exit
CAIP	County Aggregation and Industrial Park
CAP	Chapter
CBA	Collective Bargaining Agreements
CBK	Central Bank of Kenya
CECM	County Executive Committee Member
CET	Common External Tariff
CEOs	Chief Executive Officers
CIF	Cost, Insurance and Freight
CISF	Comprehensive Investor Services Framework
CIU	County Investment Units
COMESA	Common Market for Eastern and Southern Africa
CoG	Council of Governors
CoK	Constitution of Kenya
CPI	Corruption Perception Index
CRM	Investor Case Management
CS	Cabinet Secretary
CWWDA	Coast Water Works Development Agency
DBRT	Department of Business Reforms and Transformation
DDI	Diaspora Direct Investment
DI	Domestic Investment
DFI	Development Financial Institutions
DPP	Director of Public Prosecutions

KES	Kenyan Shilling
KFJKA	Kenya Federation of Jua Kali Associations
KIC	Kenya Investment Corporation
KIE	Kenya Industrial Estates
KIIs	Key informant Interviews
KIP	Kenya Investment Policy
KNBS	Kenya National Bureau of Statistics
KNCCI	Kenya National Chamber of Commerce and Industry
KPA	Kenya Ports Authority
KPLC	Kenya Power and Lighting Company
KR(C	Kenya Railway (Corporation)
KRA	Kenya Revenue Authority
LPI	Logistics Performance Index
M&E	Monitoring & Evaluation
MDA	Ministries, Departments and Agencies
MGR	Medium Gauge Railway
MICE	Meetings, Incentives, Conferences and Exhibitions
MIGA	Multilateral Investment Guarantee Agency
MITI	Ministry of Investment, Trade, and Industry
MNCs	Multinational Corporations
MSE	Micro and Small Enterprise
MSME	Micro, Small, and Medium Enterprises
MTP-IV	Fourth Medium Term Plan
NDC	Nationally Determined Contributors
NDF	National De-risking Framework
NDFDT	National De- risking Framework
NEMA	National Environment Management Authority
NIFCA	Nairobi International Financial Centre Authority
NGO	Non-Governmental Organisations
NDFDT	National De- risking Framework
NEB	Net Economic Benefit
NIC	National Investment Council
NISK	National Investment Strategy Kenya
NLC	National Land Commission
NTBL	Non- Through Bill of Lading

DVM	De-risking Valuation Methodology
EAC	East African Community
EACC	Ethics and Anti -Corruption Commission
ECOWAS	Economic Community of West African States
ECMA	EAC Customs Management Act
eFNS	Electronic Foreign Nationals Services
ELRC	Employment and Labour Relations Court
EPA	Economic Partnership Agreement
EPRA	Energy and Petroleum Regulatory Authority
EPZ	Export Processing Zones Authority
ESG	Environmental, Social and Governance
FDI	Foreign Direct Investment
FIS	Foreign Investment Strategy
FPI	Foreign Portfolio Investment
GAT	General Agreement on Tariffs
GARDRR	Global Assessment Report on Disaster Risk Reduction
GCI	Global Competitiveness Index
GDP	Gross Domestic Product
GFCF	Gross Fixed Capital Formation
GNCF	Gross Nominal Capital Formation
GNP	Gross National Product
GoK	Government of Kenya
GVCs	Global Value Chains
ICT	Information and Communication Technology
ICTA	Information and Communication Technology Authority
ICDC	Industrial and Commercial Development Corporation
ICMS	Integrated Customs Management System
IFD	Investment Facilitation for Development
IGM	Investor Grievance Management
IGWGI	Intergovernmental Working Group on Investment
IPA	Investment Promotion Agencies
IPR	Intellectual Property Rights
IPPS	Independent Power Producers
JECC	Joint Economic Commission for Cooperation
JPCC	Joint Political Commission for Cooperation
KAA	Kenya Airports Authority
KAM	Kenya Association of Manufacturers
KDC	Kenya Development Corporation
KenInvest	Kenya Investment Authority
KEPHIS	Kenya Plant Health Inspectorate Services
OSC	One Stop Centre
OSS	One-Stop Shop
OSR	Own Source Revenue
ODA	Overseas Development Assistance
PESTEL	Political, Economic, Socio-cultural, Technological, Ecological, Legal
PPP	Public-Private Partnership
PS	Principal Secretary
REC	Regional Economic Commission
RIA	Regulatory Impact Assessment
ROI	Return on Investment
SACCO	Savings and Credit Cooperative
SD	State Department
SADC	Southern African Development Community
SAGA	Semi-autonomous Government Agency
SDG	Sustainable Development Goal
SDIP	State Department for Investment Promotion
SDT	Special and Differential Trade
SEZ	Special Economic Zones
SEZA	Special Economic Zone Authority
SGR	Standard Gauge Railway
SLO	State Law Office
SPUI	Single Products Unique Identifier
SWOT	Strengths, Weaknesses, Opportunities, Threats
TBL	Through Bill of Lading
TFA	Trade Facilitation Agreement
TOU	Time of Use
TFC	Tourism Finance Corporation
TNT	The National Treasury
TRIMS	Trade Related Investment Measures
TWG	Technical Working Group
UHC	Universal Health Coverage
UNCITRAL	United Nations Commission on International Trade Law
UNCTAD	United Nations Conference on Trade and Development
UNDRR	United Nations for Disaster Risk Reduction
USD	United States Dollar

KEPSA	Kenya Private Sector Alliance
KEPROBA	Kenya Export Promotion and Branding Agency
KEBS	Kenya Bureau of Standards
KEPHIS	Kenya Plant Health Inspectorate
KES	Kenyan Shilling
KFJKA	Kenya Federation of Jua Kali Associations
KIC	Kenya Investment Corporation
KII	Key informant Interview
KIP	Kenya Investment Policy
KNCCI	Kenya National Chamber of Commerce and Industry
USTR	United States Trade Representative
VAT	Value Added Tax
WAIPA	World Association of Investment Promotion Agencies
WBG	World Bank Group
WEF	World Economic Forum
WTO	World Trade Organization

Executive Summary

The National Investment Strategy for Kenya seeks to increase foreign direct investment (FDI), domestic investment (DI) and diaspora direct investment (DDI) into the country over a five-year period - 2024/5 to 2028/9. Despite improvements in Kenya's ranking in the World Bank's Ease of Doing Business Index up to 2019, Kenya's attraction of FDI has continued to stagnate at between USD 1.41 and 1.57 billion between 2020 and 2023.

Following economic shocks arising from geopolitical tensions from the Russia-Ukraine war and the Palestinian-Israeli conflict, Kenya experienced macro-economic instability. Rising prices of imported commodities including basic foodstuffs like grain and cooking oil and high fuel costs due to supply disruptions in the Middle East led to steep inflation. This was coupled with rapid depreciation of the Kenya shilling at a time when Kenya's debt to GDP ratio had reached historically high levels. Government borrowing led to rising interest rates while a severe drought in early 2023 resulted in increased food imports, worsening the negative balance of trade. All of this created "the perfect economic storm" for Kenya.

The government, through the MTP-IV charted a new path to economic growth. MTP-IV challenges Kenya to produce what she consumes, to add value to raw materials before exporting them and to expand labour intensive production activities to create jobs for young Kenyan. MTP-IV sets very ambitious targets for FDI - rising from USD 0.50 billion in the baseline year (2022/23) to USD 10 billion by 2023/24 and USD 18 billion by 2027/28. DI is targeted to rise from USD 0.10 billion in 2022/23 to USD 3.0 billion in 2023/24 and USD 5.4 billion by 2027/28. Attraction of investment is not an end in itself but rather a means to achieving socio-economic benefits like technology and skills transfer, employment creation, economic diversification, income enhancement, export growth and increased output. For these benefits to accrue to Kenya, the investment climate and business environment must be both attractive (easy to do business) and competitive (cost-effective).

The development of the strategy involved review of both primary and secondary data, which were used to identify the barriers to investment and the interventions needed to address them, also identifying investment opportunities. Primary data collection was through structured key informant interviews, workshops for public sector at national and county levels and online surveys. The barriers were then categorised using the PESTEL method and the most pressing barriers prioritised. The review resulted in a SWOT analysis for the Kenyan investment climate and business environment with the SWOT elements and the aforementioned barriers producing strategic elements clustered in 4 thematic key result areas or pillars: (1) attractive and competitive investment climate and business environment (2) promotion and facilitation of FDI, DDI and DI (in existing investment opportunities (3) utilization of incentivised zones and (4) De-risking FDI, DDI and DI.

Twenty-one strategic issues were identified within the result areas, with an equivalent number of strategic objectives being set. Sixty-three strategic initiatives (strategies) were developed to minimise obstacles to investment. Key activities are defined with timelines and the responsible institutions responsible. The strategic activity matrix covers 5 fiscal years. In addition, high-level strategy elements – the strategy mission, strategy vision, strategy goal and strategy values and principles were proposed. A thorough analysis of investment related laws and regulations was done and recommendations made for a legal reform impact assessment and investment grievance mechanism.

Some strategic issues and interventions in the strategy include:
Under Pillar 1:

- High cost of industrial power (17.2 US cts/kWh)- addressed by removing inbuilt taxes within the tariff, expanding generation of private off-grid and on-grid sustainable power, introducing an auction- based energy sector procurement system, fostering usage of battery energy storage systems; create regional power pools; converting and retooling thermal IPPS to use renewable energy; and promoting use of wheeling and net metering techniques for supply to supplement KPLC.
- High regulatory compliance burden - introducing mandatory regulatory impact assessment for new regulations; reviewing levies, cess, charges and fees; harmonising county regulatory frameworks; implementing a a national tax policy.
- Suboptimal use of infrastructure – adopt technology to streamline cargo clearance and transport from the port, promote use of available broadband through online digital services.
- Runaway corruption - further digitization of corruption case records and automation of administrative processes to reduce discretion.
- Lack of affordable long-term credit for business - strengthening development finance institutions (DFIS) and promoting lending by regional/continental DFIs

Under Pillar 2

- Weak strategic planning in investment agencies: integrating strategic planning in investment through resource-based prioritization - conducting resource mapping in counties, develop a rolling three-year national investment promotion plan, establishing a diaspora investment promotion initiative.
- Weak coordination of investment functions at national and county levels – establishing intergovernmental coordination mechanisms and supporting capacity building in county investment units.
- Insufficient utilisation of international agreements- lobbying for 20-year extension of AGOA, expediting regulations for SEZ local and regional sales, implementing WTO Trade Facilitation Agreement; harmonise import tariffs under UK-Kenya and EU-Kenya EPAs with EAC common external tariff (CET), consider ratification of AfCFTA Protocol on investment, examine benefits of WTO Investment for development agreement (IFD).
- Insufficient focus on data driven investor services and after care – establishing cross-institutional customer relationship management (CRM) system to streamline investment related administrative measures inaccurate investment data – introducing efficient but mandatory registration for all foreign investors to enable data capture for planning and reporting, revamping customer service culture of key public agencies, harmonise the one-stop shops.

Under Pillar 3

- Lack of infrastructure & utilities in some designated public zones - implementing priority zone programme and establishing land bank; prioritising supply enhancement in water stressed zones.
- Fragmented value chains – promotion investment in ventures that use local inputs, develop linkage programmes to source local raw materials, increase production of local raw materials to meet existing demand.

Under Pillar 4

- Absence of framework for de-risking FDI, DI and DDI – establishing a national de-risking framework, introduction of financial and non-financial de-risking instruments, implementing a national investment risk register.

Risks anticipated in the implementing the strategy include significant reversal of investment enabling policies, lack of institutional capacity to perform assigned roles, insufficient budgetary allocation for key projects and severe socio-economic shocks which impact capacity to implement elements of the strategy. Measures to mitigate these risks are prescribed in the strategy

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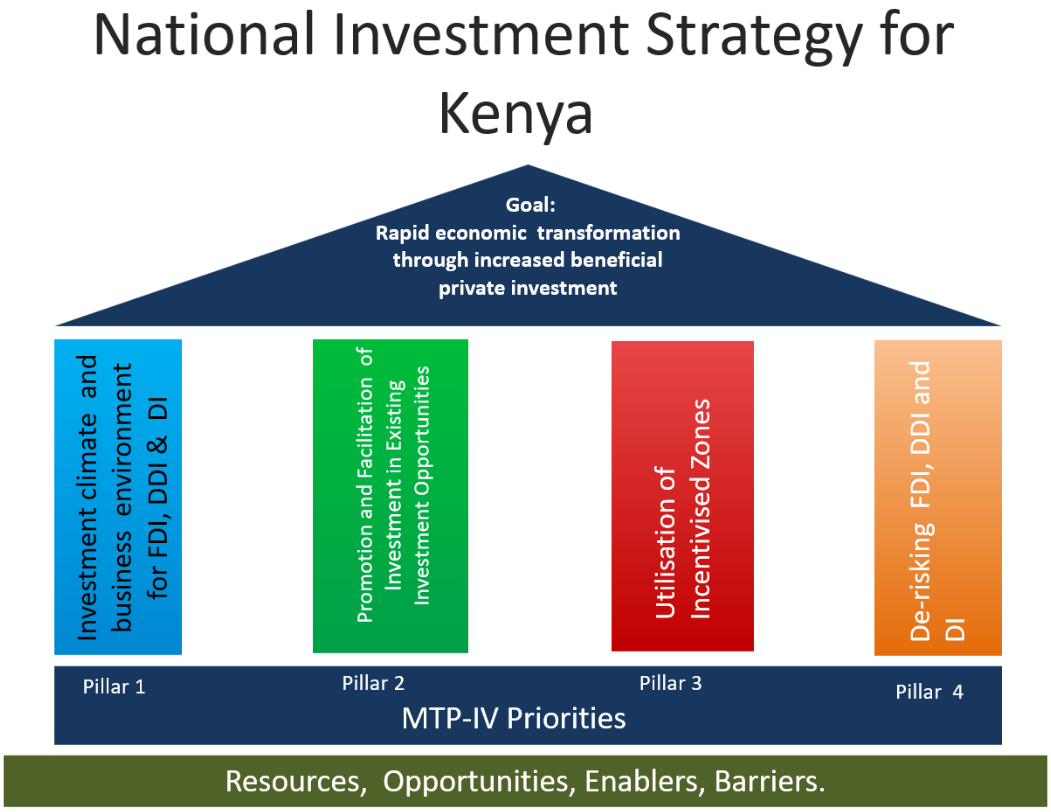
Figure 1: Visual Representation of the National Investment Strategy- Strategy Goal, Key Pillars and Foundations.



1 Introduction

In March 2024, the State Department for Investment Promotion (SDIP) with assistance from the Business Environment and Export Enhancement (BEEEP), funded by the European Union and managed by Trademark Africa, commissioned an assignment for the preparation of a National Investment Strategy for Kenya (NISK). The imperative for the strategy stems from the importance of investment for the country's economic growth and development, particularly to provide capital for productive economic activities. The Government of Kenya through the Ministry of Investments, Trade and Industry (MITI) set an ambitious target of growing foreign direct investment (FDI) inflows to over USD 10 billion annually, as well as to increase domestic investment (DI) in a five-year period (2024/25 – 2028/29). The strategy also deliberately targets increases in diaspora direct investment (DDI), seeking to direct remittances into productive investments. Overall, this strategy is meant to reverse the downward trend in Kenya's FDI over the past decade, which declined from USD 2 billion in 2013 to USD 1.504 billion in 2022 and to achieve positive socioeconomic gains from the investment realised.

The development of the strategy is premised on four pillars: (1) a competitive and attractive investment climate and business climate for FDI, DDI and DI; (2) promotion and facilitation of investment in existing investment opportunities; (3) utilisation of Incentivized zones and (4) de-risking FDI, DDI and DI. The strategy aligns with MTP-IV and the Bottom-Up Economic Transformation Agenda (BETA), by focussing on MTP-IV priority sectors and value chains. The strategy also builds on the findings and recommendations of the Kenya Investment Policy (2019) which it seeks to implement.

This Draft Strategy document is the third deliverable for the National Investment Strategy for Kenya. It utilises the findings of Deliverable 2: "Investment Climate and Business Environment Assessment Report" and lays the background for strategic interventions in Kenya's investment climate and business environment, taking into account Kenya's current macroeconomic situation. The strategy highlights clustered barriers to investment as strategic issues and uses the SWOT elements spelled out in the investment climate and business environment assessment report, to develop the strategy elements. The strategy aims to move Kenya rapidly towards a transformed investment climate and business environment where private capital can leverage available investment opportunities, particularly those prioritised by MTP-IV which focus on production for both domestic consumption and export, to deliver socio-economic benefits. These benefits should include lower costs of doing business, a supportive eco-system for investment; employment creation, transfer of skills and technology, economic diversification, increased output, expanded exports with an improved balance of trade position and enhanced stability of the Kenyan currency.

In line with the Inception Report, the Draft Strategy comprises prioritised, practical recommendations for improving the business and investment climate. It provides a detailed strategic framework to achieve twenty-one strategic objectives, clustered in four pillars outlining strategic initiatives and key activities. It also provides high level notes on sequencing of strategies and activities with consideration of dependencies and interconnections and gives indicative timelines for each activity. The Draft Strategy identifies potential risks and challenges and how to mitigate them. It provides information on documents referred to and stakeholders consulted as well as details of investment opportunities identified.

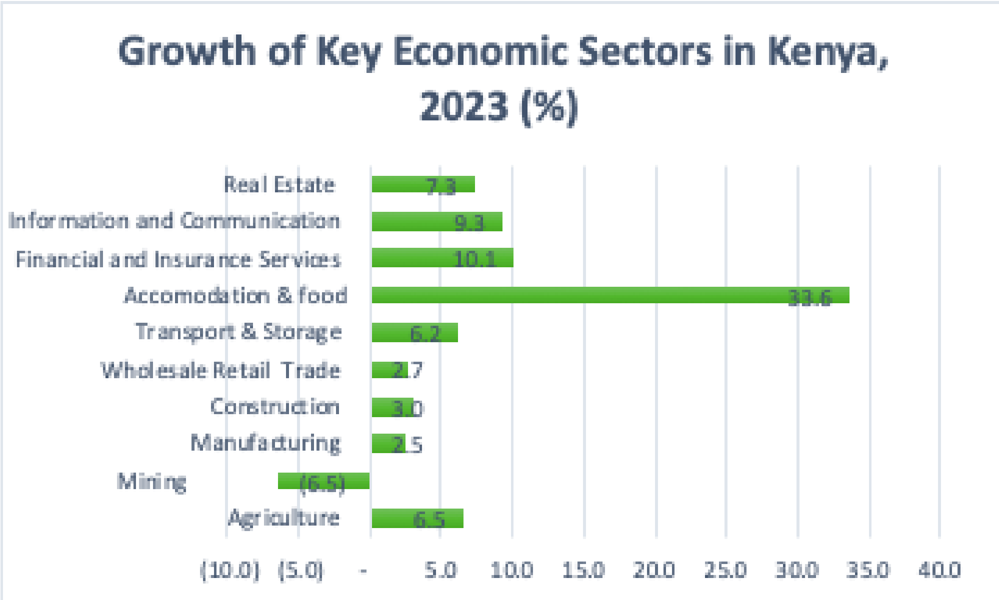
This deliverable provides the core for the penultimate Deliverable (number 5) entitled "Final Strategy Document and Implementation Plan" which will provide an implementation matrix with output and outcome indicators with each with yearly target, strategy funding requirements, potential funding sources, institutional framework for implementation and monitoring and evaluation framework.

1.1 Background

Kenya continues to show her economic resilience in the post-COVID period and following the 2022 general elections. Data from the Kenya Economic Survey, 2024 shows Kenya's economy grew by 5.6% in 2023 compared to the revised growth of 4.9% recorded in 2022.

As can be seen from Fig. 2 below this positive performance was attributable to growth in most economic sectors.

Figure 2: Growth of Key Economic Sectors in Kenya, GDP, 2023 (%)

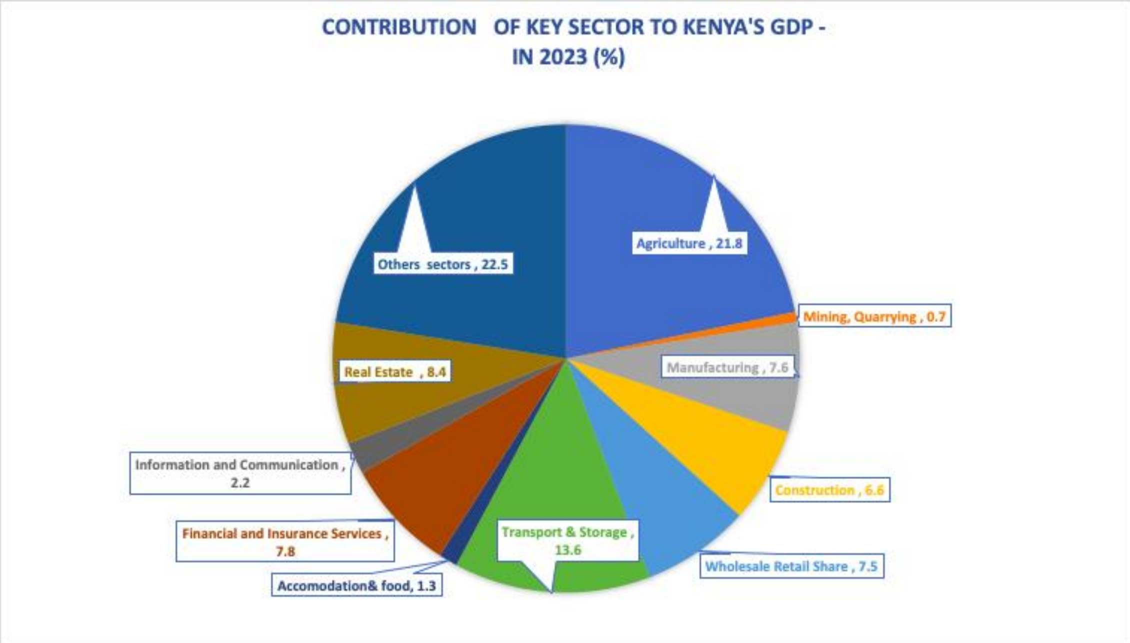


Source: Economic Survey 2024, Table 2.2

Key among these sectors is the agriculture sector which benefited from favourable weather conditions unlike in the preceding two years, recording 6.5% growth compared to a contraction of 1.5% in 2022. Other sectors driving GDP growth were information and communication technology (9.3%), transportation and storage services (6.2%), financial and insurance services (10.1%), real estate (7.3%), and accommodation and food (33.6 %). The mining sector shrunk by 6.5 % while manufacturing growth decelerated to 2.5%. Mining sector deceleration was mostly due to the decline in the production of titanium ores and soda ash, while the manufacturing sector was derailed by the high cost of production, a high tax burden, inflationary pressure and exchange rate fluctuations.

Figure 3 below shows the contribution of different sectors to GDP in 2023. The leading contributors was agriculture at 21.8%, transport and storage at 13.6%, real estate at 8.4%, finance and insurance services at 7.8% , manufacturing at 7.6% and wholesale and retail trade at 7.5%.

Figure 3: Contribution of Key Sectors to Kenya's GDP in 2023 (%).

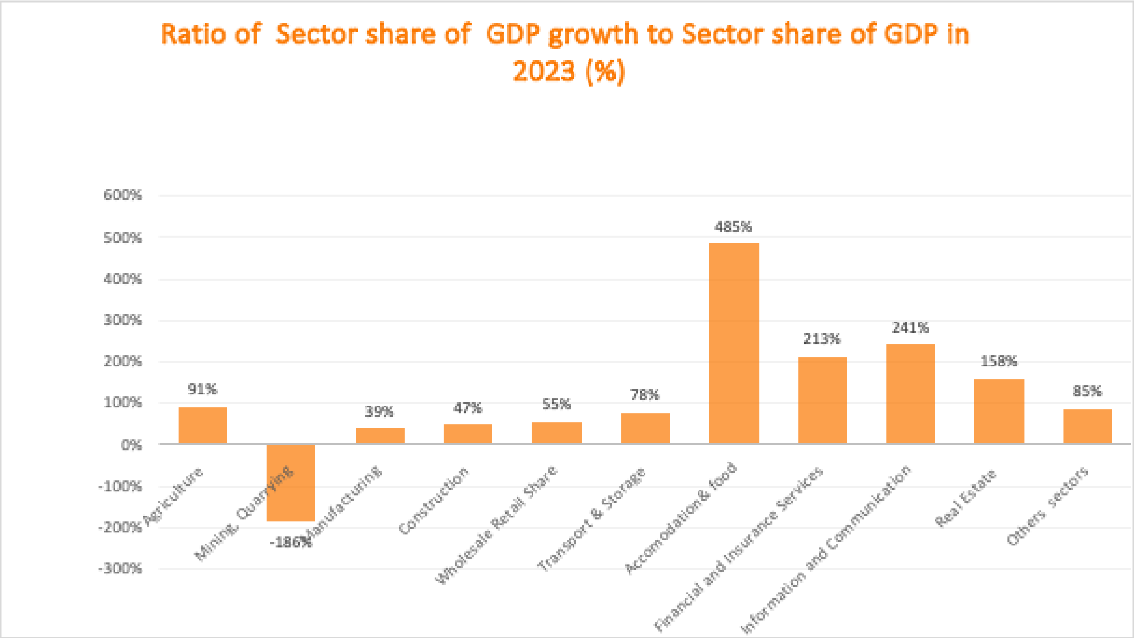


Source. Economic Survey, 2024, Table 2.2

Figure 4 below shows the ratio of sector contribution to GDP growth expressed as a percentage of the sector's share of GDP. Any percentage above 100% shows that the sector grew faster than the average for the economy. In this case, four sectors showed high contributions to growth, namely the accommodation and food sector at 485% and the ICT sector with a ratio of 241 %, financial and insurance services at 213%, and real estate at 158%. All other ratios were below 100% meaning the sector's contribution to GDP growth was less than its contribution to GDP last year. Notably, manufacturing has the lowest positive ratio at 39% showing it is struggling to achieve growth, a situation that can be attributed to the high cost of doing business in Kenya.

The accommodation and food sector's high rate of growth reflects the upsurge in visitor arrivals, which have reverted to pre-COVID level, which KNBS attributes to several international conferences which drew a large number of delegates. With the high number of available hotel beds, this gives hope for full recovery of the tourism sector, including through meetings, incentives, conferences and exhibitions (MICE), a form of business tourism. The ICT sector's high ratio reflects the expansion of mobile telephony, data service, mobile money, broadband data and the digital applications enabled by ICT for a large section of the population. Financial services and real estate also have ratios above 100% at 218% and 158% respectively with banks profiting from high yields offered for treasury bills and bonds.

Figure 4: Ratio of Sector Share of GDP Growth to Sector share of GDP in 2023- Kenya



Source: Economic Survey, 2024. Data from Table 2.2 and 2.4.

In terms of employment, the informal sector continues to play a significant role in the economy accounting for 85% of the 848,200 new jobs created in 2023. The economy employed a total of 20.0 million persons in 2023 compared to 19.1 million in 2022. The dominance of the informal sector presents the country with an opportunity to forge initiatives that can enhance capital accumulation and designing pension schemes that would encourage those in the informal sector to save for their retirement.

According to the UNCTAD's World Investment Report, 2024, Kenya's FDI inflows in 2023 were USD 1.504 billion, down 4.02 % from the 2022 peak of USD 1. 567 billion. Table 1 below shows that FDI inflows over the past four years had experienced little growth. (It should be noted that the 2020-2022 figures differ from those in the previous year's World Investment Report, highlighting the lack of reliable data on FDI and DI for Kenya).

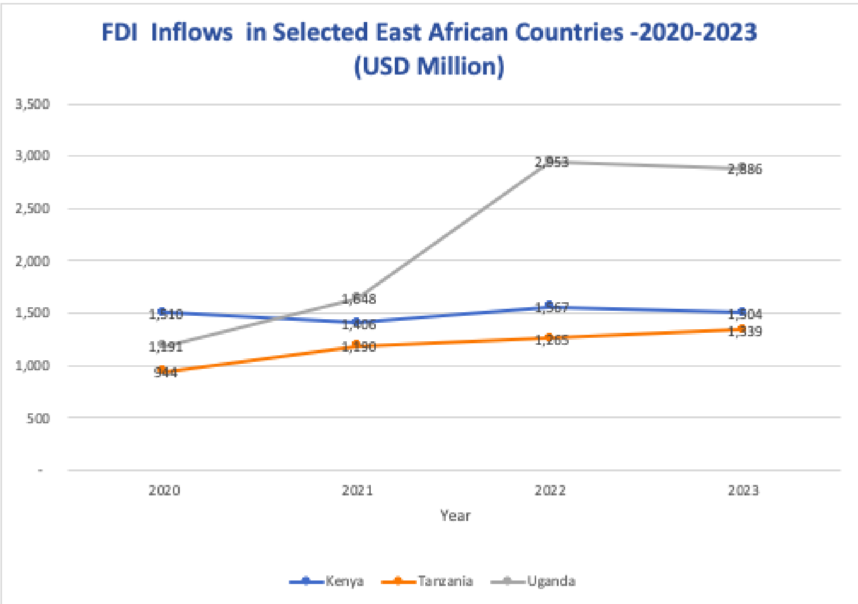
Table 1: FDI inflows into Selected East African countries 2020 to 2023 (USD Million)

	2020	2021	2022	2023	% change 2023
Kenya	1,510	1,406	1,567	1,504	-4.02%
Tanzania	944	1,190	1,265	1,339	+5.85%
Uganda	1,191	1,648	2,953	2,886	-2.27

Source: World Investment Report, 2024 – Country Factsheets, UNCTAD, 2024

By way of comparison with neighbouring countries, Table 1 and Figure 5 show that Kenya attracted less investment than Uganda which received inflows of USD 2.886 billion in 2023 compared with USD 2.953 billion in 2022, a drop of 2.27%. Tanzania, on the other hand, attracted less investment inflows than both Uganda and Kenya at USD 1.339 billion but with a 5.85% increase over its 2022 inflows. Kenya, Uganda, and Tanzania have continued to focus on attracting FDI, given their role as anchor economies in the East Africa Community (EAC), where FDI inflows grew by 9% in the 10 years to 2022. The bloc has established the EAC investment Policy 2019-2024, with the goal of attracting FDI and increasing DI through common legal and regulatory approaches.

Figure 5: FDI Inflows in Selected East African Countries, 2020 to 2023, (USD Million)



***Source:** World Investment Report, 2024 – Country Factsheets, UNCTAD, June 2024*

Table 2: Gross Fixed Capital Formation, Gross Nominal Capital Formation in Eastern Africa

GDP, Gross Fixed Capital Formsation in Kenya, Gross Nominal Capital Formation Eastern Africa					
	2019	2020	2021	2022	2023 *
Real GDP Growth % - Kenya	5.1	-0.3	7.6	4.9	5.6
GDP KES Million (Current prices) Kenya	10,237,727	10,715,070	12,027,662	13,489,642	15,108,806
Gross Fixed Capital Formation KES (Current prices) - KES Million, Kenya	1,941,234	2,070,321	2,367,797	2,509,782	2,605,387
Gross Fixed Capital Formation as percentage of GDP (%) - Kenya	18.96	19.32	19.69	18,61	17.24
Gross Nominal Capital Formation as Percentage of GDP (%)- Ethiopia	35.26	30.75	28.02	25.34	21.04
Gross Nominal Capital Formation as Percentage of GDP (%)- Rwanda	23.46	25.11	26.13	24.50	24.32
Gross Nominal Capital Formation as Percentage of GDP (%)- Tanzania	39.66	39.37	40.32	37.01	38.22
Gross Nominal Capital Formation as Percentage of GDP (%)- Uganda	26.41	27.71	27.26	26.62	30.63
Source: Economic Survey 2024 (for Kenya), and for other countries IMF-Data Access to Macroeconomic and Financia					
** 2023 IMF figures were projections.*					

Table 2 above shows some economic parameters in Kenya including GDP at current prices, GDP growth rate and gross fixed capital formation. This latter indicator is expressed as a percentage of GDP and is compared with gross nominal capital formation (GNCF) as a percentage of GDP over 5 years for Kenya and 4 other Eastern African countries – Ethiopia, Rwanda, Tanzania and Uganda. Kenya's gross fixed capital formation (GFCF) as a percentage of GDP is also shown and ranges between 17.24 % and 19.32 % while GNCF ranges from 17.24 to 19.69, the lowest of the 5 countries with Tanzania having the highest, with percentage ranging between 37.01% and 40.32% over the 5 years.

Table 3 below, similarly shows that Kenya had the lowest savings to GDP percentage of the 5 Eastern African comparator countries, between 2020 and 2022, with only Rwanda having a similar rate of savings. All these factors point towards a Kenyan economy with a low GFCF and lowest gross national savings rate, indicating insufficient surpluses from savings to channel into internal investments.

Table 3: Gross National Savings as a percentage of GDP, Eastern Africa (2020-2022)

Gross National Savings as % of GDP	2020	2021	2022
Ethiopia	26.58	25.17	21.29
Kenya	14.91	15.16	14.01
Rwanda	13.05	14.58	14.68
Tanzania	37.85	37.1	31.66
Uganda	18.34	18.93	18.39

Source: IMF - Data Access to Macroeconomic and Financial Data

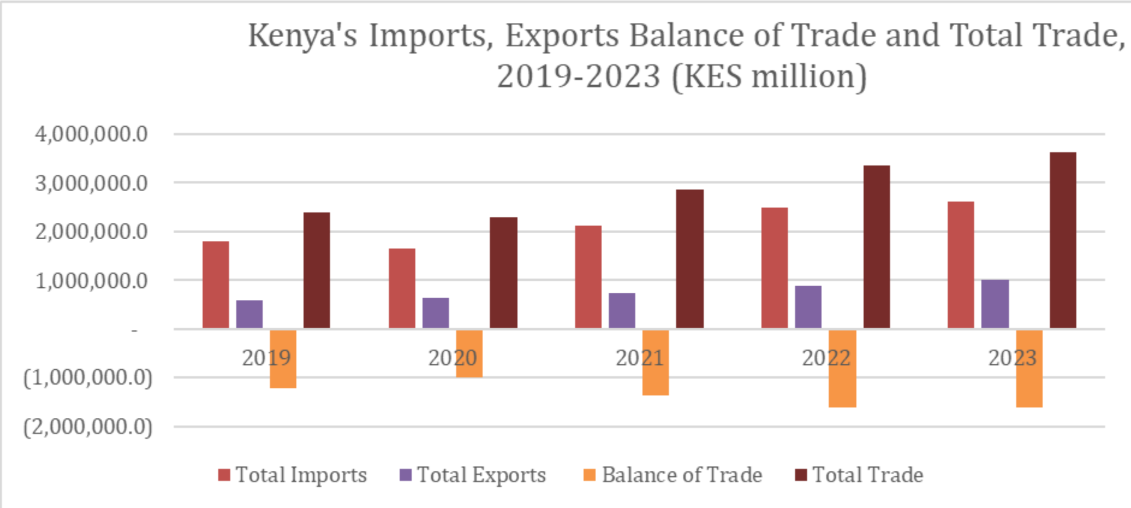
It is clear that despite Kenya achieving gains in the Ease of Doing Business Rankings, up to 2019, good rankings are not the only determinant of investment. Kenya needs to dramatically enhance its attractiveness and competitiveness as an investment destination in order to attain the target set in the MTP-IV over the next four years, of attracting between USD 10 and 18 billion by 2027/28 [1] representing a twelve-fold increase, with a further projected rise to USD 21 billion in the fifth year of the NISK period. For DI, the target is an increase from USD 100 million in baseline year 2022/23 rising to USD 3 billion in 2024/5 and rising over time to reach USD 5.4 billion by the fourth year (2026/7). It is important that components of an attractive and competitive investment climate be identified and suggestions made on how Kenya can more closely reflect those characteristics.

The National Investment Strategy for Kenya will make recommendations on strategic actions needed to be taken by the Government, to assist Kenya achieve the targets set in MTP-IV and will provide a synthesising framework for strategic choices under a framework of the four strategic pillars or areas of focus.

On the international trade front, as shown in Figure 5, Kenya's merchandise trade grew 7.6% in 2023 to KES 3,619.9 billion. Kenya managed to narrow the trade deficit from KES 1,617.6 billion in 2022 to KES 1,604.1 billion in 2023 because of an increase in export earnings to KES 1,007.9 billion, a 15% increase from 2022. Kenya's food import by volume, except for maize, continued to rise in 2023. This increase is attributed to the growing demand of food products, driven by the prolonged drought experienced in the better part of the first quarter of 2023. Among the products whose volumes increased include sugars, molasses and honey, rice, un-milled wheat, and animal and vegetable oils and fats. In 2023 Kenya's trade suffered from the effect's high international prices for principal import products such as petroleum and from the depreciating shilling, which made imports more expensive.

[1] The National Reporting Indicator Book for the Fourth Medium Term Plan, 2023-27, 2024 p.3-10.

Figure 6: Kenya's Merchandise Imports, Exports and Balance of Trade (2019-2020)



Source: Economic Survey 2024, KNBS, 2024, Table 6.1

On exports, the African continent continues to be a significant export market for Kenya's accounting for 43.2% of all exports, a good indicator for strengthening intra-Africa trade. [2]

Equally, the East African Community (EAC) bloc accounted for 30.3% of Kenya's export market in 2023 cementing the position of the bloc as a key trading partner. Notably, Kenya's exports to EAC countries continue to grow despite some unfair trade practices by some of her neighbours i.e. Tanzania and Uganda, calling for concerted efforts to address such trade challenges to foster a predictable investment climate and business environment.

As prescribed in the MTP-IV National Indicator Handbook, the MTP-IV targets an increase in DFI and DI from USD 10.0 billion and USD 3.0 billion respectively in 2023/4, to USD 18 billion and USD 5.4 billion respectively, in 2027/8. These are ambitious targets when past performance is considered. It is important that the National Investment Strategy for Kenya (NISK) is alive to the challenges in the national business environment and investment climate in the country. Towards this end, the Government of Kenya, through the SDIP has identified the need to develop the NISK to not only operationalize the Kenya Investment Policy, but to create a coordinated, all-encompassing framework of attracting significantly greater levels of both FDI, DDI and DI.

1.2 Global Context:

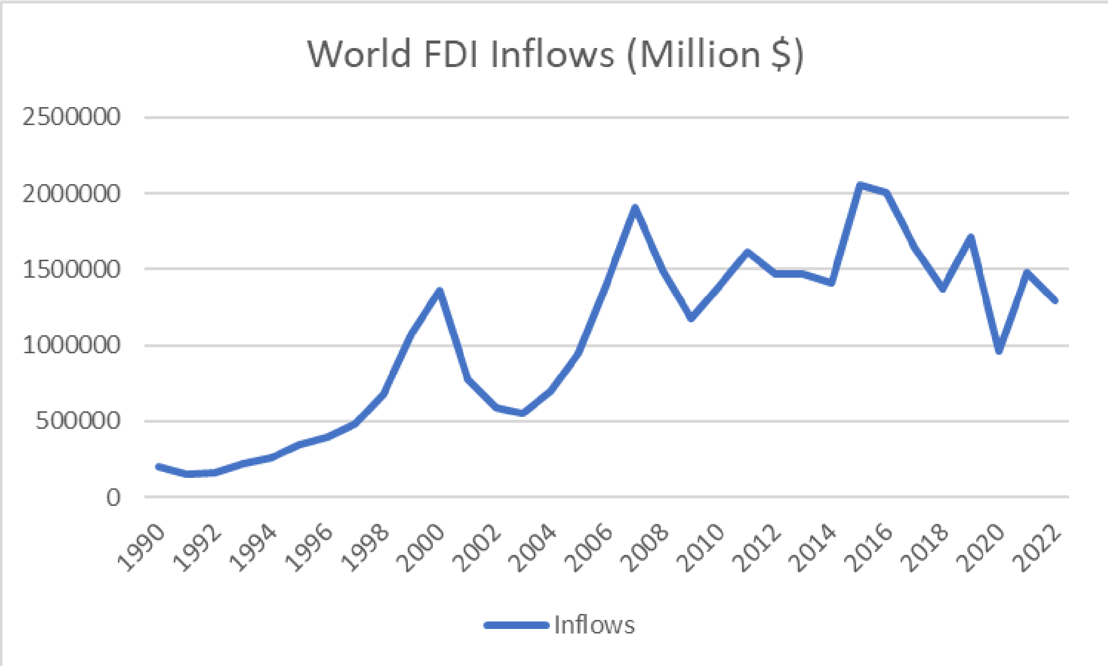
FDI flows have become an integral element of an increasingly interdependent global economy. Thus, governments all over the world have adopted strategies to increase FDI flows into their countries. Growing economies like Kenya are thus competing for FDI flows with countries with very attractive investment climate and business environments.

Trends in global FDI flows reflect global economic geopolitical shocks which have produced inflation and reduced profitability of business activity. Investors have had to reflect on whether building global

[2] KNBS, Economic Survey, 2024

value chains (GVCs) for efficient export production will continue to be a viable and safe option, or whether "near-shoring" and developing more regional value chains is the better option. Thus, global FDI flows have been in decline for several years as global MNCs re-strategize. This has rendered planning based on long term trends, very challenging. For instance, from a peak of USD 2.062 trillion in 2015, global FDI flows have been on an 8-year decline to USD 1.364 trillion in 2023, a 7% decline from 2022 flows. Although there was a slight uptick in 2021 after the COVID-19 pandemic to USD 1.478 trillion, FDI flows in subsequent post COVID-19 years are on a downward trend.

Figure 7: Global FDI inflows (1990 - 2022)

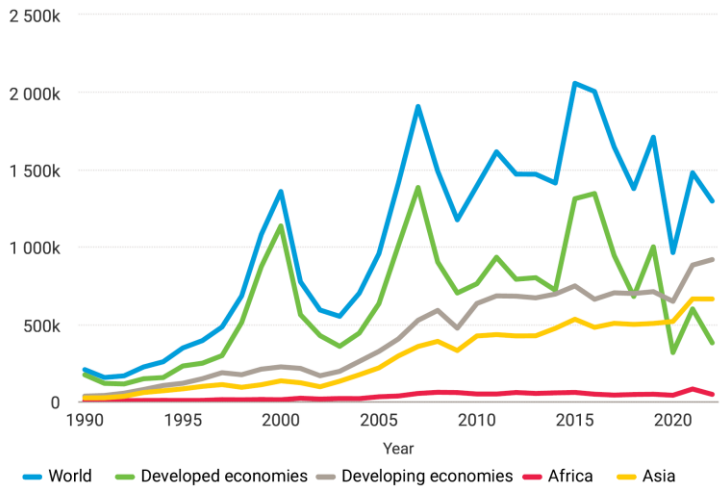


Source: UNCTAD World Investment Report, 2023

Inherent risk and falling rates of return, have therefore contributed to caution amongst firms seeking to expand. Growing economies like Kenya are thus competing for FDI flows with destinations which have more attractive investment and business climate profiles. This is challenging as developing nations, which have the largest investment gap, have not only suffered the biggest constriction of FDI, but have environments that inhibit FDI growth.

FDI flows to developed economies continue to fall, in 2022 flows to developed economies amounted to only 29% of global flows. Although a bigger proportion of annual FDI flows therefore went to developing countries, there are significant variances between countries in this category. Flows to Asian countries accounted for 72.2% of developing country flows, with flows to Africa amounting to only 4.9% of flows to developing countries and only 3.4% of global flows.

Figure 8: FDI trends by region 1990 to 2022



FDI flows to the global South are dominated by Asia. China alone accounted for 14.6% of total global FDI flows. Asian economies accounted for 51.1% of total FDI flows in 2022. The rise in FDI inflows to China and the South-Eastern Asian economies - measured in their share of International Trade and Global FDI flows - point to the upside of globalisation and interdependence.

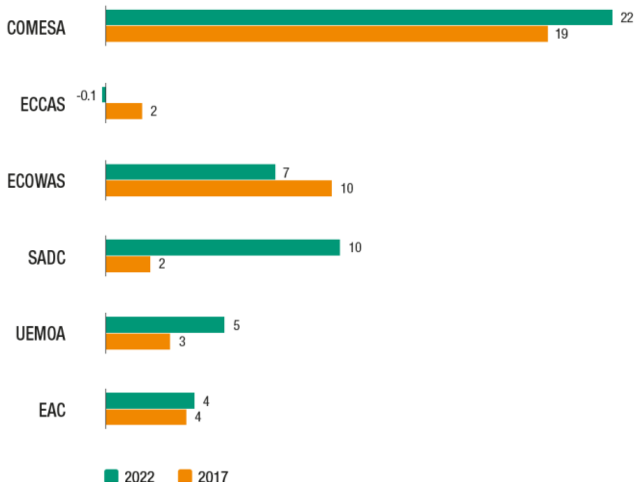
At the multilateral level, 120 WTO Members, participating **under the Joint Initiative for Investment Facilitation for Development (IFD),** proposed a plurilateral agreement on IFD to be added as Annex 4 to the Marrakesh Agreement Establishing the WTO at the WTO 13th Ministerial Conference that took place in Abu Dhabi from 26 to 29 February 2024. Participating members averred that an IFD Agreement in the WTO would create clear and consistent global benchmarks for investment facilitation, reducing regulatory uncertainty and anchoring domestic reforms in an international agreement with the attendant signalling effect to potential investors. Although no consensus was reached on the proposal, it nonetheless behoves Kenya to pay closer attention as discussions evolve on this subject at the WTO. The National Investment Strategy will thus take into account developments at the WTO and also consider Kenya's obligations under the continental AfCFTA Protocol on Investment.

1.3 Regional Context

The trends in global FDI flows mask significant regional and sub-regional differences. FDI flows were highest in Africa in 2021, with inflows of USD 79.58 billion and followed by a sudden drop to USD 44.92 billion in 2022 - a 44% decline within one year - before a slight increase to USD 48 billion in 2023. Between 2017 and 2022, all regional economic communities (RECs) in Africa experienced increases in FDI inflows except for ECOWAS. The Common Market for Eastern and Southern Africa (COMESA) nations registered an increase in inward FDI of 14%, Southern Africa Development Cooperation (SADC) - an increase of 400%, West African Economic and Monetary Union (UEMOA) - a doubling of FDI inflows; and the East African Community (EAC) an increase of 9 per cent, to reach FDI inflows of $3.8 billion in EAC.

Africa, notably, attracted only 4.0% of global FDI inflows in 2023. African heads of state and government have sought to redress this through the AfCFTA Protocol on Investment which was adopted in February, 2023. The Protocol will provide the legal framework underpinning the development of regional value chains. It will mitigate against negative effects of exclusion from global value chains, as a new geography of investment emerges, stemming from inter alia policies aimed at forestalling future disruptions to global supply chains. It is hoped that the Protocol will help Africa increase her share of global FDI flows as multinational corporations inside and outside of Africa seek to take advantage of the huge market presented by a mainly young, continental population of 1.3 million people. The AfCFTA investment Protocol will come into force 30 days after the deposit of the 22nd instrument of ratification of the protocol. Kenya is yet to ratify the AfCFTA protocol on investment.

Figure 9: FDI into Africa' RECs, 2017 and 2022 (USD Billion)



Source: UNCTAD, WIR 2023

Africa's approximately 3.5% to 4.0% share of both international trade and global FDI flows is testimony to the difficulties faced by African enterprises in plugging into global and regional value chains.

1.4 Strategy as an imperative for Success

Kenya aims to become a middle-income economy by the year 2030. As demonstrated in the previous sections of this report, the country has not achieved the consistent economic growth necessary to achieve this goal. FDI inflows, capture of remittances as DDI and increased DI can become important drivers of this national aspiration. However, as discussed earlier, FDI flows have remained low as can be seen from Figure 10 below. In 2023, FDI inflows as a percentage of nominal GDP were only 0.347%. This a significant decline from 3.095% of GDP in 2011.

Despite Kenya having scored well on Global Ease of Doing Business benchmark indices up to 2019, the economy has continued to perform below potential and indeed faces macroeconomic imbalances, with a high debt to GDP ratio, sustained balance of trade deficits, high interest and inflation rates, accompanied by exchange rate volatility. This implies that the difficulty lies outside the realm of better regulations and laws, as other components of the investment climate are impeding increased investment flows, yet substantial new growth can come from private sector investment in productive activities, which will stimulate productivity in key sectors. The government recognizes the potential of private direct investment from both local and overseas sources to fund transformative economic development.

This first national investment strategy for Kenya thus analyses the pain points in Kenya's investment climate and then prioritises those barriers which have a large impact on attraction of investment (like energy costs) for elimination, mitigation or improvement within the strategy period. The strategy therefore acts as a roadmap to take Kenya from its current economic status to one of accelerated, integrated and inclusive economic growth, building on Kenya's strengths to optimise economic opportunities in diverse sectors, through a four-pillar approach.

Figure 10: FDI into Africa' RECs, 2017 and 2022 (USD Billion)

Source: World Bank

1.5 Methodology for developing the strategy - Approach and Process

Following the submission of the Inception report, a Technical Working Group (TWG) was constituted by the SDIP in the Ministry of Investments, Trade and Industry, to guide the development of the NISK. The TWG comprises key government ministries, departments and agencies (MDAs) with mandates considered key to investment promotion, facilitation and retention (Appendix 2).

The methodology for the preparation of this strategy followed a mixed method approach that utilises secondary and primary methods of data and information collection. The data thus collected was then analysed through thematic analysis that categorised the challenges into identified themes. The data was clustered around the four pillars that anchor NISK. These are:

1. Investment climate and business environment for FDI, DDI and DI
2. Promotion and Facilitation of investment in Existing Investment Opportunities
3. Incentivized zones
4. De-risking FDI, DDI and DI through inter-alia development finance instruments.

Secondary data was collected through document analysis. Documents analysed include laws and regulations, policies, strategies, masterplans, position papers, sectoral and industry reports and investment reports. The information was analysed barriers classified into PESTEL categories. Related interventions and investment opportunities and institutions responsible also noted. Information from the TWG presentations was analysed in a similar manner.

Primary data was collected through three main approaches: Key Informant Interviews (KIIs) with pre-selected stakeholders, workshops and surveys. Before data were collected, a stakeholder mapping exercise was conducted to identify and categorise stakeholders, as well as to determine the method of engagement that was optimal for data and information collection and analysis. Stakeholders were purposely selected, based on their role in the promotion, facilitation and retention of private investments in Kenya.

Two baseline strategy framing workshops, hosted by the TWG, were then held. They discussed cross-cutting areas of legal, regulatory and institutional environment, with the aim of identifying the challenges and interventions related to investments in Kenya, as well as the situational analysis of

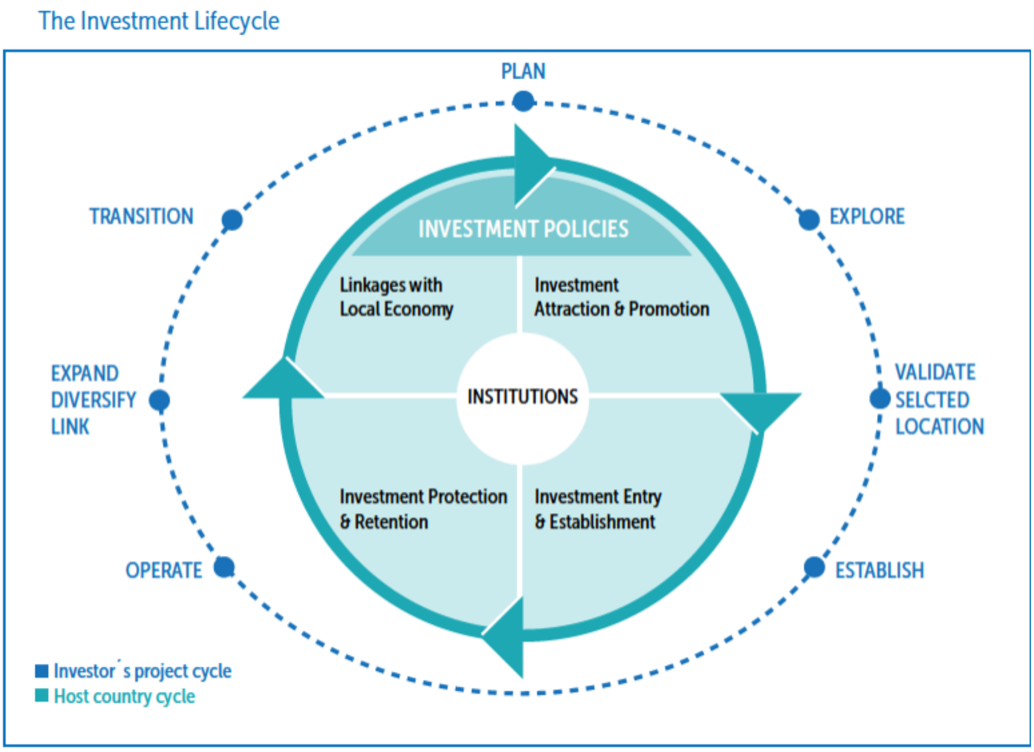
Kenya as an investment destination. The first workshop, held from 7th May to 10th May 2024 was attended by 42 people representing national government MDAs. List of attendees is provided in Appendix 3. A second workshop was then conducted with participants mainly comprising the County Executive Committee Members (CECMs) for trade. 31 counties were represented in this workshop in addition to two representatives from the CoG. During the workshop, the representatives engaged in discussions that were aimed at understanding the current investment climate and business environment in the counties, identifying barriers to investment, and proposing interventions to these barriers. Information from the TWG focus group discussions was analysed using a PESTEL thematic analysis. This classified barriers into six broad categories namely Political, Economic, Social, Technological, Environmental and Legal (PESTEL) aspects, which were then prioritised in accordance with the significance and impact of the barrier on the nation's investment agenda. Information from the County Government workshops was analysed using thematic and gap analysis. This was based on their responses to questions regarding the investment climate and business environment in the counties. The list of counties which attended the workshop and those which participated through online surveys is attached as, Appendix 4

Surveys were conducted with diaspora investors, and an interview held with KAM produced two important position papers. The survey was aimed at the identification of barriers and challenges inhibiting investment and business growth, as well as interventions to these barriers.

2 Policy, Legal and Institutional Framework of Investments in Kenya

Government policies and regulations play a decisive role in stimulating business activity and enhancing market contestability (World Bank). Thus, implementing transparent, inclusive, predictable and efficient policies and laws, such as laws and regulations relating to establishing and maintaining businesses, regulation of investors and investments (licensing and inspection), property rights, labour rights, incentives and tax regime are vital to attracting productive local and foreign firms to invest, operate and grow, both domestically and internationally. In the value chain approach to development, the policy, legal and institutional framework cuts across different sectors, ministries, departments and agencies within the investment lifecycle. Fig 11 below shows the lifecycle of an investment project from initial exploration to selection of location, to establishment and operation, to expansion and/or diversification and finally to transition (through closure or sale of the enterprise). At every stage the investor interacts with institutions which implement investment policies embedded in laws, regulations and administrative guides.

Figure 11: Investment Cycle



Source: Author updated based on the World Bank 2019/2020 Global Investment Competitiveness Report

This section highlights the policies, laws and institutions which form part of the investment lifecycle. The analysis includes all relevant domestic laws and regulations, regional and the international laws relevant to this assessment. It also discusses ongoing legal reforms.

2.1 Policy and Planning Framework

There are many policies and plans that inform the investment lifecycle. Three policies and Plans are key, namely: Vision 2030 - MTP IV, BETA and the Kenya Investment Policy.

2.1.1 Vision 2030, MTP IV and BETA

Vision 2030 is Kenya's economic blueprint, developed in 2008 to guide Kenya's development over 18 years to 2030. The implementation of the Vision is undertaken through successive five-year medium-term plans. The Fourth Medium Term Plan (MTP-IV) has recently been developed to guide Kenya's development between 2023 to 2027. MTP-IV helps to actualise the Bottom-Up Economic Transformation Agenda (BETA) which targets economic turnaround and inclusive growth through a value-chain approach. BETA objectives were to bring down the cost of living, to eradicate hunger, create jobs, expand the tax base, improve foreign exchange balances, all achieved with inclusive growth. The BETA growth was to be achieved by targeting sectors with high impact to drive economic recovery. This involves targeted investments in five core pillars: agriculture, micro, small and medium enterprises (MSME) economy, housing and settlement, healthcare, the digital superhighway and creative economy.

MTP-IV provides a coordinated planning and implementation framework to guide the socio-economic transformation envisaged in BETA, through the five MTP-IV pillars – Finance and Production, Infrastructure, Social, Environment and Natural Resources; and Governance and Public Administration.

MTP-IV recognizes that despite growth in capita income in the previous plan periods, the country still faces challenges of low productivity, inequality and weak resilience coupled with rising inflation and interest rates, fiscal distress and structural weaknesses that have converged into a "perfect economic storm"

The plan thus seeks to address these challenges and strengthen the country's prospects towards enhancing Kenya's competitiveness and her transition to being an upper middle-income economy. By 2022, both national savings and investments as a percentage of GDP had underperformed at 19.3% and 14.2% against targets of 25.4% and 21.2% respectively, due to this "perfect storm".

Most of the sector challenges identified in MTP-IV have as their recommended solution the attraction of additional private investment needed to bridge the development resource gap the country faces. The attraction and retention of such private investment will require reforms to the investment climate and business environment to improve its attractiveness and competitiveness. MTP-IV also identifies industrial infrastructure development in SEZs, development of MSMEs, development of small, medium, and large industries through investment attraction, retention, facilitation, and enablement. The plan identifies opportunities in various sectors which are prioritised for government support and investment by local and foreign investors. They include the BETA value chains under the Finance and Production sector, building of houses, universal healthcare under the Social Sector and finally BPO and IT enabled services (ITES) under the infrastructure sector. Overall, MTP-IV provides overarching direction and pinpoints areas of strategic focus for the National Investment Strategy in coordination with the larger national framework. The sector opportunities, for local production of what has hitherto been imported, will create local value added, save foreign exchange, develop the sectors and employ Kenyans. Details of the BETA/MTP-IV investment sector opportunities are given in Appendix 6.

2.1.2 Kenya Investment Policy 2019

The Kenya Investment Policy 2019, (KIP), was developed to provide a single and clearly defined policy solely focusing on investment generation and retention of private investment at national and county levels. The KIP proposed an institutional framework that fosters coordination for efficient conduct of investment related roles.

The policy actions recommended by KIP were designed to support private sector development and improve overall ease of doing business and enhance competitiveness in the economy, with the goal of Kenya becoming the premier investment destination for over 50% of multinational enterprises establishing their continental headquarters in Africa. KIP identified eight major challenges in Kenya's investment climate and business environment. These were:

1. **Limited coordination** of multiple, fragmented investment related agencies created by diverse legislation- requiring a strong mechanism for coordination of these institutions
2. **Barriers to investment entry and establishment,** which arise from the application of investment certificates and minimum investment thresholds for foreign direct investment. The policy questions the efficacy of these policy tools which were meant to foster local business, protect sensitive sectors from foreign influence and prevent unfair competition for micro and small enterprises. The policy also noted the administrative and financial burden of applying for work permits for investors and key staff.
3. **Lack of adequate incentives framework**, needing a well-articulated framework to grant and monitor incentives in line with national development goals while also responding to special requests for incentives.
4. **Conflicting legislation** which blurs requirements, procedures, responsible institutions for investments, creating overlap and some confusion as to how an investor should proceed.
5. **Inadequate aftercare** given to investors mainly due to under-resourcing the investment promotion agencies, yet this can be a source of investor satisfaction and loyalty leading to retention, expansion and referrals.
6. **Inadequate access to ready industrial buildings.** Acquisition of property can be a slow and complicated process for a foreign investor to undertake, while the government is well placed to intervene and provide industrial estates with ready factory sheds.
7. **Balancing foreign direct investment (FDI) and domestic investment (DI)**. A mechanism to ensure that domestic investors benefit from foreign direct investment through spill over effects which benefit local private sector and communities.
8. **Lack of effective FDI and DI data collection mechanisms**. Since investors are not required to register their investment and by so doing, provide investment data to the authorities, KenInvest, the Central Bank and KNBS have relied on periodic surveys to collect data on various aspects of FDI and DI which give estimates. Thus, timely and accurate investment data for economic planning and for strategic planning is not available.

Measures proposed in the KIP include the establishment of a National Investment Council (NIC) as the investment oversight body and assigned the primary role of investment promotion to the Kenya Investment Authority (KenInvest). KIP also recommended measures be taken to facilitate investment entry and establishment, to undertake investment retention and aftercare, to assess the beneficial value of proposed investments and finally, to establish land banks. This strategy serves as a tool to implement the KIP. All the above elements have been incorporated into the NISK.

2.2 Legal Framework: A Thematic Analysis

The key legal and regulatory instruments impacting the investment climate include: The Constitution of Kenya (2010), the Investment Promotion Act, Companies Act, Insolvency Act, Private Public Partnerships Act, Micro and Small Enterprises Act, Movable Property Security Rights Act, Employment Act, Kenya Citizenship and Immigration Act, Kenya Revenue Act, Value Added Tax, Income Tax Act, Miscellaneous Fees and Levies Act, Ethics and Anti-Corruption Commission Act, Computer Misuse and Cybercrimes Act, Land Act, Land Registration Act, National Land Commission Act, Community Land Act, and the Data Protection Act. However, this section examines a few of the above key legal instruments, including the ongoing reforms, in the context of the following nine thematic areas:

1. Establishing and maintaining businesses in Kenya
2. Regulating Investments
3. Incentivised Zones
4. Fiscal Regime
5. Property Rights
6. Labour Rights and Management
7. Dispute settlement procedures
8. Regional and international agreements
9. Devolution and county legal frameworks

2.2.1 Establishing and maintaining businesses in Kenya

The registration and administration of companies in Kenya are primarily guided by the *Companies Act (2015)* and the *Business Service Registration Act (2015)*. The Companies Act provides for the formation and registration of businesses (sole proprietorships), partnerships and companies. On the other hand, the *Business Service Registration Act (2015)* establishes the Business Registration Service (BRS), the corporate entity responsible for facilitating the registration of the said entities and the imposition of registration fees.[3]

In the event of financial distress where a business cannot pay its debts, the *Insolvency Act (2015)* provides for corporate insolvency procedures, which may be triggered by either Members Voluntary Liquidation, Creditors Voluntary Liquidation or Liquidation by the Court.[4] There are three notable features of the Act. First, it provides alternatives to the liquidation of companies, namely, administration[5] and company voluntary arrangements[6]. Administration occurs upon the appointment of an administrator, while company voluntary arrangements are facilitated by a supervisor. Secondly, the procedures and alternatives available to incorporated bodies, companies formally registered under the Companies Act, are also available to unincorporated bodies. Thirdly, it provides for cross-border insolvency procedures, which occur in cases where the insolvent debtor has assets in more than one state or where some of the creditors of the debtor are not from the state where the insolvency proceeding is taking place. In addition, the United Nations Commission on the International Trade Law (UNCITRAL) Model Law on Cross-Border Insolvency (adopted in 1997) is applicable under section 270 of the Act and the Fifth Schedule. The Model Law allows for, among other things, recognition of foreign proceedings, cross-border cooperation, and coordination of concurrent proceedings. The Companies Act and the Insolvency Act are currently undergoing an amendment process. In particular, the Insolvency Act is being amended to introduce 'Fast Track Procedures' for specific MSMEs.

To facilitate the growth of local investments and in particular by MSEs (defined in section 2 of the Micro and Small Enterprises Act as a firm, trade, service, industry or business activity whose annual turnover

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[3] Movable Property Security Rights (2017) Act section 3.

[4] Movable Property Security Rights (2017) Act section 19(1).

[5] MPSR Handbook available at chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://brs.go.ke/wp-content/uploads/2022/11/MPSR-HANDBOOK-1.pdf

[6] MPSR Handbook available at chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://brs.go.ke/wp-content/uploads/2022/11/MPSR-HANDBOOK-1.pdf

does not exceed KES. 500,000 and employs less than ten (10) people) two important Acts were introduced in 2013 and 2017 respectively.

The Micro and Small Enterprises Act (2013) was enacted to promote the development and proper regulation of MSEs. The Act particularly does this by *inter alia* providing an enabling business environment and facilitating access to business development services for MSEs. The Act also establishes the Micro and Small Enterprises Authority whose primary mandate is to formulate and review policies and programs for micro and small enterprises.[7] The Authority is therefore centrally placed to coordinate, harmonise and facilitate MSEs to grow and contribute meaningfully to the country's investment climate and business environment.

Another key statute for MSEs is the Movable Property Security Rights Act No. 13 of 2017. This statute's purpose is to facilitate the use of personal property as collateral. These may include tangible assets such as livestock, crops, machinery, business inventory, electronics and furniture and intangible assets such as account receivables, choses in action, account savings or deposits, unpaid invoices, electronic securities, intellectual property and shares. One collateral may be used against multiple credit facilities.

The law has promoted access to credit for MSMEs and ensures consistency, efficiency and certainty in securing financing where a movable asset is used as collateral.[8] The Business Registration Services (BRS) digital platform was upgraded to support instant, remote and efficient registration of security rights of movable properties.

The Act establishes the office of the Registrar of Movable Property Security Rights and the Registry of Movable Property Security Rights.[9] The registry is important as it receives, stores and makes accessible public information on registered collateral. It therefore acts as a public database for any entity interested in lending against a particular collateral. The entity can verify whether the collateral is already encumbered and if so, whether they can lend against the same collateral.

The Act has contributed to the promotion of financial inclusion by widening the scope of assets that can be used as collateral. Also, the collateral registry has created a verifiable way of establishing ownership of secured collateral, certainty with regard to priority rights, and shortened the time of registering a security through providing online services.[10]

Some of the challenges include instances of double registration such as motor vehicles at the National Transport and Safety Authority (NTSA) and slow uptake of intellectual property as collateral because of legislative gaps.[4] Intellectual property laws do not envisage creation of charges over intellectual property creating an enforcement problem.[11]

2.2.2 Regulating Investments

The legal and regulatory environment for investment in Kenya is established through national laws and regulations, regional and multilateral framework and county (devolved) laws and regulations. In order to implement these legal provisions, there are various institutions and agencies established to regulate investment and administer the legal provisions of these statutes.

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[7] Micro and Small Enterprises Act (2013) section 31 (a).

[8] Micro and Small Enterprises Act (2013) section 3.

[9] Micro and Small Enterprises Act (2013) section 2.

[10] Micro and Small Enterprises Act (2013) section 29.

[11] MPSR Handbook available at chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://brs.go.ke/wp-content/uploads/2022/11/MPSR-HANDBOOK-1.pdf

2.2.2.1 National Investment laws and regulations

Legislation relating to Investment Promotion and Facilitation

The statutory focus on investments in Kenya is geared towards promoting, facilitating and retaining investments. The primary statute in investments is the *Investment Promotion Act (2004).* The stated purpose of the Act is to promote and facilitate investment by, among other things, providing an enabling environment for investors to acquire necessary licences for investment activities. The Act establishes the Kenya Investment Authority (KenInvest), a state agency whose mandate is to promote and facilitate investment in Kenya. It also establishes the National Investment Council (NIC), whose purpose is to advise the Government on increasing investment and economic growth in Kenya. However, stakeholders consider this legal and institutional framework inadequate. As such, the government commenced reforms of the investment regime, which culminated in the publication of the Draft Investment Promotion and Facilitation Bill (2024). The Bill establishes a comprehensive legal framework aimed at fostering domestic and foreign investment in Kenya. The Bill is supposed to create a conducive legal environment that is more responsive to the needs of investors and supportive of the government's agenda. It aims to correct the country's investment regime, starting from the registration of an investment-up to investment retention procedures (aftercare services). A notable proposal in the proposed Bill is the replacement of KenInvest with the Kenya Investment Corporation (KIC), a body which would be granted a broader implementation mandate than KenInvest. KIC would be responsible for facilitating the registration of foreign investors. The relevant strategic issues arising from these efforts are discussed in detail in Chapter 4.

Laws on Incentivized Zones

Over the last few decades, the Government of Kenya has sought to encourage investments by establishing Incentivised Zones. This started with the establishment of Export Processing Zones via the *Export Processing Zones Act (1990).* This statute was enacted to promote and facilitate export-oriented investments through the establishment of EPZs and the granting of incentives to enterprises, developers and operators licensed to operate within the EPZs by the Export Processing Zones Authority (EPZA), the government body mandated with the overall responsibility of developing and managing EPZs in Kenya. The Act grants these categories of persons 'tax holidays' for taxes payable under the VAT Act, the Income Tax Act and the Customs and Excise Act. More specifically, the beneficiaries are guaranteed tax exemptions from 'all existing and future taxes and duties' payable under the Customs and Excise Act and the VAT Act on all EPZ imports for use in the eligible business activities of the EPZ enterprise. Other tax incentives include exemption from the payment of income tax for the first ten years from the date of first sale as an EPZ enterprise and, upon expiry, twenty-five per cent after that.

Thereafter, Special Economic Zones (SEZ) were introduced in 2015 through section 3 of the *Special Economic Zones Act (2015).* The Act also provides for tax incentives and fee waivers by the SEZ Authority established in section 10(1). The SEZ Authority is the government body mandated to develop and manage SEZs in Kenya. Some key features of SEZs include One-Stop Shop support, a single operating licence, exemptions from various regulations and fees, quick project approval, no exchange controls, onsite customs support, unrestricted foreign investment, and work permits for employees. Concerning applicable fiscal incentives, they include zero-rated VAT for the supply of goods or taxable services to a SEZ and exemption from stamp duty on any executing documents or instruments relating to the business activities of SEZ enterprises, developers, and operators. Notably, the SEZ Act is currently undergoing reforms.

Fiscal regime

Investors in Kenya are subject to the country's tax regime. The tax regime in Kenya is primarily enforced by the Kenya Revenue Authority (KRA), a state agency established by the Kenyan government via the *Kenya Revenue Authority Act (1995)* to assess and collect revenue and administer and enforce the laws relating to revenue. These laws are approximately twenty-five. The key laws in the context of investment, from a general perspective, include the *Income Tax Act (Cap 470), the Value Added Tax Act (Cap. 476), the Miscellaneous Fees and Levies Act (Cap. 469C)*, *the Excise Duty Act (Cap. 472), the Stamp Duty Act (Cap. 480*), the *Tax Procedures Act (Cap 469B)* and *the Tax Appeals Tribunal Act (Cap. 469A)*.

The *Income Tax Act* provides for the imposition of income tax for each year of income upon all income of a person accrued in or derived from Kenya. Both domestic (local) and foreign investors must pay income tax on all gains or profits from their businesses and dividends or interest. However, for investment activities carried out within export processing zones, the developers, operators, and enterprises are exempt from the obligation to pay this tax for the first ten years from the date of the first sale as an EPZ enterprise and upon expiry of the period, the income tax is limited to twenty-five percent for the ten years following. This is a positive addition to the statute as it facilitates investment activities in the country.

Under section 41 of the Income Tax Act, the Government may enter into double taxation agreements with other countries. These agreements allocate tax rights between a source and a resident country to reduce tax barriers and create certainty. The Double Taxation Agreements making process is governed by the Treaty Making and Ratification Act, 2012 and the Statutory Instruments Act, 2013.

The *Value Added Tax Act*, on the other hand, governs all matters relating to the imposition of VAT. Section 5 requires payment of VAT on all 'taxable supplies' made by a registered person in the country, the importation of taxable goods and a supply of imported taxable services. Section 7 read with the Second Schedule of the VAT Act exempts goods and services, *inter alia* those which are produced within special economic zones from the obligation to pay VAT. The Schedule also exempts, from the obligation to pay VAT plant and machinery imported by manufacturers of pharmaceutical products.

The *Miscellaneous Fees and Levies Act* governs the imposition of duties, fees and levies in connection with importation or exportation of goods. One of the levies imposed through this Act is the export and investment promotion levy on specified goods imported into the country. Some of the goods subject to this levy are described in the third schedule of the Act and include cement clinker (17.5% of the custom value), unbleached sack Kraft paper (10% of custom value), bars and rods of iron (17.5% of custom value) and semi-finished products of iron (17.5% of custom value). The purpose of the levy is to discourage imports and protect local industries, increase exports of value-added products, and attract investors.

Because of the existence of different statutes on tax, the *Tax Procedures Act* was enacted to provide uniform procedures for tax administration, unless a tax law specifies a procedure that is unique to the administration of the respective tax.

Analysts have often observed that the multiplicity of applicable taxes is a key barrier to investment activities. Proposals have been made for a simplified tax regime. Stakeholders have also complained about the manner in which tax administration is carried out. The most notable complaints raised have related to VAT refunds and the handling of tax disputes. Chapters three and five discuss this in more detail.

Property rights

Property rights include both tangible and intangible property. Tangible property include land, building and machinery. Intangible property includes intellectual property rights such as patents, trademark and copyright.

Tangible property

Land is a crucial factor in investment decisions. Land matters in Kenya are primarily governed under the following laws: Land Act (2012), Land Registration Act (2012), National Land Commission Act (2012) and the Community Land Act (2016).

The *Land Act (2012)* provides for the sustainable administration and management of public, private and community land and land-based resources. It recognizes four forms of land tenure in alignment with the Constitution of Kenya, 2010: freehold, leasehold, partial interests, and customary land rights. Investors may acquire an interest in land under these forms of land tenure through allocation, land adjudication process, compulsory acquisition, prescription, settlement programs, transmissions, transfers, and long-term leases exceeding twenty-one years created out of private land. For foreign investors, interest in land may be acquired through long-term leases.

One of the significant reforms to this statute, and particularly the procedure of acquiring land, is the recognition of electronic signatures for purposes of execution. In addition, the National Land Commission may grant a foreign investor a licence to use unalienated public land for a period not exceeding five years, subject to prescribed planning principles and the payment of agreed fees.

One of the key recommendations in the Kenya Investment Policy (2019) is to establish Land Banks in line with the Land Act and subject to Article 65 of the COK (2010).[12] The policy recommends that counties should establish mandatory savings schemes where a percentage of county budget allocation goes to purchasing land for investment-related purposes. Section 110 of the County Government Act (2013) provides for spatial plans, as part of the county integrated development plans. County governments are therefore crucial players in the development of land banks at the county level and their involvement is key in order to enable these initiatives. However, the Land Act does not contain provisions which enable the establishment of land banks. The reforms to the Land Act should therefore align to the specific recommendations in the Kenya Investment Policy (2019).

The *Land Registration Act (2012)* was enacted in order to rationalise the registration of titles to land and to give effect to the principles and objects of devolved governments in land registration. It deals with the registration of public, private, and community land interests, such as leases, charges, transfers, and transmissions. For foreigners, all acquired land must be registered in accordance with the Act. Section 107(3) reiterates the provisions of Article 65(1) of the Constitution of Kenya, 2010, that non-citizens can only hold land under leasehold tenure not exceeding ninety-nine years.

One of the important developments with regards to registration of interests in land, is the introduction of the Ardhi Sasa portal. The portal is a national land information management system, developed by the Ministry of Land in consultation with the National land Commission, County Governments and other stakeholders. The platform enables landowners, citizens, investors and other stakeholders to assess credible, reliable and efficient land and land-based services. Land registration and other processes are now undertaken in this portal.

[12] The Kenya Investment Policy (2019) p38.

The *Community Land Act (2016)* is a key legislation for counties because majority of Kenya's community land is in the counties. Since county governments are also involved in investment promotion and facilitation, the regulation of community land is vital.

Community land is land vested in and held by a community on the basis of ethnicity, culture or other similar community interests. It, therefore, includes (i) land lawfully registered in the name of group representatives, (ii) land transferred to a specific community by any process of law, (iii) land that is declared by statute to be community land, and (iv) land lawfully held, managed or used by a particular community as a community forest, grazing areas, or shrines. The Community Land Act therefore gives effect to Article 63 of the Constitution by providing for the recognition, protection, and registration of community rights and the management and administration of community land.

Hence, the conversion of community land should adhere to the provisions of the Community Land Act and its regulations to ensure that a mutually beneficial relationship is promoted between investors and the community to minimise opposition to investment activities by communities, thereby creating an efficient investment climate and business environment. Relatively, and with due regard to the sustainable development of the country, natural resources on community land must be used and managed sustainably and productively for the benefit of the whole community, both current and future generations, with transparency and accountability, and based on equitable sharing of accruing benefits. Hence, when an investor identifies an investment opportunity on community land, the investment promotion process, which includes entering into an investment agreement with the community, must entail public participation to ensure that the process is consultative.

The National Land Commission (NLC) is broadly mandated to manage public land. It was established in 2010 by Article 67(1) of the Constitution. Thereafter, the ***National Land Commission Act (2012)*** was enacted in May 2012 to make further provisions regarding the functions and powers of the NLC. The functions of the NLC are in line with Article 60(1) of the Constitution and include (i) alienating public land on behalf of and with the consent of the national and county governments, (ii) monitoring the registration of all rights and interests in land, (iii) ensuring that public land under the management of any designated state agency is sustainably managed for the intended purposes, and (iv) receiving and investigating all historical land injustice complaints and recommending appropriate redress. Thus, the NLC must be involved in all transactions relating to public land, including the compulsory acquisition of land by national or county governments.

Intangible property

Kenya recognizes and protects various forms of intellectual property rights, including patents, copyright, trademark, and industrial property designs.

The Copyright Act protects original works of authorship, including artistic and literary works,[13] for a term of 50 years. Section 3 of the Act establishes the Copyright Board to oversee the administration, licensing, and coordination of copyright.[14]

The Trademarks Act (1957) protects words, phrases, symbols, or designs identifying the source of goods and services of one party, distinguishing them from those of others, for a term of 10 years.[15]

Although not a regulation protecting a specific type of intellectual property right, the Anti-Counterfeit Act (2009) is an important statute regarding the protection of intellectual property as it prohibits trade in anti-counterfeit goods. The statute is implemented by the Anti-Counterfeit Authority, established

[13] Copyright Act (2003) section22.

[14] Copyright Act (2003) section 5.

[15] Trade Marks Act (1957) section 7.

under section 3 of the Act. The main function of this Authority is to combat trade in anti-counterfeit goods, by *inter alia* facilitating the investigation of complaints. The Authority, even with the power to investigate such complaints, should develop an illicit trade index which will provide evidence of pricing and actual illicit trade practices. Additionally, the enforcement of anti-counterfeit surveillance is crucial.[16] A streamlined import process and the enforcement of surveillance will boost investor confidence and enhance government revenue collection.

Labour Rights and Management

Labour, being a factor of production, is important in attracting investment. The ***Employment Act (2007)*** **and the *Kenya Citizenship and Immigration Act (2011*)** are key statutes in this regard. These two statutes are aligned to Article 41 of the Constitution of Kenya, 2010 which grants every worker a right to fair labour practices.

The Employment Act is the primary law which regulates the rights and obligations of employers and employees and is a crucial component to promoting and facilitating investment in Kenya. Investment decisions are influenced by the flexibility in employment regulations and clarity on redundancy costs for foreign and domestic investors.

The Employment Act applies to all employees under a contract of service and covers both oral and written contracts. The Act provides for the payment of wages for work done, when wages are due, and the place where the employer should pay such wages. It contains other minimum conditions of employment, including annual leave, sick leave, water, food, and medical attention, and the requirements for termination or dismissal of employees.

The Act also provides for alternative forms of dispute settlement. Any party to an employment dispute may complain to a Labour Officer if the other party fails to fulfil contractual obligations. Also, the parties may use other forms of alternative dispute resolution, such as arbitration and mediation, which would ideally allow speedier resolution of disputes compared to referring disputes to the Employment and Labour Relations Court (ELRC).

The Employment Act also operates within a broader framework of international law, namely Bilateral Labour Agreements (BLAs). These agreements are an important part of this conversation because they form part of the regulatory framework which applies to migrant workers in Kenya, to the extent that those workers are citizens in countries which are party to a BLA with Kenya. This means that for workers from the countries with which Kenya has concluded BLAs, they are subject to the minimum standards which are guaranteed within these frameworks. Kenya has BLAs with countries including; United Kingdom, Poland, Qatar and Saudi Arabia.

Based on the outcome documents by the Business Reform Action Plan Development Committee, unpredictable employment taxes were identified as a barrier to business growth. They noted that the random and often unplanned ceremonial rises in minimum wages affect planning of large employers. They proposed the development of a Minimum Wage Policy that provides for periodic wage increases of, for example, every two years or a National Tax Policy with a similar provision.

Another concern raised was on the current Wage Guidelines, developed/revised in 2005 which are currently outdated because they do not respond to the global and emerging market trends. Minimum wage fixing relies on sectoral wages, councils, occupations, regional banding and inflation rates. An ongoing reform process in this regard is the development of the Draft Wages and remuneration policy (2023). The draft policy proposes to reform collective agreements and revise wages to align them with

[16] Business Reform Action Plan Development Committee, 2024, High Level Interventions, Intervention No. 18.

productivity increase. This will protect workers' competitiveness and increase employment opportunities. This also aligns with the Kenya Vision 2030, which places emphasis on skills development and appropriate minimum wage requirements.

The Kenya Citizenship and Immigration Act (2011) is an important law in matters of labour and FDI. It provides for, among other things, the issuance of travel documents, permits and other related immigration matters. Thus, it is instrumental because it guides the process of obtaining work and residence permits by foreign investors. The Permits Section of the State Department for Immigration and Citizen Services under the Ministry of Interior and National Administration is responsible for the processing and issuance of work permits and passes. All applications for permits and passes are made and submitted online. Once processed and issued, applicants can print their permits or passes on their eFNS Accounts. Different types of work permits and passes are usually issued, including Class A: Prospecting and Mining, Class B: Agriculture and Animal Husbandry, Class C: Prescribed Profession, Class D: Employment, Class F: Specific Manufacturing, Class G: Specific Trade, Business of Consultancy, and Dependant's Pass. For investors, this section of the Kenya Citizenship and Immigration Act is read with section 13 of the Investment Promotion Act (2004), which allows investors with holding investment certificates to three Class A and H permits, for the management of technical staff, and owners and shareholders or partners, respectively. The challenge with this statute is the failure to clarify the criteria for granting foreign investors permits, particularly the conditions attached to the different classes of permits. Even though the Investment Promotion Act guarantees investors various classes of permits, the criteria for such issuance are similarly unclear.

Dispute Settlement procedures

Speedy and effective dispute settlement mechanisms are key components of a good investment climate and business environment. Kenya has both court and 'out of court' procedures to resolve investor disputes. Article 159 (2) (c) of the Constitution of Kenya, 2010, provides for the resolution of disputes by utilising alternative dispute resolution mechanisms. These include mediation, arbitration and traditional dispute-resolution mechanisms. A large part of enforcing this provision involves the utilisation of Court Annexed Mediation to secure the expeditious resolution of disputes. Arbitration has also been embarrassed in the corporate sector with the Nairobi Centre for International Arbitration and the Chartered Institute of Arbitrators-Kenya playing a significant role in promoting and facilitating the use of arbitration to settle disputes expeditiously.

Regarding court procedures, Small Claims Courts (SCCs) were established under the Small Claims Court Act Cap 10A of 2016. SCCs are specialised commercial courts designed to provide judicial determination involving small amounts of money not exceeding KES 1 million. They aim to provide speedy resolution of disputes in a cost-effective and simplified manner, hence enhancing access to and expeditious delivery of justice. The establishment of these courts is part of a broader initiative to improve the ease of doing business in the country.[17]

2.2.2.2 **Regional and Multilateral agreements**

Kenya is a party to several regional economic arrangements which are useful in the promotion, facilitation, and retention of investment. These instruments and their enabling policy documents include:

1. The *East African Community (EAC)* which was established through the *Treaty for the Establishment of the East African Community*, 2000. Within this framework, Member States committed to promoting investment in priority sectors within the customs union, and these include agriculture and agribusiness,

[17] The Judiciary. See https://judiciary.go.ke/small-claims-court/ last accessed 26 May 2024.

manufacturing, oil, and gas. Chapter 12 of the Treaty contains obligations for Partner States to co-operate in investment and industrial development. In Article 80, 1 (f), States are required to harmonise and rationalise investment incentives such as those relating to taxation of industries, particularly those that use local materials and labour, to promote the development of the EAC as a single investment area. Article 127 equally requires Member states to create an enabling business environment, through implementation of investment policies which *inter alia* remove barriers to investment and development of the private sector.

From the High-Level Interventions outcome document developed by the Business Reform Action Development Committee, it was highlighted that there is a need to implement the 4 band EAC Common External Tariff, which is meant to promote local manufacturing, enhance value addition, and drive industrialization which would lead to job creation.[18] This implementation should be done through various legislative frameworks, such as the VAT Act (which is discussed earlier) to implement the following:

a) The classification of tea as a food crop and zero-rate purchase for value addition.
b) The reduction and/or removal of taxes on tanning chemicals used in leather production.
c) The reduction and/or removal of taxes on imported shoe soles used in leather shoe products production.
d) The reduction and/or removal of 10% import levy on imported raw materials which are useful for the manufacturing of glass.

2. The *EAC Common Market Protocol* highlights the importance of Partner States' cooperation on investment and Article 29 particularly mandates partner states to protect cross-border investments and investment returns of the investors of other Partner States within their territories and provide a schedule for the removal of existing restrictions on the free movement of capital within the EAC. In this regard, the 6th EAC Development Strategy and Private Sector Development Strategy aims to integrate investment activities and private sector development in priority areas, in order to improve the investment climate and business environment. The EAC Trade and Investment Policy (2019 – 2024), developed after the EAC Summit, during their 8th Extraordinary Meeting, enables a framework to establish a regional promotion agenda which leverages the region for competition for investors from Africa and the world.

3. The African Continental Free Trade Area (AfCFTA), the World Trade Organization (WTO) and the Economic Partnership Agreements (EPAs) have been discussed in detail in chapter 3.

4. Because states are sovereign and have the discretion to accept or refuse foreign investments in their territories, and the conditions under which the investments will be made, Bilateral Investment Treaties (BITs), are important in governing the relationships between host states and foreign investors. To attract FDI, host states enter into BITs to grant foreign investors certain standards of treatment. Articles 2 (5) and 2 (6) of the Constitution of Kenya, 2010, allow the application of BITs entered into by Kenya because they form part of the Laws of Kenya. Kenya has entered into various BITs with different countries, such as Japan, the United Kingdom, Finland, Germany, the United Arab Emirates, and France. Most of the BITs are considered to be old-generation BITs that limit the right of host states to legislate for the interest of the public (policy space) thus there need for appropriate reforms to be undertaken.

2.2.2.2 Devolution and County Legal Frameworks

The Fourth Schedule of the Constitution provides for the distribution of functions between the national government and the county governments. Some of the functions of county governments include

[18] High Level Interventions, Intervention No. 3.

county abattoirs, markets, county planning and development and trade development and regulation including licensing. Undoubtedly, the national and county governments must collaborate and constantly communicate for effective economic growth at the national and county levels. Hence, the Intergovernmental Relations Act (2013) was enacted to (i) provide a framework for consultation and cooperation between both levels of government, (ii) establish the Council of Governors to oversee and facilitate the effective implementation of county roles, and (iii) to lay down the framework for the County Development Fund, which enables the implementation of investment activities within counties. Also, the Counties can enact county laws.

The County Investment Handbook (2019) has been instrumental in guiding counties on matters of investment promotion and facilitation. One of the recommendations in the handbook is the establishment of County Investment Units (CIUs), and the preparation of county investment profiles and a database of bankable projects. These have been discussed in detail in chapter 4.

2.2.2.3 Institutional framework.

The investment landscape is also shaped by the existing institutional framework which includes the Ministry of Investments, Trade and Industry (MITI) whose mandate includes promoting investments in Kenya including the formulation and implementation of policies to promote, attract, develop and retain domestic and foreign direct investments, and to create an enabling environment for investors for ease of doing business (SDIP, 2024).

The State Department of Investment Promotion (SDIP) is one of the three departments under MITI as per Executive Order No. 2 of 2023. SDIP's mandate includes investment policy and strategy; promotion both locally and internationally of opportunities for investment in Kenya; promotion and oversight of SEZs, EPZs; coordination of transformation of the eco-system supporting private sector development, development of business reform agenda across the entire government, re-engineering of government business and service processes.

The State Department for Industry (SDI) within MITI's mandate includes: industrial policy and planning, Buy Kenya Build Kenya policy & strategy, promoting standardisation in industry and quality control, Kenya property rights policy (patents, trademarks, service marks, innovation), promotion of value addition and agro-processing; promotion, development and oversight of aggregation and industrial parks; textile sector development; leather sector development and promotion of the value chain, oversight and regulation of scrap metal industry; industrial training and capacity building; combating counterfeiting trade and other dealings in counterfeit goods, oversight, administration and enforcement of local content policy.

The State Department for Trade with MITI also plays a supportive role in investment, with its mandate including trade policy, export development, promotion of E-Commerce, trade negotiations and trade advisory services, championing trade integration in COMESA, CFTA, EPAs, AFTA etc. liaising with UNCTAD, WTO on trademarks; protection of Kenyan goods against dumping and subsidised imports and recommending countervailing measures. coordination of multi-agency task forces on the elimination of illicit trade and counterfeits, liaison with international trade bodies for national development (ITC etc), management of weights and measurements in trade, promotion and regulation of wholesale and retail trade; and promotion of fair-trade practices.

The agencies that undertake investment promotion, facilitation and retention under MITI include: KenInvest, SEZA, EPZA and KDC. Other key ministries and agencies in the context of investment promotion and facilitation include: Business Registry Services (BRS) under the State Law Office (SLO) office of the Attorney General, the State Department of Lands and Physical Planning, the National Land Commission (NLC), the Kenya Revenue Authority, the State Department for Labour and Skills, Immigration Directorate, ,Ministry of Foreign Affairs (including State Department for Diaspora Affairs) and the State Department for East African Community Affairs, State Department for Micro Small and Medium Enterprises (MSMEs), State Department for Energy, State Department for Transport, State Department for Water and Sanitation, State Department for Environment and Climate Change, Kenya National Bureau of Statistics (KNBS), and Kenya National Bureau of Statistics (KeBS), The NISK strategic action plan discussed in Chapter 6 includes TWG member MDAs and the MDAs listed above as having a key role to play in one or more strategic initiative. At county level, there exist County Investment Units whose mandate is to attract and facilitate investment into their county. These are discussed in detail in chapter 3.

2.3 Conclusion

This chapter has presented an overview of the policy, legal and institutional framework that governs investments in Kenya. It has also identified ongoing legal reforms to improve the investment climate and business environment. Nevertheless, further interventions in the legal framework need to be undertaken to achieve the set target of over 10 billion USD of FDI per year. From the analysis, it is evident that there are several ongoing legal reforms. These reforms have made some contributions to the country's investment climate and business environment. However, the reforms should not be conducted in silos, rather, they should be done in a coordinated manner in order to yield evidence-based and effective measures which will contribute positively to investment. Given that the issues have already been discussed in the preceding sections of this chapter, the proposed interventions are discussed in the next chapters, where some legal strategies are proposed such as a coordinated approach to legal reform to strengthen investor confidence to retain clients and expand FDI and DI and establishment of an investor grievance mechanism to deal with operational and political risks with the control of government.

3 Analysis of Strategic Environment

This chapter provides situational analyses to inform the selection of strategic choices for promotion of FDI, DDI and DI over the next 5 years. Organised along the four pillars, the chapter identifies the context, presents a summarised SWOT analysis and then highlights the emergent strategic issues.

3.1 Investment Climate and Business Environment

One of the key aims of the Strategy is the creation of a competitive business environment and investment climate. The business environment can be construed to mean the aspects of public governance and regulation that businesses must interact with as they conduct their day-to-day activities. This includes all policies, laws, regulations, treaties, trade and investment agreements, administrative measures, and rules to help organise economic activity into an orderly, predictable and compliant manner. The investment climate consists of the business environment and the wider features of a particular jurisdiction, including physical infrastructure, political stability, markets, human capital, social infrastructure, technology, financial markets and ecological factors. Importantly , the business environment is largely under the control of the government, while the other aspects of investment climate are in the domain of the private sector but with the public sector having influence through policy measures, although some aspects of the wider investment climate are still largely under direct government control (like physical infrastructure).

3.1.1 Situational Analysis

Kenya's global competitiveness has been declining over a number of years. The country performs poorly in some key indices used to measure a country's progress in its reform agenda and facets of business environment and investment climate. To analyse the status quo of the business environment and investment climate, this section collates findings from global indices, SDIP's Business Reform Action Plan Development Committee (BRAPDC) report which was an investment climate survey of over 160 chief executives (CEOs); insights from private sector representatives, views from county government officers and county executive committee members (CECMs) as well as written presentations from offices of national government MDAs. The prioritised strategic issues include the cost of doing business, corruption, burden of regulatory compliance, illicit trade and counterfeits, trade and investment facilitation, long term finance for investment projects, institutional coordination and capacity, investor services, automation of investment service functions, strategic planning and sector prioritisation in investment promotion, investment grievance resolution mechanisms, legal reforms, infrastructure and utilities; value chain integration, political, ecological, regulatory and financial risk mitigation and national risk management frameworks, amongst others.

Competitiveness of Kenya's National Economy.

Global indices are a good measure of a country's reform agenda and progress. They act as benchmarks of a country's performance. Governments can use indices to pursue market-oriented reforms that improve the business environment to foster the private sector activities and spur sustainable growth and job creation. Even though indices can be exclusively considered as investment guides, they tend to serve as the 'pulse' of the business environment which the private sector can use to check the health of the investment climate. Indices help the businesses in making their trade and investment decisions. In view of improving and sustaining reforms, it is generally recommended that efforts be directed to improving the ranking and score in the Global Indices.

The World Economic Forum (WEF)'s Global Competitiveness Index (GCI) is one of the key indices used to measure the competitiveness of national economies. As shown in Figure 12 below, in the 2019 GCI (the last available), Kenya was ranked 95th with a score of 54.1 The best performing country out of 140, was Singapore with a score of 84.8. However, as seen from Fig. 12, Kenya led the other East African comparators: Rwanda (110), Uganda (115), Tanzania (117) and Ethiopia (126). Mauritius leads the Sub-Saharan Africa group at rank 52 followed by South Africa (60) and Namibia (64). [19]

Figure 12: Global Competitiveness Index - Overall rankings and scores for 5 East African and 3 South Asian Countries, 2019

Overall, Kenya's worst performing areas were health and surprisingly, ICT adoption. On health, Kenya's ranking on area of life expectancy was low and calling for better provision of health services. . Equally, ICT adoption is weighed down by low rating on percentage of internet users to the population, a future characterised by limited ICT infrastructure beyond urban areas.

Having said the foregoing, it should be noted that the GCI data, while extremely relevant, is relatively old (2019). This is the latest GCI data available for Kenya and comparator countries and can thus give an indication of how Kenya was rated 5 years ago against the standard group of comparator countries, being ratings by respondents in response to questions posed to them about aspects of the investment climate. In addition, while indices provide useful comparisons between regions and countries, the data used in compiling the index may contain estimations and perceptions of the respondent and thus, the reality on the ground may be quite different from the ratings given. The second challenge of the indices is continuity and as can be seen from GCI, the WEF has not published GCI information on Kenya in the past five years.

3.1.2 Strategic Issues

The situation analysis and issue prioritisation process for Pillar 1 identified 9 strategic issues that require attention within the NISK. These are: (i) Access to quality affordable and reliable clean energy. (ii) Burden of regulatory compliance including unpredictable taxation (iii) Corruption (iv) Illicit trade and counterfeiting, (v) Gaps in Kenya's utilisation of regional, continental and multilateral trade and investment agreements (vi) Effective utilisation of infrastructure services and trade facilitation (vii) Mainstreaming of global climate change mitigation and adaptation agenda in investment matters (viii) Coordination of legal reforms for strengthening investor confidence and expanding investment (ix) Access to affordable long term credit for productive activities

[19] https://www3.weforum.org/docs/WEF_TheGlobalCompetitivenessReport2019.pdf

(i) Access to quality, affordable and reliable clean energy

Kenya's overall investment competitiveness and in particular the manufacturing sector continues to be undermined by high electricity costs, and only moderate quality and reliability of access to energy by industrial and commercial consumers . Building on Kenya's impressive transition to renewable energy, which accounted for 90% of electricity consumption in 2021, Kenya needs policy measures to reduce the relatively high cost of electricity, in order to improve the competitiveness of its industries and exports. The cost of electricity in Kenya remains relatively high compared to regional comparators, which is attributed among other things to high cost of Power Purchase Agreements (PPA s), power system and commercial losses, as well as high taxes and levies. According to Energy and Petroleum Regulatory Authority (EPRA)'s Biannual Statistics Report for FY 2023/24, covering period July to December 2023, the retail prices for industrial power for some categories reached KES 25 per /kWh by December 2023, this is equivalent to USD 0.172 /kWh[20]. This is expensive when compared with neighbouring countries like Ethiopia which has power costing below USD 0.03/kWh. Simulation of data from the Kenya Association of Manufacturers on a cement manufacturing plant shows a 58.9% increase in electricity prices between January 2021 and January 2024, with tariffs rising from KES15.8 to KES 25.1 per kWh. This high-power cost is also partly due to the high pass-through charges added to the base tariff. This included, in the period July to December 2023, KES 4.55 per kWh for fuel energy charge, KES 1.8093/kWh for forex adjustment, KES 0.23 as inflation adjustment and KES 0.014 as Water Resource Levy, all amounting to total of pass-through charges Ksh 6.60 /kWh or an additional 45.2 % over the base tariff. This is despite the power generation profile for that period comprising 44.6% geothermal, 22.5% hydro, 14.3% wind, 3.5 % solar, 6.2% imports and only 8.9% thermal.[21]

Besides the cost, electricity must be made reliable and reduce the incidences of power outages. EPRA estimates that during the period July –December 2023, Kenyan consumers experienced outages lasting around 8.836 hrs against a set benchmark of 5 hrs per month, and average interruption of 3.865 hrs per month. Especially for manufacturers, the power outages lead to stoppages in production lines causing losses in productions, and equally frequent demand of diesel-powered generators which are costly.

To address these challenges with electricity, strategic recommendations include fostering an enabling environment for development of storage technologies for electricity to encourage transition to renewable energy and to reduce reliance on thermal energy, reviewing the policy on PPAs, introducing a well-designed auction system for acquisition of new generation capacity and reducing taxes and levies on the electricity tariffs.

Fuel prices in Kenya are relatively high when compared to other countries in the region due to multiple taxes and levies. The high cost raises the cost of production and renders local commodities less competitive in the local, regional, and international markets. This makes it cheaper to import than to manufacture in the country. The cost of fuel also accounts for about 40% of the Consumer Price Index – and has the highest weight in inflation. This has a ripple effect on consumer prices, thus increasing the cost of living and reducing consumer purchasing power. High energy costs impede investment due to the increased cost of doing business and reduced consumer purchasing power.

[20] Energy-and-Petroleum-Biannual-Statistics-Report-July-December-2023.pdf

[21] Energy-and-Petroleum-Biannual-Statistics-Report-July-December-2023.pdf

(ii) Burden of regulatory compliance including unpredictable taxation

One of the most common findings from the research was investor frustration with the multiplicity of regulatory requirements, their cost and the lack of a predictable tax environment. There is insufficient harmonisation of licences and permits between countries so that inter-county trade and movement of goods is hampered when each county requires compliance with its own regulatory requirements, causing excessive administrative burden and added costs. The worst affected areas are movement of branded motor vehicles and payment of cess.

The recent Supreme Court decision which shifts the burden of proof of a land title to the land purchaser, again transfers administrative burden to the public, while in fact the responsible government department has a responsibility to ensure its records are up to date and that an official search on a land title returns a conclusive position on ownership, tenor and encumbrances of such land.

Bureaucratic red tape is another hurdle for investors. Institutions are not able to deliver on their service charter promises because performance metrics are often not tracked or reported on, and the concept of continuous improvement is not widely applied. Public servants need to be released to find creative ways to deliver exceptional customer service and build investor loyalty and be recognized and rewarded accordingly.

Another barrier to investment is the unpredictable tax environment where new measures are introduced without adequate analysis of possible impact. Recent examples of negative tax measures include 16% VAT on plant and machinery in HS Chapters 84 and 85 which has diverted capital investment to Tanzania and Uganda where there is no such tax. In addition, imposition of a 35% import duty on other bleached sack Kraft paper is misguided as this is not a finished product but either a raw material for production of packaging, which should be subject to the 4-band EAC CET framework of 0% on raw materials, 10% on intermediate goods, 25% on secondary intermediate goods and 35% on finished products.

Other taxes introduced include a 25% import duty on imported fluting paper, imported carton boxes and test line for the packaging industry, making Kenya's packaging uncompetitive. Tea is not classified as a food crop, omitting it from zero rating of tea purchased for purposes of value addition. Tanning chemicals used in the leather tanneries are mostly not made locally and yet are subject to higher import duties.

Capital gains tax is deemed too high at 15% instead of the former rate of 5% and negatively affects transfers between parties in the venture capital and private equity sector. There is a 1.5% digital service tax applicable on digital services provided by a non-resident person to a resident person, with no minimum threshold, and requiring the non-resident person to register for tax purposes in Kenya. This is unduly cumbersome and discourages local access to digitally delivered content and services.

Imported finished pharmaceuticals products including medications, non-pharmaceuticals, therapeutics and medical devices which have locally produced equivalents, pose unfair competition for the local drug industry due their duty-free importation. This tariff structure is a disincentive to local production for public and private healthcare sectors.

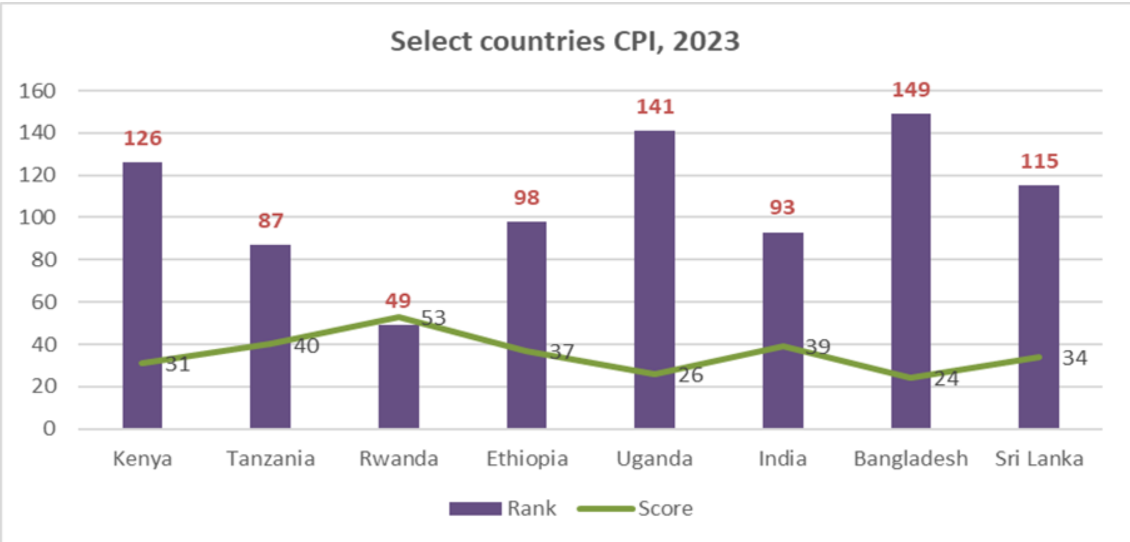
The export and investment promotion levy (EIPL) which is intended to support funding of national investment and export promotion activities needs to be reviewed and the tariff reduced. The EIPL can be as high as 17.5% on some products like imported steel billets, as introduced in Finance Act 2023, resulting in a combination of taxes and levies on imported billets of 31.5% of CIF in Kenya, versus less than 2% in other EAC partner states. For cement clinker, a raw material for cement the EIPL is 10%, again to the disadvantage of local cement firms against regional competitors. Similarly, the Import declaration form (IDF) fee was increased to 2.5% of CIF rather than the former 1.5%.

All these taxes and levies add up to make Kenya an uncompetitive manufacturing location and have contributed to closure of manufacturing industries in Kenya, which are then replaced with trading companies selling those same goods, now made in another part of Africa, leading to the shrinkage of manufacturing sector's share of GDP to only 7.6% in 2023.

(iii) Corruption

Corruption is noted to be one of the key barriers to investment in Kenya. Transparency International (TI)'s Corruption Perception Index (CPI) serves as a good measure on how countries tackle corruption within their borders. Kenya's ranking and score in the CPI reveals slight improvement in ranking in a decade. Kenya was ranked at position 136 out of 175 countries in 2013 with a score of 27 out of 100, and position 126 out of 180 in 2023 with a score of 31 out of 100 (Corruption Perception Index, 2013 and 2023, n.d.). Kenya's best CPI ranking, and score was in 2022 when ranked 123rd out of 180 countries with a score of 32. The best ranking country in CPI 2023, Denmark, managed a score of 88. Although Kenya is ranked ahead of Bangladesh and Uganda, its score was below that of Rwanda and Tanzania who were ranked 49th and 87th respectively and the first and second best amongst comparators. [22]

Figure 13: Corruption Perception Index (CPI) rank and score for 5 East African & 3 South Asian countries, 2023



Source: Transparency International, 2023

The drop in Kenya's CPI ranking in 2023, according to TI, can be attributed to the weak justice system in Kenya, which is one of the factors impeding Kenya's fight against corruption. This weakness has in turn eroded the public's confidence in the system. A key issue is the prolonging of cases and the costs of judicial processes. According to the 2023 National Trade Estimate Report on Foreign Trade Barriers, the United States Trade Representative (USTR) surmised that the corruption in the judiciary continues to erode judicial efficiency, productivity, effectiveness and credibility.

[22] Transparency International, 2023

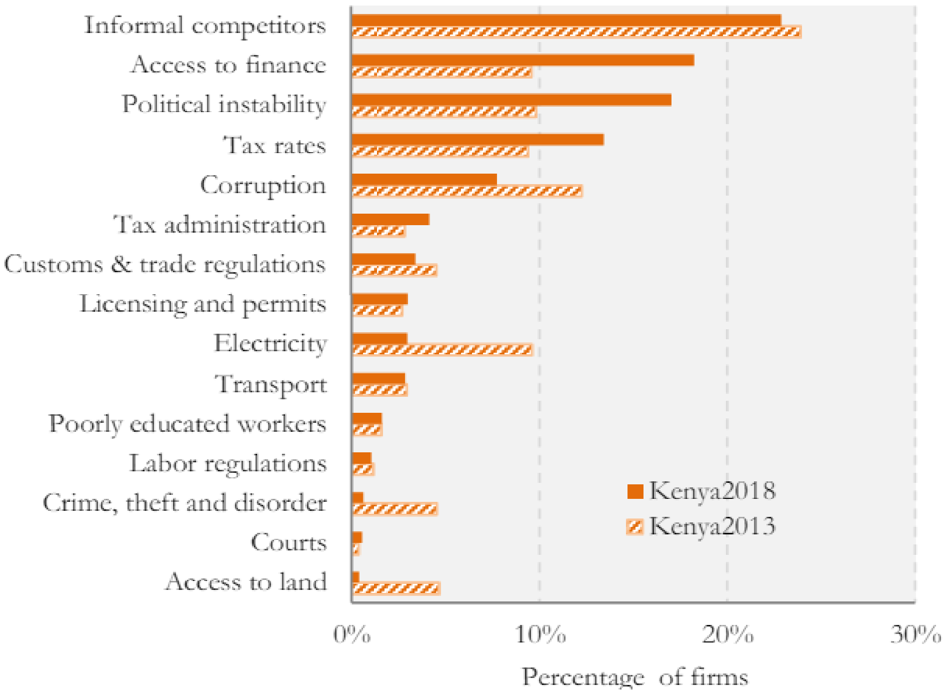
The report also noted the long backlog of cases, the prosecution's termination of cases without any conviction, and weak investigations as indicators of risk to investors. Further, the appointment to public office of individuals who had pending integrity cases weakens investors' confidence in Kenyan institutions. to perceive Kenya as a risky place to invest.

Nonetheless, the country has made attempts to deal with the corruption challenge through legal and institutional reforms. A notable change has been the recognition of leadership and integrity as critical issues of governance in Chapter 6 of the Constitution of Kenya, 2010 and the establishment of the Ethics and Anti-Corruption Commission as a constitutional commission (Art. 79, CoK, 2010) mandated to develop and promote standards and best practices in integrity and anti-corruption. Other notable laws are the Bribery Act (CAP 79B) which penalises the offence of bribery; the Anti-Corruption and Economic Crimes Act (2003) which penalises bid rigging, abuse of office, and dealing with suspect property; the Proceeds of Crime and Anti-Money Laundering Act (2010), which penalises the offence of money laundering. The effectiveness of the EACC is often questioned. The public perception of their success in prosecutions as well as their ability to curb the vice is low. However, prosecutions are a narrow tool for measuring success in the fight against corruption. The development of a methodology for measuring the opportunity and economic cost of corruption would help to solve this challenge by creating a compelling public case on the detrimental impact of this vice on individual taxpayer's pockets. Fighting corruption takes courage, persistence, strong political will and wide public support.

(iv) Illicit trade and counterfeiting

Respect for and effective enforcement of intellectual property rights (IPR) is a key determinant of an investor's decision to invest. For domestic investment, innovation and brand images are impacted negatively in an environment where illicit trade proliferates as manifested by counterfeits in Kenya, thus adversely affecting the investment climate. Whist Kenya has in the recent past engaged in a rigorous and determined effort to combat illicit trade, including setting up the legal and institutional framework, the menace persists. The Anti-Counterfeit Authority (ACA)'s Nation Baseline Survey of 2020 indicates that 30% of counterfeited goods are locally manufactured. In addition, according to ACA's National Illicit Trade Observatory, the size of illicit trade in 2018 was estimated at KES 826 billion, equivalent to 9.6% of the GDP, representing huge competition to existing and potential investment.

Figure 14: Practices of informal competitors continue to be considered the main obstacle to private firms' operations (World Bank, Enterprise survey, 2018).



Source: World Bank, Enterprise Survey,2018.

(v) Gaps in Kenya's utilisation of regional, continental and multilateral trade and investment agreements

Kenya is a member of the WTO and is signatory to many international bilateral and multilateral treaties and agreements intended to enhance Kenya's fair and even favourable access to global markets and to accord most favoured nation (MFN) status to the goods of other WTO members seeking space in the Kenyan market. Kenya has entered a Bilateral EPA with the UK following BREXIT as well as the European Union. Kenya was granted permission to commence the implementation of the EU-EAC Economic Partnership Agreement (EPA) under the principle of variable geometry vide the EAC Heads of State Communique' of 27 February 2021.

There is no gainsaying the critical importance of ensuring synergy between Kenya's negotiating stance and subsequent commitments at various levels of engagement on trade negotiations underpinned by the WTO compatibility requirements. Being derogations from the WTO Most Favoured Nation-principle of non-discrimination, regional Integration arrangements and bilateral agreements are required to be compatible with WTO rules Art. 24 of the General Agreement on Tariffs and Trade 1994 as well as in Art. V of the GATS clearly set out the parameters for compatibility.

A key issue that emerged from the recent EPA's Kenya entered with respectively the European Union and the United Kingdom is inconsistency between the commitments Kenya entered under those agreements with Kenya's commitments as a member of the EAC Customs Union. Duties on some products differed with those charged under the 4-band EAC Common External Tariffs (CET). Kenya Private sector has flagged the disruptions of these inconsistencies to regional trade and the challenges they portend for the business environment and investment climate.

Both the EU-Kenya and UK-Kenya EPAs contain a rendezvous clause on areas for future negotiations to be included in the respective agreements within five years of entry into force. The areas for future negotiations include investment and private sector development. Considering the inconsistencies cited in the 2 EPAs with Kenya's commitment under the EAC Customs Union, the scope for such inconsistencies going forward must be guarded against. The Investment Strategy will need to contribute to the development of a synergistic and coherent approach to the negotiations in various fora and their outcomes.

Meanwhile, the African Growth and Opportunity Act (AGOA) which gives duty free access to the U.S. market for most products, is due to expire in September 2025, following a ten-year extension in 2015. According to AGOA.info's trade brief on Kenya-U.S. trade, 39% of U.S. import tariff lines are duty free under U.S. MFN tariffs, 46% are duty free under AGOA/GSP provisions while 12% are duty free under AGOA's textile provisions, leaving only 3% subject to U.S. tariffs. Of Kenya's USD 892 million exports to the U.S. in 2022, USD 603 million (68%) claimed duty-free entry under AGOA. Kenya's exports to the U.S. were mainly apparel (USD 545 million) agricultural products (USD 175 million including macadamia nuts and coffee) and mineral and metals (USD 74 million- mainly titanium ores). Kenyan industries dependent on the U.S. market employ over 50,000 workers and need to have early assurance of the terms under which their products will be sold to U.S. buyers after September 2025, hence why timely extension of the AGOA as proposed in the AGOA Extension Bill, is of utmost priority.

(vi) Effective utilisation of infrastructure services and trade facilitation

Kenya has invested heavily in its transport infrastructure in the past 2 decades - ports, airports, road networks and railways. Kenya provides transport and logistics services for its own business sector and for that of neighbouring countries. The transport sector comprised 13.6% of Kenya's GRP in 2023, growing at 6.2% and contributing 10.6% of total GDP growth that year.

Undertaking trade facilitation reforms is key to enhancing transparency and governance of cross border trade. Equally, facilitating trade has a positive link in attracting foreign direct investment and thus a key component of an investment strategy. Notably, Kenya has undertaken several initiatives on trade facilitation led by the ratification and partial implementation of the WTO TFA, there still exist shortcomings in implementation and effects of some of the measures.

While Kenya can boast of having 'considerably' improved infrastructure and logistical connectivity, of government services accessible through online systems, and of well-developed financial systems as levers to facilitate trade and investment there still more to be done. Efficient and seamless movement of goods from the port of Mombasa would contribute to an improved investment climate by inter-alia reducing trade costs, boosting trade flows, and facilitating regional trade. Trade facilitation would be vastly improved if the inefficiencies within the SGR and the cargo verification and verification processes are streamlined.

Further, the development of the new regional transport corridor the Lamu Port-South Sudan-Ethiopia Transport (LAPSSET) linking Kenya, Ethiopia and South Sudan is expected to lead to the opening of Kenya's Northern regions and addressing intra-regional disparities in economic development since Kenya's independence. It also provides a new platform for advancing regional integration in the Eastern and Horn of Africa region

Transport and logistics is a very important and high-growth-potential sector, but faces a number of challenges to growth primarily in the area of inward transit of goods from the port due to uncompetitive cargo transport and logistics. High cargo handling service fees are charged by both KPA and KAA, railway cargo freight tariffs are high on both standard gauge railway (SGR) and metre gauge railway (MGR), while MGR and SGR railway sidings and railway lines in industrial areas of major cities are dilapidated.

Another cause of inefficient transport is the frequent and long downtime of cargo clearing systems including KenTrade's single clearance window system, KEBS' imports standards system and KRA's integrated customs management system (ICMS). Another barrier is inefficient off-loading of container cargo from the ship to rail wagons, containers are offloaded from the ship, stacked up and then later located and loaded onto a railway wagon. Time is wasted in locating the container, getting a railway wagon to load it onto and finally loading it for inward transport. Delays result in high port charges and demurrage. Finally, KRA's authorised economic operator (AEO) designation for regular importers which enables them to avoid routine verification inspections at the port and save time, is not widely used by importers.

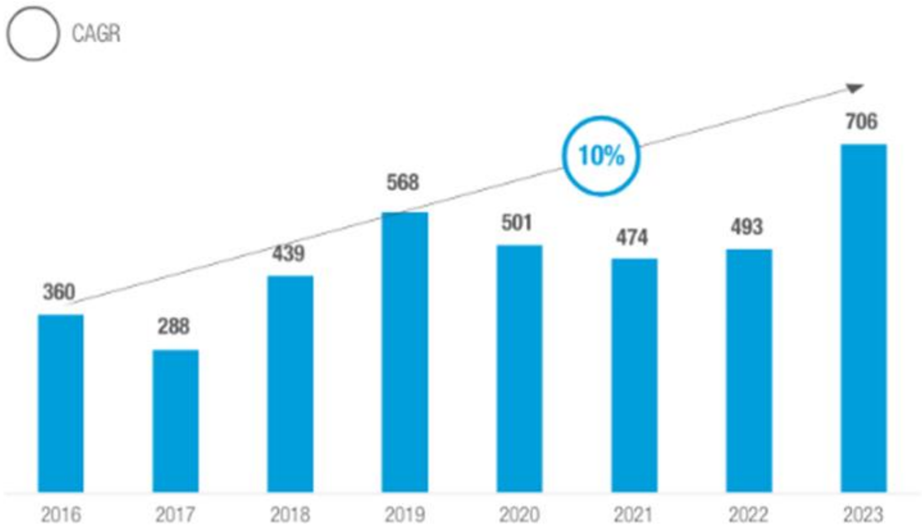
(vii) Mainstreaming of global climate change mitigation and adaptation agenda in investment matters.

New opportunities in investments that are geared towards the achievement of the global sustainable development goals have bucked the trend in declining global FDI flows. Moreover environmental, social and governance (ESG) issues are rising in importance as factors considered by investors in order to meet the demands of sophisticated global consumers. They feature prominently in the outward foreign direct investment (FDI) policies of a number of FDI source countries. There is thus a strategic imperative for ensuring that our investment ecosystem is anchored to the SDG-gap financing sectors.

Figure 15. below demonstrates a steady increase in investment in environmental technologies, indicating this an area for future investment growth.[23] These SDG-related sectors include infrastructure, renewable energy, water and sanitation, blue economy, food security, health and education and there are many instances where such investment could stimulate much-needed economic growth. One must, however, ensure that projects with greenwashing undertones do not find place in the SDG-related investment promotion ecosystem.

[23] UNCTAD, fDi Markets

Figure 15: Investment in environmental technologies bucks the trend



Source: UNCTAD, based on information from the Financial Times Ltd, fDi Markets (www.fDimarkets.com).
Note: CAGR: Compound Annual Growth Rate.

(viii) Coordination of legal reforms for strengthening investor confidence and expanding investment

The legal framework governing the investment climate and business environment has been undergoing periodic reform. Therefore, it is important to undertake a legal reform impact assessment to examine the impact of these reforms to the investment climate and business environment and identify the gaps. The results of this assessment will inform an evidence-based upgrade of the laws.

Because of the value-chain approach to development, the assessment and upgrade of the laws requires a coordinated approach where all the relevant ministries, departments and agencies (MDAs) are involved as opposed to a silo approach where each ministry, department or agency is undertaking its own assessment and upgrade. A coordinated upgrade of the legal framework avoids duplicity of efforts and uncoordinated upgrading of the laws.

To identify the relevant MDAs, a mapping exercise should be undertaken. Thereafter, the mapped MDAs will be responsible for designing and implementing a program for upgrading the relevant laws identified as requiring updating following the said impact assessment. The program should contain clear targets, measurable results and timelines.

The parameters for the assessment will include the extent the laws have:

- Promoted the entry, operation and growth of businesses, of both DI and FDI;
- Balanced the investment operations and public interests such as environment, health and safety;
- Addressed institutional and administrative deficiencies that impact private investment.
- Streamlined bureaucracy to lower the cost of doing business and reduced opportunities for corruption and informal activities;

- Brought equality with regards to opportunities for women, youth and people living with disabilities to start and run businesses and access credit;
- Enhanced multi-sectoral collaboration;
- Reduced multiplicity of licences and permits;
- Facilitated effective tax administration; and
- Promoted expeditious resolution of investment-related disputes.

(ix) Access to affordable, long-term credit for productive activities

Investors require long term credit to fund expansion of their investments and thus capital for productive activities like manufacturing, agro-processing, crop farming, livestock rearing, tourism and transport activities catalyses growth of enterprise. In Kenya, due to the current macroeconomic imbalance, short term credit is benchmarked against treasury bills whose interest rates rose to 1.5.70% in December 2023 as shown in Table 4 below. Treasury bonds with tenor of between three and twenty-five years have been issued in the last 3 years at coupon rates of between 13.9 % and 19.0 % p.a. crowding out the private sector productive from affordable long-term commercial debt for on offer at between 13.9% and 19.0%. Commercial banks will prefer to loan to the government at these high rates of return, starving the productive sector. The expansion of lending by development finance institutions (DFI) and other sources of long-term debt or equity for capital investment is critical to attracting and retaining investment, particularly for domestic investment.

The key local DFIs are the Kenya Development Corporation (KDC) which was formed by the merger of several DFIs and the Kenya Industrial Estates (KIE) both of which can expand lending if substantially recapitalised.

Table 4: Short-Term Nominal Principal Interest Rate Trends in Kenya -- 2019 to 2023 (Annual %).

Instrument	2019	2020	2021	Dec-22	Dec-23
Central Bank					
CBK 91 day Treasury Bill	7.17	6.90	7.26	9.33	15.70
CBK Rate	8.50	7.00	7.00	8.75	10.50
CBK Repo Rate	7.45	6.87	5.31	-	-
InterBank Rate	6.03	5.29	5.10	5.39	11.65
Commercial Banks					
Average Deposit Rate	7.11	6.30	6.50	7.17	11.10
Savings Deposit Rate	4.02	2.70	2.55	3.56	4.24
Loans and Advances Max. Rate	12.24	12.02	12.16	12.67	14.67
Overdraft Rate	11.67	11.51	11.45	12.22	14.68
Inflation Rate	5.82	5.62	5.73	9.10	6.60
Source: *KNBS, Economic Survey 2024, Table 4.11*					

3.2 Pillar 2: Promotion and Facilitation of Investment in Existing Investment Opportunities

Investment promotion and facilitation are important levers for increasing FDI inflows and DI into an economy. Whilst the two concepts are related and mutually reinforcing, there are subtle differences between them. Investment promotion is about promoting a country (or location within a country) as an investment destination, while investment facilitation means ensuring that investors do not face undue hurdles in establishing or expanding investments or in conducting their business. In many countries, investment promotion and facilitation is undertaken by an investment promotion agency (IPA). To gather and connect worldwide IPAs for purposes of cooperating and sharing their experience and expertise, UNCTAD and 50 IPAs established an international NGO, the World Association of Investment Promotion Agencies (WAIPA) in 1995. WAIPA acts as a forum to promote and develop understanding among IPAs, provide them with technical assistance and capacity building and encourage networking and exchange of best practices in investment promotion. Other objectives of WAIPA include facilitating access to data, assisting IPAs in advising their respective governments on the formulation of appropriate investment promotion policies and strategies, and facilitating access to technical assistance and training. (WAIPA, 2024).

In Kenya, the mandate of promoting the country as an investment destination falls under the Kenya Investment Authority (KenInvest), a state corporation under SDIP established under the Investment Promotion Act, No. 6 of 2004 with the mandate of promoting and facilitating local and foreign investments in Kenya. It is mandated to assist investors in setting up their investments, review the investment environment and make recommendations to government on investment promotion and facilitation, promote locally and internationally opportunities for investment in Kenya and providing post -investment customer care services for new and existing investments. KenInvest is a member of the World Association of Investment Promotion Agencies (WAIPA).

Even though KenInvest is mandated to undertake investment promotion and facilitation in Kenya, these two activities require inter-agency cooperation because other agencies have a component of investment promotion and facilitation within their respective mandates e.g. EPZA, SEZA, Konza Technopolis Development Authority, Nairobi International Financial Centre Authority (NIFCA) and to a lesser extent Kenya Development Corporation (KDC). Kenya’s efforts in investment promotion and facilitation are coordinated by SDIP. SDIP investment facilitation activities revolve around introducing transparency and improving the availability of information, and making administrative procedures more effective and efficient.[24]

This section evaluates Kenya's approach to investment promotion and facilitation and provides a qualitative view on the effectiveness of the same, identifies strategic issues in investment promotion and facilitation and concludes with recommendations on strategic actions to improve the country’s investment promotion and facilitation.

3.2.1 Situational Analysis

Kenya offers a range of incentives to investors, including both fiscal and non-fiscal incentives. Fiscal incentives are mainly tax exemptions, reductions in tax or reduced charges for government-provided services. . These include, capital allowances, which are tax incentives for capital expenditure covering wear and tear allowances; industrial building deduction; investment deduction and farm-works deduction. Other financial incentives are structured to offer sector-based incentives. Such incentives include 100% investment deduction allowance on capital expenditure on buildings and machinery in various sectors. An example of this sectoral incentive scheme is the Nairobi International Financial

[24] Investment Facilitation | Investments (investmentpromotion.go.ke)

Centre programmes which is promoted by NIFCA . Investor companies certified by NIFCA and have invested a minimum of KES 5 billion will benefit from certainty that the capital gains tax applicable at the time they make their investments will remain unchanged throughout the lifetime of the investment. [25] Another category of fiscal incentive are customised incentives designed under the auspices of a Special Operating Framework Arrangement as provided for in the Finance Act of 2022. In this arrangement certain companies, for example human vaccine manufacturing companies and companies whose minimum capital investment is KES 10 billion, are subject to the rate of tax specified in the special operating arrangement with the Government.

On the other hand, non-fiscal, non-financial investment facilitation tools, revolve around administrative and system tweaks designed to reduce investment burden. These include economic zones administrative incentives and export processing zones administrative incentives which are discussed under pillar 3.

In the devolved context, c county governments are also involved in investment promotion activities. The County Investment Handbook (2019) offers guidelines on investment promotion and facilitation. One of the recommendations is the creation of County Investment Units (CIUs) and the preparation of county investment profiles and a database of bankable projects. The CIUs undertake activities pertaining to trade promotion, facilitation and retention including offering incentives to investors while the investment profiles showcase the available resources and facilities in the county. Bankable projects refer to those that are investor-ready, as opposed to being speculative. 11 of the 44 Counties that responded to the survey of counties undertaken under deliverable two of this project indicated that their county had a policy, strategy, or other investment guideline in place or in draft stage. These include investment policies, laws to protect investors, investment opportunity guidebooks and related bills such as Tourism Bill and Conservancies Bill. 29 of the 44 counties also indicated there was a CIU or other similar arrangement. 14 of the 44 counties had a mechanism to track private investments. In Fiscal Year 2022/2023, 13 counties had engaged in an investment promotion activity. These included investment conferences and trade expos, business to business matchmaking (B2B), participation in summits e.g. American Chamber of Commerce Summit, engagement with foreign investors and ambassadors, stakeholder roundtables and construction county aggregation and industrial parks (CAIPs).

3.2.2 Strategic Issues

Kenya faces several challenges in the promotion, facilitation and retention of private investments.

The World Association of Investment Promotion Agencies (WAIPA) conducts an annual survey of IPAs, and has published a report based on the 2019 survey that was jointly conducted with the World Bank Group (WBG). * *(What can governments do to facilitate investments? A menu of the most important measures identified through surveys. WAIPA & WEF, 2019*). Five measures were identified that would both increase investment flows and their development impact. These include transparency and predictability of investment measures, streamlining and speeding up administrative procedures and requirements, a contact or focal point mechanism to enhance domestic coordination and cross-border cooperation, sustainable investments and other issues listed as cross-cutting themes. In terms of transparency and predictability of investment flows, KenInvest has taken measures to avail relevant information regarding incentives and fees and other investment related information. Predictability of investment flows is however hampered by an unpredictable regulatory environment. Streamlining and speeding up of administrative procedures and requirements is addressed through the one-stop shop, whose function faces challenges caused by duplicity of investment efforts across

[25] https://nifc.ke/pressrelease/kenya-announces-the-official-launch-of-the-nairobi-international-financial-centre-nifc/#:~:text=The%20NIFC%20general%20regulations%20have,first%2010%20years%20of%20operation.

several MDAs. While KenInvest is the national focal point for investments, CIUs are prescribed as the sub-national focal points for investments. These have not been instituted in all the counties which significantly reduces the efficiency of investment coordination. Regarding sustainable investments, there is the need for a clear framework to guide relevant MDAs and CIUs. Cross-cutting themes included smarter investment incentives, a database or list of domestic suppliers, ease of business, visas and work permits and alignment of domestic laws and regulations with international standards. These issues are discussed in more detail in other sections of this document.

WAIPA subscribes to the World Bank Group (WBG) Framework for Investment Promotion which is premised on three pillars for effective investment promotion. These pillars are (i) corporate strategic planning and sector prioritisation, (ii) institutional framework and (iii) investor services. This section examines these strategic issues to identify the opportunities available for strategic interventions that will serve to promote and facilitate existing investment opportunities. along with other pertinent strategic issues identified in the primary and secondary research phases. [26]

(i) Corporate Strategic Planning and Sector Prioritisation

Corporate strategic planning and sector prioritisation entails improving strategic focus via development of strategic plans and improving sector prioritisation for investment promotion. The WAIPA report states that, to build an effective IPA, the entity must develop an investment promotion and retention strategy that outlines the main shared objectives for achieving FDI attraction and retention and that outlines how to achieve these objectives. This document includes a systematic approach to identifying key sectors explicitly, a listing of quantifiable objectives, a roadmap toward providing relevant services to investors and a proper mechanism to measure success. The IPA's plans should also be aligned to the country's FDI strategy and National Development Plans.

A crucial part of the strategic planning for IPAs is sector prioritization. 81% of IPAs surveyed select the target sectors on the basis of a national development plan or similar high-level policy documents. Significantly, KenInvest faces the challenge of undertaking its mandate within shifting priorities that result from changing political agenda s. The most recent change is the shift from the BIG 4 Agenda to the current BETA plan. In its 2023-2027 Investment Strategy, KenInvest aligns its strategic plans to the UN 2030 Agenda for Sustainable Development, the AU Agenda 2063, the EAC Vision 2050, the Constitution of Kenya (CoK) 2010, the Kenya Vision 2030, and the Bottom-Up Transformation Agenda (BETA). The Medium-Term Plan IV is aligned to the BETA and KenInvest takes cognisance of the priority sectors outlined in the plan.

Counties also have sector priorities based on resource availability at the county-level and national sector prioritisation. In the survey administered to the counties, they were asked to identify at least three key sectors in their counties that would attract investments. The responses were categorised into 20 themes that emerged from the survey. The top sector was agriculture which was cited by 25 counties and the second was tourism and hospitality cited by 20 counties. The third most cited sectors were trade and industry, and agro processing and agribusiness with 12 counties each citing these sectors.

In order to address these challenges, in May 2024, KenInvest published the Draft Investment Promotion and Facilitation Bill (2024) whose stated primary objective is to establish a comprehensive legal framework aimed at fostering domestic and foreign investments within Kenya. The proposed law aims to do this by creating a conducive legal environment that is more responsive to the needs of investors and supportive of the government's agenda. It aims to correct the country's investment

[26] Sources: Kenya Investment Authority (KenInvest) Strategic Plan of 2023-2027. The KAM manufacturing priority agenda (MPA) 2024. FGDs the (TWG). The Survey of Key CEOs undertaken by SDIP in 2024.

regime, starting from the registration of an investor, up to investment retention procedures (aftercare services). To address the problem of lack of accurate and comprehensive data on investment, the bill proposes to introduce mandatory registration of investment of all domestic and foreign investment projects, with KenInvest. This is for projects above a certain value threshold, with the firms concerned receiving support from the One Stop Shop. The Bill proposes to increase the minimum capital requirements for local (domestic) and foreign investors from the current 100,000 USD for foreign investors and 1 million KES for local (domestic) to 500,000 USD and 5 million KES respectively to encourage only investments that align with the country's overall policy goals and promote sustainable practices.

(ii) The Institutional Framework

The second area in WAIPA's approach is the institutional framework. It states that an IPA should have institutional and financial autonomy, operational independence, coordination with key regulatory agencies at the national local levels, as well as with private sector organisations. An IPA should be fortified from external pressure, but also have sufficient relationships with an array of multi-stakeholder groups in investment promotion. This pillar emphasises the importance of the institutional framework under which IPAs operate. These include organisational structures, reporting lines, mandates, Board of Directors, staff, overseas and regional IPA representation and subnational IPAs, financial resources and institutional coordination mechanisms. The organisational structure of KenInvest is based on its legal status as a semi-autonomous government agency (SAGA) and has a Board of Directors with representation from both the public and public sector. Its mandate is restricted to the promotion and facilitation of investments and it is situated in the State Department for Investment Promotion (SDIP) which is a department under the Ministry of Investments, Trade and Industry. The WBG framework indicates that support from high levels of government is considered critical, as is reporting to a board including both public and private representatives and chaired by the President's office or key ministry. According to the WBG framework for investment promotion, the staff of an IPA are considered its most valuable asset, and should have the relevant education, background and skills to develop an investor-minded and service-oriented organisation. KenInvest in its 2023-2027 strategy identifies one of its challenges as being the difficulty of attracting and retaining staff due to the proposed merger with other MDAs. Overseas representation is mainly through the country's embassies while sub-national representation should be through the CIUs). Efforts toward investment promotion and facilitation however face challenges due to the lack of CIUs in some counties. Financial resources pertain to sufficient and steady financial resources and allocation to core functions. Inadequate funding by the exchequer is a listed challenge in the KenInvest 2023-2027 strategic plan.

Kenya's ability to promote and facilitate investments is impacted by the prevailing institutional framework with which KenInvest finds itself in. It also faces significant competition from other Investment Promotion Agencies (IPAs) in comparable countries in the EAC. For Kenya to succeed in its goals of promoting and facilitating existing investment opportunities, it will be necessary to strengthen the capacity of Keninvest. The activities of KenInvest are constrained by limited financial and human resources. This makes it difficult for Kenya to effectively carry out its mandate and to be represented in crucial international bodies such as the World Association for Investment Promotion Agencies (WAIPA). Lack of funding also limits the visibility of investment-related institutions such as KenInvest. That said, the existence of an institution that is specifically mandated to the promotion, facilitation and retention of investments presents a good opportunity for Kenya with regards to increased investments. However, in and of itself, the existence of KenInvest is not adequate to foster Kenya's attraction of the large value of investments that MTP-IV targets. c

One of the key provisions in the proposed Investment Promotion and Facilitation Bill (2024) is the succession of KenInvest with the Kenya Investment Corporation (KIC), a body which would be granted a broader implementation mandate than KenInvest. KIC would be responsible for facilitating the registration of foreign investors.

An additional area of concern is the lack of harmonisation of investment efforts at the two levels of government: national and county. The County Investment Handbook (2019) offers guidelines on investment promotion and facilitation. One of the recommendations is the establishment of CIUs , and the preparation of county investment profiles and a database of bankable projects. County Investment Handbook (2019) offers guidelines to facilitate the counties in implementing the Kenya Investment Policy (2019). The CIUs undertake activities pertaining to trade promotion, facilitation and retention including offering incentives to investors while the investment profiles showcase the available resources and facilities in the county. Bankable projects refer to those that are investor-ready, as opposed to being speculative. However, the efforts of s CIUs and the country's investment promotion efforts are not optimally coordinated, which limits the country's investment promotion efficiency.

Counties were asked to list at least three main barriers to attracting investments to their counties. The responses were categorised into the 12 themes that emerged. The top barrier was infrastructure, which was cited by 17 of the 44 counties, the second barrier was the legal framework which was cited by 16 counties, and the third was cost of production and administrative issues which were both cited by 14 counties each.

(iii) Investor Services

The WBG framework for investment promotion identifies three aspects of investor services. The first is investor services throughout the investment lifecycle. The WBG Comprehensive Investor Services Framework (CISF) proposes that an IPA offers investor services and measures and evaluates the success of their activities at different stages of the investment cycle. The evaluation is mainly based on investor's potential for positive influence on the economy, for example job creation, exports, training, linkages, provision of basic services or infrastructure, and negative environmental or social impact. To a lesser degree, evaluations are also based on the impact on gender issues. The four services categorised within investment promotion are marketing services, information delivery, assistance to investors and advocacy to improve investment climate. The second aspect is managing the relations with investors, The IPA requires a well-developed information management system to effectively offer investor services. This includes the use of databases to provide information such as available land, industrial space and service providers. Grievance management is also considered as key to managing investor relations. The third aspect is Monitoring Investment Promotion Function. KenInvest has a detailed structure of the monitoring function in their 2023-2027 strategic plan.

On investor services, the survey found that IPAs are more focused on the provision of services at the attraction stage versus the entry and establishment stage. NISK advocates for the improvement of investor-focused services based on the comprehensive investor services framework (CISF), which argues for the provision of a comprehensive, service-oriented, and investor-centric approach that would benefit all IPAs. IPAs were asked to identify the most desirable reforms to improve attraction and retention of investments in the countries in the near term. One of the areas where Kenya ranks favourably in investment promotion and facilitation is multi-agency collaboration in the provision of information to investors and the single-window trade facilitation portals. In the 2018-2022 period, KenInvest facilitated 1,008 projects with a capital cost of KES 414,253 million. This comprised KES 335,008 million foreign and KES 79,263 million local capital cost. These projects employed 41,127 Kenyans. As part of investment facilitation and aftercare KenInvest established a One-Stop Centre (OSC), developed an Investor Case Management (CRM) system, and established online platforms including e-regulations.

__Figure 16: Kenya's Performance in Investor Information Portals and Single Window__

World's best information portals in 2021

Rank	Country	Rating	Status
1=	Armenia	10	Developing
1=	Benin	10	Developing
1=	Bhutan	10	Developing
1=	Burkina Faso	10	Developing
1=	Cameroon	10	Developing
1=	Comoros	10	Developing
1=	El Salvador	10	Developing
1=	Ethiopia	10	Developing
1=	Guatemala	10	Developing
1=	Guinea-Bissau	10	Developing
1=	Iraq	10	Developing
1=	Kenya	10	Developing
1=	Lesotho	10	Developing
1=	Libya	10	Developing
1=	Mali	10	Developing
1=	Montenegro	10	Developed
1=	Nicaragua	10	Developing
1=	Rwanda	10	Developing
1=	Solomon Islands	10	Developing
1=	Tanzania	10	Developing
1=	Togo	10	Developing
1=	Tuvalu	10	Developing

Countries with a rating of 10 out of 10 using the Ger.co methodology (see above)

World's best single windows in 2021

Rank	Country	Rating	Status
1=	Australia	10	Developed
1=	Benin	10	Developing
1=	Denmark	10	Developed
1=	Iraq	10	Developing
1=	Kenya	10	Developing
1=	Oman	10	Developing
1=	Sweden	10	Developed
1=	Togo	10	Developing
1=	Uzbekistan	10	Developing
10=	Armenia	9	Developing
10=	Azerbaijan	9	Developing
10=	Estonia	9	Developed
10=	New Zealand	9	Developed
10=	South Sudan	9	Developing
10=	Switzerland	9	Developed
10=	Uganda	9	Developing

Countries with ratings of 9 and 10 out of 10 using the Ger.co methodology (see above)

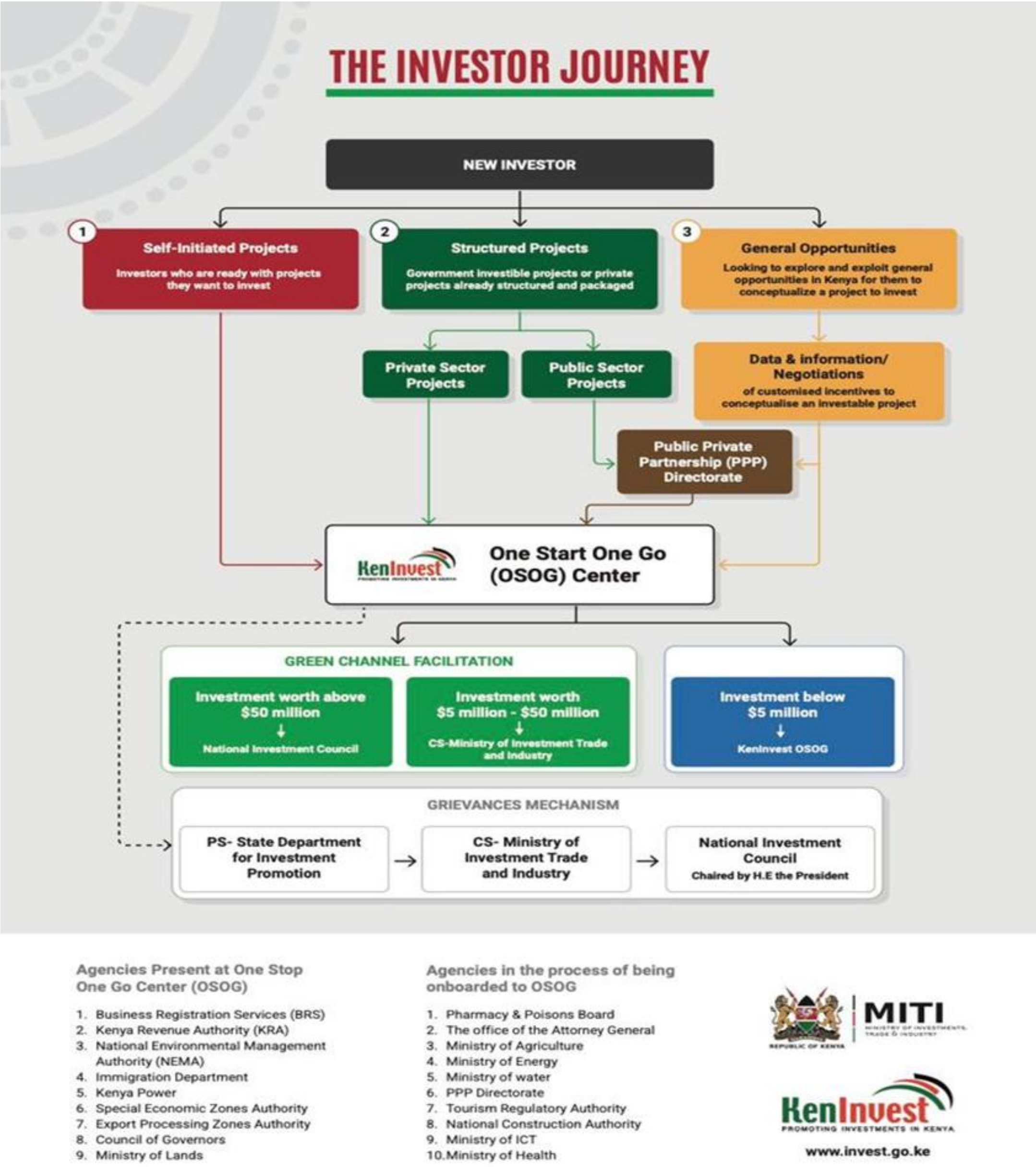
Source: UNCTAD 2021[27]

The SDIP '**One Start One Go Centre**' is a centralised location that facilitates the investment procedures, by bringing the key investment facilitators and investment stakeholders into one area. The figure below illustrates the steps in the 'Investor Journey', taken by investors seeking to establish their enterprises in Kenya.

In terms of initiatives to support investments at the county level, the top initiative listed was County Aggregation and Industrial Parks (CAIPs) which were cited by 24 of the 44 counties, marketing of investment opportunities was the second initiative which was cited by 16 counties, and reforms to the regulatory framework and administrative processes cited by 14 counties.

27 https://unctad.org/system/files/official-document/diaepcbinf2022d1_en.pdf

Figure 17: The Investor Journey



Source: State Department for Investment Promotion (2024).

KNBS and the State Department for Economic Planning also requires accurate investment data to support economic planning and macroeconomic performance reviews. This lack of a mechanism to collect case by case, DI and FDI information poses a challenge for planning, projecting investment targets and for monitoring investment performance under NISK. The Investment Promotion and Facilitation Bill proposes to make it mandatory for investors to register with KenInvest. This is a good proposal as long as the review of investment project applications and subsequent decisions marking is transparent and efficient, with no significant additional costs.

When investor disputes and grievances are not addressed in a timely manner, they hinder investment retention and growth. Therefore, there is a need to establish an investment grievance management mechanism that tracks investor grievances and disputes concerning regulatory implementation (e.g. administrative issues) across the different sectors and MDAs and resolves them in a timely manner.

(iv) **Aftercare services**

As mentioned earlier, post-investment customer care is a key determinant for investment retention, expansion, diversification and even investors becoming a source of positive referrals on a country's investment eco-system. Partly due to the lack of comprehensive data on both local and foreign direct investments, a comprehensive after care system which will be able to cope with the huge number of investment projects that will be coming through KenInvest and other investment agencies, has to be developed. After care is also multi-agency and involves a focal point where the investors lodges their need for assistance and is able to follow up progress. In addition, to solving investor problems the after-care service team should also seek to build a cordial professional relationship with investors in the portfolio and manage the relationship proactively by sending out new bulletins and information pieces relevant to that investor. KenInvest, CIUs and other investment agencies need support to enhance their ability to provide aftercare services to investors.

3.2.3 Assessment of Key Economic Sectors and Key Value Chains for MTP-IV

3.2.3.1 High Level Assessment of Sectors and Value Chains Targeted by MTP-IV

As mentioned in the preceding section, a key component of investment strategic planning is the selection of priority sectors. The government has a keen interest in attracting and retaining investment to fill the gap in financing development. This fourth five-year national medium-term plan (2023-2027) is geared towards economic turnaround and inclusive growth through a value chain approach. MTP-IV therefore identifies sectors and value chains to be promoted in the plan period and whose development will be prioritised. The NISK will also focus its investment efforts in the sectors and value chains identified in MTP-IV but the respective investment promotion agencies at national and subnational level will conduct research to identify which of these sectors and value chains are best studied to the operating climate under their institution or programme, so that Unique Value Propositions can be developed for investment marketing.

These include under the Finance and Production Sector – livestock value chain including dairy, beef, leather and leather goods; crops comprising tea, edible oils, rice, textile and apparel, and construction/building materials. This sector also prioritises financial inclusion, investment promotion, industrial infrastructure development such as Special Economic Zones, Export Processing Zones, Industrial Parks, County Aggregation and Industrial Parks, product market diversification and promotion of fair-trade practices. The sector will also implement green and digital finance projects to promote green production and manufacturing.

In the infrastructure sector, the government has prioritised improving road transport by building 6,000 kilometres of road network, maintaining urban and rural roads, rail, air and seaport facilities and services, expanding communication and broadcasting systems. It will promote development of energy generation and distribution by increasing investments in green energy (geothermal, wind, solar and hydro). To increase reliability and accessibility to Internet connectivity a further 100,000 km of national optic fibre backbone infrastructure will be laid while public service will digitise 80% of its records. MTP-IV prioritises exploration and commercialization of oil and gas, development of water, irrigation and sanitation infrastructure as well as construction of 200,000 affordable housing units. Gaps in infrastructure financing are to be bridged by public-private partnership financing (PPP) and private sector investment in designated sector opportunities. These can include privately developed zones (EPZs & SEZs) and private power generation and distribution projects.

In the social sector, one of the seven major initiatives is the universal health coverage (UHC) which will promote access to affordable essential health products and technologies. This i san opportunity for investment in essential drugs, hospital consumables (gloves, masks, swabs, bandages, cannulas, catheters, syringes, needles etc.) and medical devices.

Other opportunities are found under the Infrastructure sector including Business Process outsourcing and IT Enabled Services(BPO & ITES). Specific Investment Opportunities under MTP-IV sectors are listed in Appendix 6 : MTP-IV Sector and Value Chain Investment Opportunities.

3.2.3.2 Sources of Investment Capital

The following are examples of global and domestic investment funds seeking suitable investment vehicles:

- **Sustainable Development funds** (USD 7 trillion in 2023) available covering water and sanitation, agri-food security, health, the environment with USD 587 disbursed as "green" bonds including for renewable energy projects.
- **Sovereign wealth funds and public pension funds** of USD 30 trillion are available for well crafted, large-scale investment projects including in green finance.
- **Kenya Diaspora remittances** of USD 4.19 billion in 2023, which mainly go to pay family expenses, buy property and invest in the money market. Diaspora remitters are looking for viable, profitable investment ventures through safe intermediaries
- **Kenyan Savings and Credit Cooperatives** (SACCOs) which held deposit worth KES. 1 trillion (USD 7.7 billion) in 2023. SACCOs seek viable, profitable yet safe investment opportunities and are used to paying dividends and interest to members. Current interest rate is about 12% p.a.

3.3 Pillar 3: Incentivized zones

Incentivized zones - export processing zones (EPZs) and special economic zones (SEZs) -have been identified as important policy levers to increase FDI and are therefore one of the four critical pillars in the formulation of the National Investment Strategy for Kenya. ⍰ This section will deal with investments in these zones.

Incentivised zones, in general, aim to overcome barriers that hinder investment in the wider economy, including restrictive policies, poor governance, inadequate infrastructure and problematic access to land but due to the cost of applying this ecosystem across the entire economy. The application of this regime in a delimited area allows this enabling environment to be tested and adapted to see what achieves desired economic results. Several policy tools are used in SEZs to promote and retain investment including fiscal incentives, special customs regimes, investment facilitation, investment protection, preferential land use, trade facilitation, infrastructure provision and social amenities. [28]

3.3.1 Situational Analysis

3.3.1.1 Export Processing Zones in Kenya

Kenya established export processing zones (EPZs) in 1990 when the Export Processing Zones Act was enacted. The EPZs were intended to enhance Kenya's exports through attraction of export-oriented investment within designated areas. The EPZ act established the Export Processing Zone Authority (EPZA). The Authority grants 2 main licences to investors – an enterprise licence in 3 categories – manufacturing, export services and commercial (or trading); and a developer/operator licence for establishment of infrastructure and amenities that can facilitate the enterprise's economic activities.

[28] https://unctad.org/system/files/official-document/wir2019_en.pdf

EPZs are customs-controlled areas and thus import and export activities are regulated under the East African Customs Management Act (ECMA) which implements the EPZ-related provisions of EAC Customs Union Protocol. These laws limit domestic sales by EPZs companies to 20% of annual production. As elaborated below, these clauses have progressively made access to the regional market by EPZ enterprises difficult.

The EPZs offer 3 types of incentives – a) fiscal incentives comprising tax exemptions and tax remissions, reduced levies and fees, designed to reduce operating costs and increase competitiveness; b) procedural incentives granting exemptions from compliance with certain non-essential regulations and finally c) provision of serviced land for long-term lease at below-market rates and ready-built factory buildings for shorter-term lease at affordable rents.

The fiscal incentives EPZs offer in Kenya include, 10-year corporate tax holiday with tax at 25% for a further decade; 10 year withholding tax holiday, exemption from stamp duty on legal instruments of an EPZ enterprise; perpetual exemption from import duty, excise duty, import duty and VAT on inputs utilised by EPZ firms; 100% investment deduction allowance on expenditure on buildings and equipment; and; EPZ firms are exempted from the cost of a 2.5% import declaration fee (IDF) levied on imports. The procedural incentives are meant to reduce the bureaucratic burden, with operation under essentially one licence, issued by the Authority. EPZs also offer access to ready industrial buildings and serviced land to ease start-up.

The attractiveness of this package vis a vis other countries' offering will be explored in the section on benchmarking and best practices. This package of incentives is standard in comparative EPZ schemes around the world. The incentives are therefore a necessary part of, but not the sum of investor considerations as they reduce the upfront costs and speed up the establishment of EPZ enterprises thus expediting investment. Table 5 below, shows the performance of the EPZ programme, demonstrating a steady increase in exports, jobs, and local purchases between 2019 and 2022 before a drop in 2023.

Table 5: Selected Performance Indicators of the Export Processing Zone Programme (2019-2023)

Selected Performance indicators of Export Processing Zones Programme (2019 -2023)					
Indicator	2019	2020	2021	2022	2023
No. of gazetted zones	74	76	82	89	101
No. of Enterprises	137	137	145	157	170
Direct Employment	61,056	56,940	66,854	83,752	76,838
Total Sales (Ksh mill.)	77,189	81,207	98,867	116,340	111,396
Domestic Sales (Ksh mill.)	8,617	6,817	8,618	9,706	6,397
Exports (Ksh mill.)	68,572	74,360	90,249	106,637	104,999
Imports (Ksh mill.)	39,840	37,504	48,317	63,663	54,698
Local Purchases. (Ksh mill.)	9,761	12,346	14,678	14,982	15,976
Cum. Investment (Ksh mill.)	107,877	116,974	124,490	134,704	146,416
Source: KNBS, Economic Survey, 2024, Table 10.11					

3.3.1.2 Special Economic Zones in Kenya

China was key to the evolution of SEZs. As part of its economic liberalisation programme, China modified the EPZ concept to create wide-area SEZs that combined industrial facilities with the social amenities typically found in townships: public transport, housing, schools, shopping centres, hospitals and recreation areas. The seven experimental Chinese wide-area SEZs were very successful. It is estimated that soon thereafter, SEZ programmes contributed 21.8% of national GDP, 46% of foreign direct investment (FDI), 60% of exports and 4% of national employment [29]. SEZs soon spread across the globe as economic and industrial development tools and by 2019, there were approximately 5,400 SEZs worldwide in 140 countries, with differing levels of impact. 500 more zones were planned. The highest number of SEZs worldwide were in China, Philippines, India, United States, the Russian Federation, Turkey, Thailand, the Dominican Republic, Kenya and Nicaragua, in that order.[30]

Kenya established special economic zones in 2015 through the SEZ Act No. 16 of 2015 which introduced the SEZ programme and also created the Special Economic Zone Authority (SEZA), a state corporation mandated to steward the programme. SEZ regulations followed in 2016 to operationalize the programme. The SEZ programme objectives include: the promotion of FDI, job creation and skills development, technology transfer and innovation, and economic diversification.

The ten Kenya SEZ schemes (nine for zones and one for enterprises) provided by the SEZ Act include: agricultural zones, business service parks, freeport zones, free trade zones, industrial parks, information and communication technology (ICT) parks, livestock zones, science and technology parks and tourist and recreational parks. The regional headquarter scheme applies to the nature of the

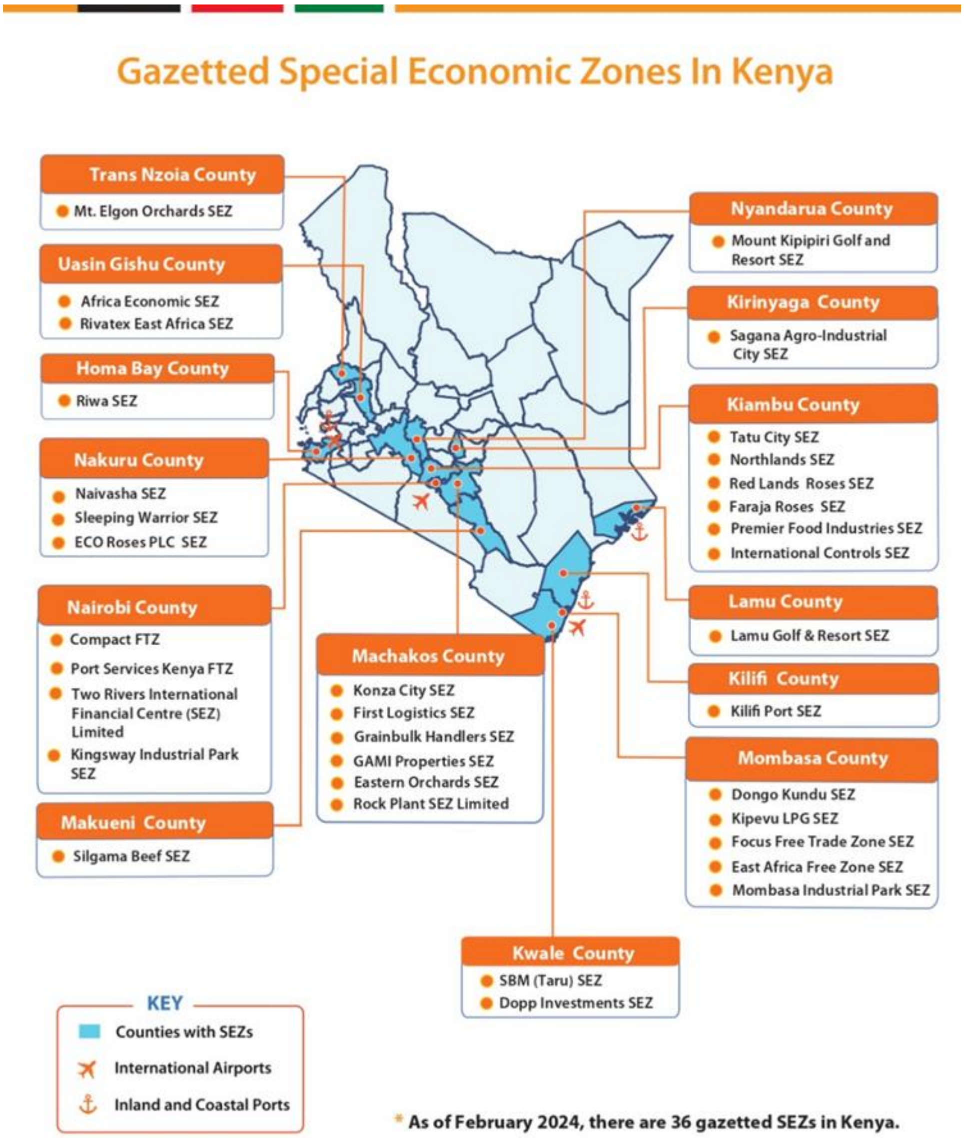
[29] World Bank, 2010

[30] World Investment Report 2019, UNCTAD

enterprise's activity rather than to a zone area. While this list excludes the EPZ programme the Kenyan government has notified its intention to incorporate EPZs as a scheme under the SEZ programme. The necessary legislative changes to merge the two programmes will include legal and regulatory changes and rationalisation of the two institutional mandates and capacities.

As of 2024, there are 36 gazetted SEZs in Kenya, located in 14 counties. The SEZs have realised USD 960.7 million in cumulative investment in infrastructure, buildings and enterprise capital, with cumulative 4,392 jobs realised, out of the projected 26,000 jobs in approved projects. SEZA has been working to increase the number of zones around the country through acquisition of land, designation of parcels as SEZ areas and engaging with government and investors to plan for the development of the parks. Key public zones include the 3,000-acre Dongo Kundu SEZ in Mombasa County, the 1,000-acre Naivasha SEZ in Nakuru county and the 5,000-acre Konza Technopolis in Makueni county. There are several operational private SEZs such as the 5,000-acre Tatu City. There are over 80 investors established at Tatu City although not all operate as privileged SEZ enterprises.

Figure 18: Location of Gazetted SEZs in Kenya (February 2024)



In conclusion, EPZs in particular, have contributed to job creation, attraction of investment, export growth and backward linkages with the EPZ sector. The institutions which manage these two programmes (the Special Economic Zones Authority and the Export Processing Zones Authority) have been established, staffed, and equipped. The government has signalled its intention to merge the two programmes with the EPZs becoming a scheme under the SEZ programme.

3.3.2 Strategic Issues

(i) Infrastructure

Infrastructural barriers have proven a real challenge to utilising SEZs as an avenue of increasing DI and FDI. Industrial processes require adequate supply of clean, treated water, which may not be substituted by untreated borehole water. Many zones experience a chronic shortage of potable water. Another important infrastructural requirement is energy. Whilst the cost of energy has been addressed in Pillar 1, the quality of electric power distribution is also important particularly in the context of EPZs. System losses, due to grid instability have been estimated at 23.2%, or 1,578.9 Gigawatt Hours (GWh). This challenge is significant for big power consumers that would most likely consider EPZs. A survey of KAM members with production cost of over KES 3 billion, found that 1% unit increase in fluctuation resulted in 1.684% increase in overall production cost.[31] This has led many manufacturers to look for alternatives to the national grid to alleviate the risk of grid instability. A third barrier to investment is the lack of suitable land for development of SEZs and EPZs due to high cost, occupation of targeted land by project affected persons and scarcity of large parcels.

(ii) Legal and Regulatory Challenges

Kenya's incentivized zones comprising mainly EPZs and SEZs generally have an enabling legal and regulatory environment to promote investment. The schemes provided in the legislation are sufficiently wide to offer an attractive menu for investors in the manufacturing and processing, agriculture, mineral processing, livestock products processing sectors and for those in commercial activities such as logistics, warehousing, trading, and those in services such as tourism and recreation services, meetings incentives conventions and exhibitions (MICE), call centres and shared service centres. Incentives are also codified in law and are in line with global best practices in terms of fiscal, procedural and infrastructure benefits for SEZ and EPZ investment. Land has been acquired and designated for zone development and in the case of EPZs, vertical infrastructure is built by both public and private sector, currently with 100% occupancy.

The SEZ legislative framework is also compliant with WTO agreements such as the Agreement on Subsidies and Countervailing Measures (ASCM) and the Agreement on Trade Related Investment Measures (TRIMS). Based on the Agreement on Subsidies and Countervailing Measures (SCM Agreement), the SEZ and EPZ Acts, particularly the incentives granted within these frameworks, are at risk of violating Article 3.1 (a) of the SCM Agreement when Kenya's GNP per capita exceeds $1,000. According to Article 27.2 (a) read with Annex VII (a) of the SCM Agreement certain countries, including Kenya, are permitted to maintain otherwise illegal subsidies provided their GNP per capita continues to be below $1000. According to the WTO Committee on Subsidies and Countervailing Measures, Kenya's GNP as at 2021 was USD 509 allowing Kenya to be exempt under Annex VIII(b). However, when its GNP surpasses USD 1,000 for three consecutive years, Kenya will have to phase out any illegal subsidies within 8 years. Indeed, if it were not for the exemption under Annex VIII (b), Kenya would be considered in violation of Article 3.1 (a) of the SCM Agreement because the tax incentives granted within the frameworks are subsidies within the meaning of Article 1.1 (a) (1) (ii) of the SCM Agreement. This is because these tax incentives amount to 'government revenue otherwise foregone'. Further, they confer a 'benefit' in accordance with Article 1.1 (b) of the SCM Agreement. A 'benefit' or 'an advantage' is considered to exist where because of the law in question, the recipient is placed in an advantageous position in the relevant market place. For example, the panel in *India-Export related measures* noted that a financial contribution in the form of 'government revenue due which is otherwise foregone' confers a benefit upon the recipient because in general practice, the market does not grant such waivers to the producers. Also, they are 'prohibited subsidies' in accordance with Article 3.1 (a) of the SCM Agreement because they are 'contingent upon' export performance. For instance, the Preamble of the EPZ Act provides the objective of the Act as to provide for the promotion and facilitation of 'export-oriented' investments and the development of an enabling environment for such investments.

With respect to specific regulatory challenges for incentivized zone, the EAC Customs Management Act (ECMA) facilitates the movement of goods into and out of SEZs and EPZS and thus sales from an incentivized zone into the local domestic market or to a Partner State's market is regulated under ECMA regulations. In the case of SEZs these regulations have not been developed to implement the liberal domestic market access and reduced CIF value to use to calculate the duty (nett of domestic content of the goods in question) as contained in the EAC SEZ policy, which was approved by the

[31] https://su-plus.strathmore.edu/items/79726376-dfe5-41c1-9587-e4880ca57f16

council of ministers in February 2023. This absence of regulations reduces the attractiveness of Kenya's SEZs to investors seeking access to the regional market as well as Kenya market. In addition, there is a disparity in infrastructure utility costs between EPZ and SEZ for similar activities, for example the power tariffs between EPZ and SEZ enterprises.

(iii) Value Chain Structural Constraints

By design, value chain optimization is very important for businesses operating in incentivized zones. The EPZs have developed agro processing as a target sector and attracted enterprises exporting fresh produce, processed foods including macadamia, essential oils and natural extracts, amongst others. In many of these industries, the local supply chain providing raw materials for processing is not well developed, leading to shortage of raw material to utilise factory capacity. Thus lack of optimization and competitiveness of the targeted value chains may dis-incentivize FDI investments. For example, the World Bank observes that, although Kenya has only 15 operational textile mills, they operate at less than 45 percent of total capacity. Most of the existing mills operate using outdated technology and hence low productivity. In addition, due to the uncompetitive power costs they face price competition from imports and consequently low capacity utilisation. This forces export oriented apparel manufacturers to import fabric due to lack of competitively priced, export quality fabric from local production, increasing the lead time on export orders and making it difficult to develop a resilient, globally competitive apparel sector. The lack of competitive utilities and high cost of capital are hampering vertical integration of Kenya's cotton-textile-apparel value chain. Bangladesh was in a similar situation twenty years ago but steadily built local textile mill industries to support and secure the labour-intensive apparel export sector. , Kenya's textile exports were only 0.7% to 1.4% of Bangladesh's exports.[32]

3.4 Pillar 4: De-risking Foreign Direct Investment

A business-friendly legal and regulatory environment—along with political stability, security, and macroeconomic conditions—are key factors for multinational companies making investment decisions in developing countries. Developing and fragile states often lack these framework conditions that facilitate FDI, DDI and DI because of their perceived risk profile. Paradoxically, these developing and fragile states need capital inflows for growth. Therefore, it becomes imperative for governments and policy makers to provide measures that reduce the investment risk in particular economies. These measures are conceptually referred to as "de-risking." De-risking, therefore, is the structured process for minimising or eliminating in-nation risks that improves its attractiveness as an investment destination.

De-risking is therefore a critical policy and system tool. It works by pre-empting risk associated with a nation in the eyes of the Investor by providing a structured road map to minimise or eliminate risk altogether before an investor ever mobilises their investment. It aids attracting investments by giving investors comfort that their investments are safe and are unencumbered by non-market factors. By doing so, it reduces the cost of doing business for investors by also reducing transaction costs. De-risking operates mainly through two broad categories, financial and non-financial, and under three scenarios of market, quasi-market and non-market interventions all with the purposes of eliminating, reducing or managing context-specific market and non-market risks for eliminating non-market risks for potential non-native investors interested in entering a new – usually emerging - market. Market de-risking interventions mainly take the form of financial instruments such as loss insurance, credit,

[32] https://documents1.worldbank.org/curated/en/441761468000939834/pdf/99480-REVISED-Kenya-Apparel-and-Textile-Industry.pdf

and loan guarantees and, in portfolio markets such as capital markets, hedging instruments such as forward contracts and derivatives.

A good example of this dichotomy between DI focus and FDI treatment is how the Kenya Development Corporation has operated to date. The Kenya Development Corporation Ltd is a development finance institution established in 2020 by the merger of three institutions that were themselves previously established to catalyse the growth of African-owned businesses in the early years of Kenya's independence. These institutions were the Industrial and Commercial Development Corporation (ICDC); the Tourism Finance Corporation (TFC); and IDB Capital Limited. KDC now plays a pivotal role in de-risking investments in Kenya by deploying several financial and non-financial instruments.

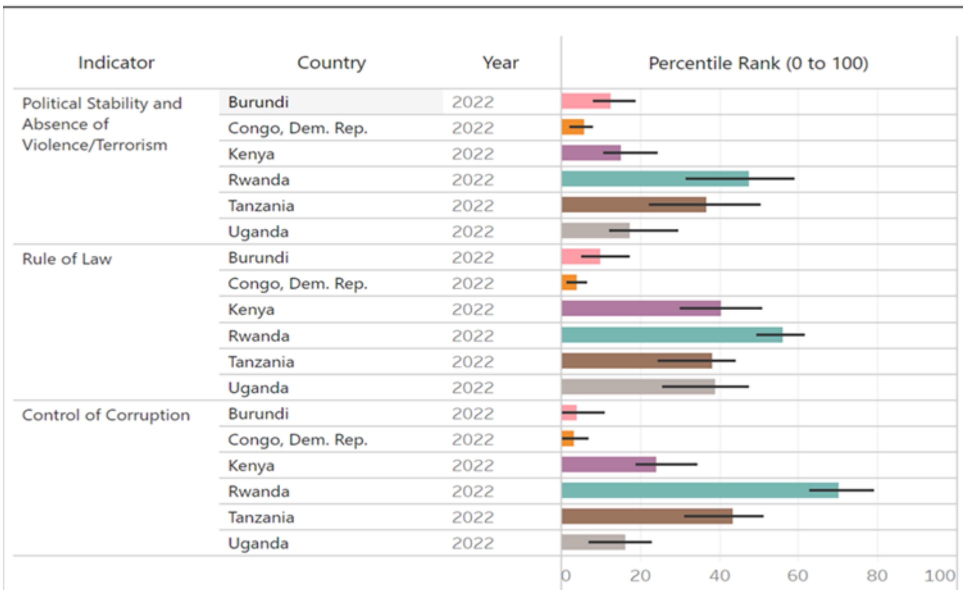
3.4.1 Situational Analysis

There are in addition to financial risk in investment there are four other types of risks that have bearing on FDI, DDI and DI. These are political and governance risk, macroeconomic risk, regulatory risk and climate and environmental risk.

A) Political Risk

Although political and governance risk is multi-faceted, it revolves around the rule of law. Important aspects of political risk and the rule of law in regard to investment include fair and equal treatment from the host government; free transfer of profit from the host country; freedom from expropriation and low levels of public sector corruption. Kenya's performance in key indices related to political stability, rule of law and control of corruption in the World Bank's WGI index, shows that the country performs sub-optimally in all the areas of political governance with scores all below 50%. Scoring, 15.9% on political stability; 40.57% on rule of law; and 24.06% on control of corruption (see figure 20 below).

Figure 19: Performance of East Africa Community Countries on the WGI Index



Source: Word Bank

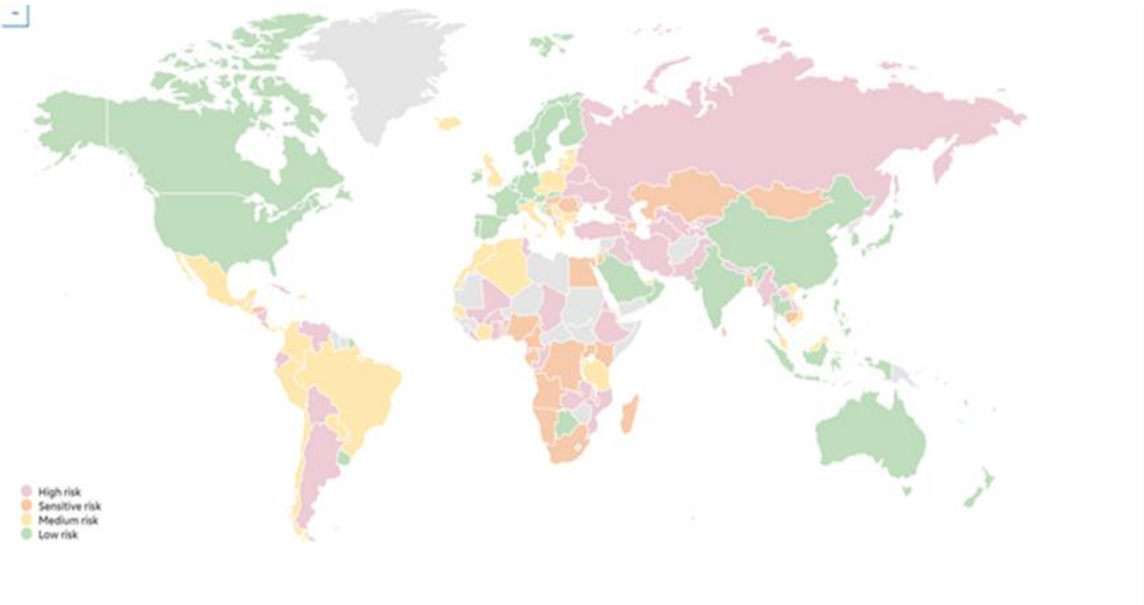
Such perception challenges also have a strong bearing on the feasibility of Foreign/Local partnerships. It therefore also follows that improvements in these performance metrics through aggressive interventions are first felt by local businesses and as they thrive, they become potent promoters of FDI by dint of their own experience of prosperity. This is a key factor to incorporate into de-risking FDI.

B) Macroeconomic Risk

Macro-economic risk is concerned with assessing important macro issues such as Kenya's economic structure; the diversity of sectors in its economy; economic growth; unemployment; monetary policy; and fiscal policy and public debt are important macroeconomic drivers of the degree of confidence or uncertainty in the consideration of investment flows.

Kenya is categorised as a "sensitive risk" country (Figure 21). The country's fiscal and current account imbalances have exacerbated vulnerabilities to external shocks. Similarly, Kenya's public debt now stands at over 68% of GDP. Given that almost half of Kenya's public debt is denominated in foreign currency, it makes it susceptible to exchange rate fluctuations and the knock-on effect on the strength of the Kenya shilling.

Figure 20: Country Risk Index



Source: Allianz

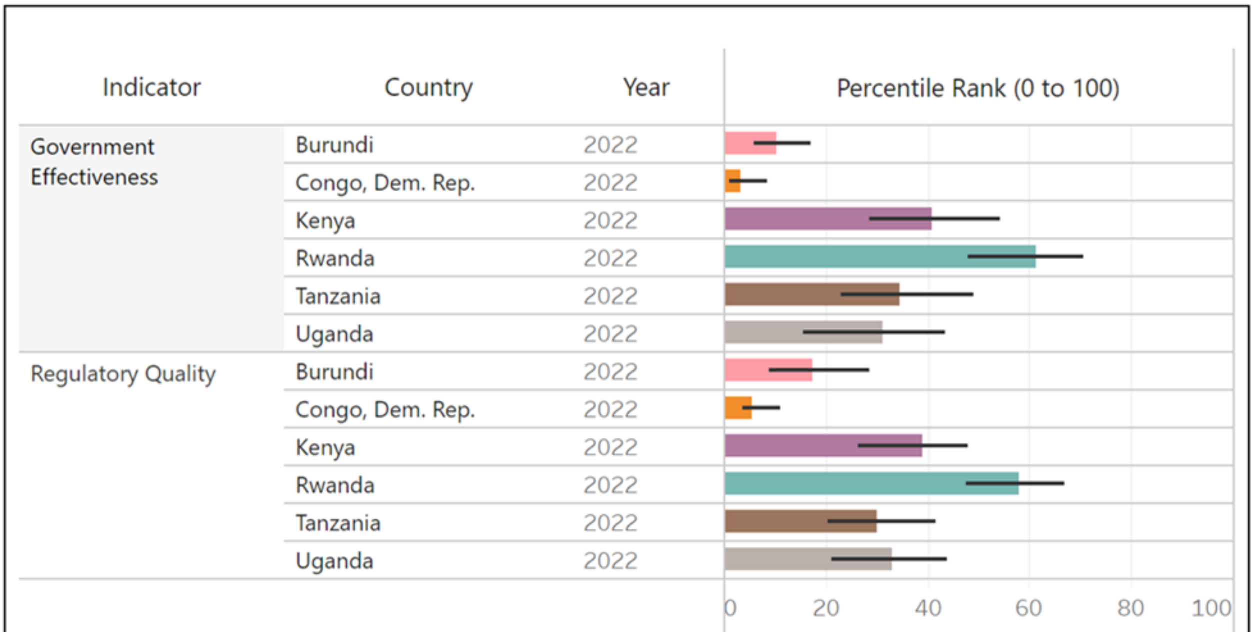
Macroeconomic impacts from these elements have the greatest and immediate impact on local businesses and so are particularly potent in driving domestic sentiment about Kenya's 'investability', bankability and other long-term prospects for profitability and investment returns. A classic example is public debt and its ability to crowd out private sector commercial lending if the government has a large appetite for borrowing in the domestic market at high interest rate thus starving businesses of loan facilities.

Within the context of seeking to grow sufficiently robust and profitable family businesses that are fit partners for foreign investors, it is important that pressure-relieving interventions are also built into facilitative de-risking models and programs aimed at assisting these local businesses. The same also holds true for other areas of perceived or real risk such as Regulatory Risk.

C) Regulatory Risk

Amongst all elements of risk, regulatory risk is particularly important. On regulatory risk, the WGI index examines Government Effectiveness and Regulatory Quality. Kenya has an average performance indicator score of 41.4% for governance effectiveness and 39.15% on Regulatory quality.

Figure 21: Comparative Regulatory Quality Scores for EAC countries



Regulatory risk speaks to the stability of a country's legal, policy and administrative settings that give comfort to investors that these will not change arbitrarily to disrupt operations, plans and projections. Examples include policy stability and predictability, expropriation risk and security of tenure of the investment, industrial labour law and industrial disputes management.

Concerning expropriation risk, the Constitution of Kenya, 2010, Article 40, guarantees the protection of property. It provides that the state cannot deprive a person of property other than for reasons provided in the Constitution, that is, for a public purpose whereby prompt payment in full and just compensation is done.

With regards to policy stability and predictability risk, Articles 10 and 118 of the Constitution of Kenya, 2010, requires parliament to facilitate public participation and involvement in the law making and policy development. Further, the development of any law or regulation should adhere to the Statutory Instruments Act, (CAP 2A Laws of Kenya) which mandates undertaking public consultation as per Articles 10 and 118 of the Constitution, and the conducting of regulatory impact assessments.

On industrial labour risk and industrial disputes management, the Employment Act (CAP 226 Laws of Kenya) allows alternative forms of dispute settlement. Any party to an employment dispute may complain to a Labour Officer if the other party fails to fulfil contractual obligations. Also, the parties may use other forms of alternative dispute resolution, such as arbitration and mediation, which would ideally allow speedier resolution of disputes compared to referring disputes to the Employment and Labour Relations Court. Data from the State Department for Labour and Skills Development shows that approximately 32 economic disputes were investigated and reports submitted to the ELRC to inform the judgement passed on arbitrated labour matters.

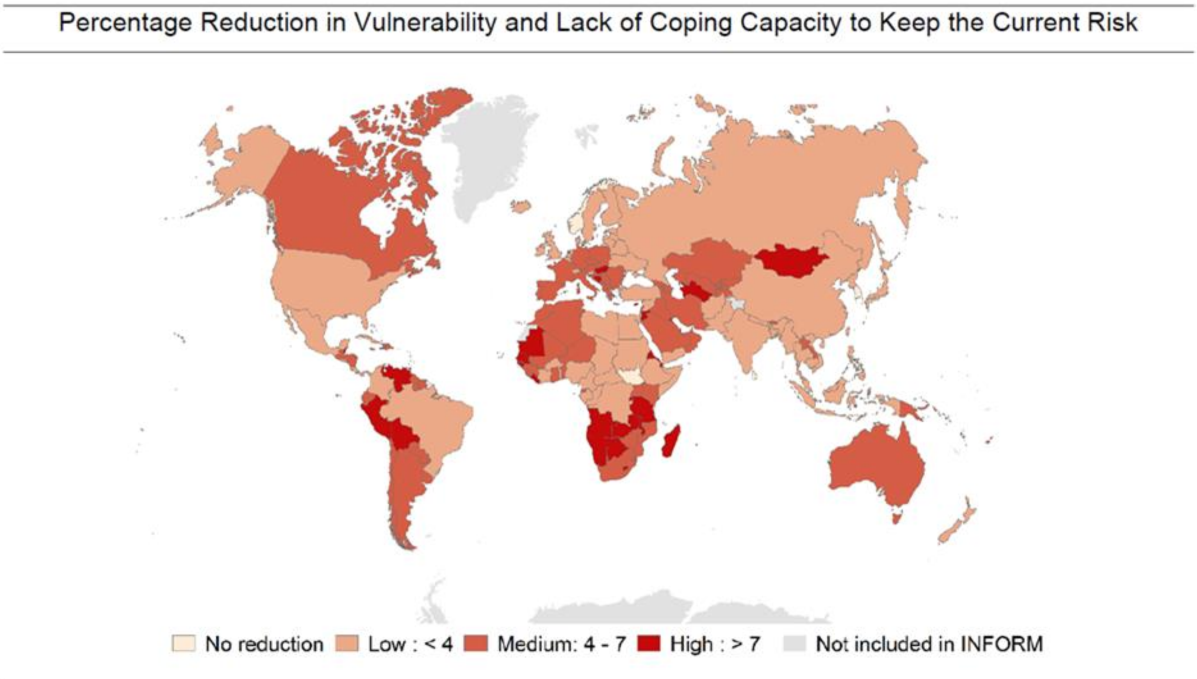
The status of the rule of law is also an important component of regulatory risk. It is assessed by how robust the Judicial System is, as seen from judicial independence; enforcement of court decisions; and use of Alternative Dispute Resolution &. Concerning use of alternative dispute resolution, the judiciary introduced court-annexed mediation through a pilot program in Nairobi which officially ended in 2023. The Judiciary reported that the pilot was successful owing to the 55.7 percent and 53.8 percent settlement rates in the Family and Commercial Divisions, respectively. The Judiciary has commenced rolling it out to ten counties: Mombasa, Eldoret, Kisumu, Nakuru, Nyeri, Machakos, Garissa, Embu, Kakamega and Kisii. It is envisaged that all civil matters filed at the courts will be subjected to mandatory screening by the registry and, if found suitable, will be referred to mediation. Also, judicial officers have been advised to encourage litigants to refer their disputes to mediation.

One last noteworthy example is the Status of Corruption: from international perceptions to actual prevalence to the Ethics and Anti -Corruption Commission (EACC)'s success rate at prosecutions. Added to this (for the purpose of impact evaluation and quantification of the vice), devising a methodology for measuring the Opportunity and Economic cost of Corruption. This may well incorporate metric calculations of the cost of corruption beyond the value of lost resources to also include the value of the multiplier effect lost from that loss of resources to the nation.

D) Climate and Environmental Risk

Climate-related risks have increased in recent decades, both in terms of the frequency of extreme weather events (physical risk) and the implementation of climate-change mitigation policies (transition risk). Evidence shows that investors, particularly, Multinational Corporations (MNCs) have started having climate and environmental risk consideration in their outward FDI decision making. The Global Assessment Report on Disaster Risk Reduction (GARDRR) estimates that recorded economic losses from disasters amount to USD 2.97 trillion, globally between 2000 and 2019, primarily because of storms and floods. The report classifies Kenya as a medium risk country on risk reduction and lack of mitigation mechanisms.

Figure 22: Percentage Reduction in Vulnerability and Lack of Coping Capacity to Keep the Current Risk



3.4.2 Strategic Issues

(i) Addressing Political risk

The absence of a long-term de-risking initiative to alleviate political risk that have huge bearing on investment, remains a challenge to attracting FDI and DI. Therefore, the NISK should not only acknowledge this risk but put in mitigation measures. This revolves around reform to not address cyclic political challenges like elections, electoral protests but also to address long running institutional challenges in the political environment such as, fair and equal treatment from the host government; free transfer of profit from the host country; freedom from expropriation and low levels of public sector corruption. Here, the NISK would need two approaches, first, the promotion of financial de-risking to address cyclic political environment challenges, and secondly, wider level interventions to address institutional political problems.

(ii) Addressing Macroeconomic Risk

The NISK, also needs to address the inherent risk posed by the country's macro-economy. This includes; Kenya's economic structure; the diversity of sectors in its economy; economic growth; unemployment; monetary policy; and, fiscal policy challenges, with a particular focus on debt public debt and public debt sustainability. Within this strategic issue, the NISK should de-risk particular elements of the macro-economy. For example, Kenya's economy is still predominantly driven by agriculture, and agro-processing related sectors. The de-risking initiatives in the NISK, could prioritise unique and value chain specific initiatives, with a focus on value under the food security, import reduction and export growth pillar in the BETA, which have been streamlined into MTP-IV.

(iii) Addressing Regulatory Risk

Addressing regulatory risk is a critical element of the NISK. From the WGI findings, it seems NISK should provide de-risking along two dimensions. First, on government effectiveness and second, on regulatory quality. In the WGI, government effectiveness is a measure of, *the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government's commitment to such policies.* In the 2022 survey, Kenya scored 41.2%, which does not bode well as a competitive investment destination. Here the NISK should proceed in the direction of "*whole of government approach."* It should prescribe optimum and efficient institutional and regulatory dependencies as well as, delineate the mandates of organisations in FDI, DDI and DI promotion and facilitation to increase regulatory clarity.

The second dimension of de-risking regulatory challenges lies in addressing regulatory quality. In the WGI, this is a measure of *"the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development".* Here, the NISK proposes a "*one government*," approach, where inter-dependencies derived from collaboration, particularly between the national government and the county governments, help to create a harmonised investment framework in Kenya. Here, issues such as coordination in the operationalization of the Kenya National Spatial Plan (2015 – 2045), become critical.

(iv) Addressing Climate and Environmental Risk

Climate and environmental related risks have become critical. Whilst it would be difficult to forestall natural disasters, climate and environmental related risk, it is possible to put in place measures to reduce the inherent risk. Here, the NISK should adopt two approaches, the first premised on financial de-risking instruments, such as promotion of adoption of tools such as risk insurance, and the second, premised on non-financial de-risking instruments.

On non-financial de-risking instruments, the UN Office for Disaster Risk Reduction (UNDRR) emphasises disaster risk reduction and mitigation using frameworks such as the Sendai Framework "*which aims at substantial, reduction of disaster risk and losses in lives, livelihoods and health and in the economic, physical, social, cultural and environmental assets of persons, businesses, communities and countries from disasters".* For NISK, de-risking would mean having strategies at national and county level that reduce investor fears over natural, climate and environmental risk.

4 Strategic Direction: Strategic Issues, Objectives, and Key Result Areas

This chapter outlines the high-level strategy elements, strategic issues, strategic objectives, key result areas (KRAs) and strategic initiatives for the NISK. The section spells out the strategic priorities for the period of the NISK (2024/25 -2028/29), allocates strategic activities to responsible Ministries, Departments and Agencies, highlights other institutions who may be involved and provides timelines.

4.1 Vision Statement

The Vision of the National Investment Strategy is: ***Kenya - a dynamic, competitive and sustainable global investment hub of choice***.

4.2 Mission Statement

The Mission of the National Investment Strategy is: ***To guide the creation of a competitive and enabling environment for attraction, retention and expansion of domestic, foreign and diaspora private direct investment***.

4.3 Strategy Goal

The Goal of the National Investment Strategy is: ***To achieve rapid economic transformation through increased, beneficial private direct investment*.**

4.4 Strategy Values and Principles

- **Transformativ**e -driving positive change through investment outcomes
- **Inclusive** -touching all major economic sectors, diverse regions, size of enterprise
- **Responsive** -incorporating truths from diverse stakeholders
- **Evidence based** - informed by research data
- **Dynamic** -able to adapt to changing circumstances
- **Sustainability** -espousing sustainable ESG practices as a basis for competitiveness

4.5 Key Result Areas

There are four Key Result Areas (KRAs) for the Strategy;

1. KRA 1: Competitive and Attractive Investment Climate and Business Environment
2. KRA 2: Promotion and Facilitation of Investment in Existing Investment Opportunities
3. KRA 3: Utilisation of Incentivised zones
4. KRA 4: De-risking FDI, DDI and DI in Kenya

5 Strategic Objectives & Strategic Initiatives

5.1 Strategic Objectives

The national investment strategy has 21 strategic objectives within the four KRAs, as listed below.

1.**KRA** 1: Competitive and Attractive Investment Climate and Business Environment

a) To increase access to quality, affordable and reliable clean energy
b) To reduce burden of regulatory compliance
c) To curb runaway corruption
d) To eliminate illicit trade and counterfeiting and enhance IPR protection
e) To solidify Kenya's place as an anchor state in the deepening regional and continental economic integration in a multilateral trade environment
f) To address gaps in the key infrastructure areas of transport and ICT
g) To build an investment ecosystem anchored on the global climate mitigation and adaptation agenda
h) To strengthen investor confidence to retain and expand FDI and DI
i) To increase access to affordable finance for productive activities

2.KRA 2: Promotion and Facilitation of Investment in Existing Opportunities

a) To Integrate strategic planning into investment promotion and facilitation at national and county level
b) To strengthen the institutional coordination and capacity of KenInvest, county investment units and other investment related agencies
c) To foster inclusive data driven investor services
d) To enhance customer service and aftercare as a means of retention and expansion of investment

3.KRA 3: Utilisation of Incentivized zones

a) To enhance availability of infrastructure and utilities in incentivized zones
b) To harmonise requirements, services and utility charges for similar licences in SEZ and EPZ schemes
c) To enhance vertical integration for competitive SEZ/EPZ value chains

4.KRA 4: De-risking FDI, DDI and DI in Kenya

a) To mitigate national cross-sectoral investment risks
b) To reduce financial investment risk
c) To mitigate non-financial Investment risk
d) To enhance national investment risk monitoring

Strategic Objectives and Initiatives

Key Result Area (KRA)	Strategic Objective	Strategic Initiatives
KRA 1: Improved investment climate & business environment	SO 1.1: To increase access to quality, affordable and reliable clean energy	• Removal of taxes and levies on the electricity tariff cost build up and on the fuel for electricity generation to reduce the electricity tariff. • Expansion of Generation of private off -Grid and on-Grid Sustainable electricity • Auction-based procurement system and foster development of storage technologies (Battery Energy Storage Systems (BESS) to encourage transition to REs and reduce reliance on thermal on grid management. • Single competitive process for all energy projects being procured to increase transparency, competition, and lower prices. • Review of Time of Use (TOU) policy (for cheaper off-peak power tariff) for large commercial and industrial consumers • Regional power pools in KPLC, with independent but interconnected generation and distribution systems to minimise commercial losses (illegal connections, unread meters, non-collection of billed revenue) and improve profitability. Kenya Power & Lighting Company to encompass regional companies for power distribution to reduces losses & enhancing the corporation's viability .
	SO 1.2 Reduce burden of regulatory compliance	• Harmonisation of regulations between counties and national government and amongst national government bodies, to reduce overlaps and duplication of mandates • Review of tariffs, charges, cess and fees at national and county level for affordability by investors. • Enabling tax policy environment • Mandatory regulatory impact assessments (RIA) for all proposed regulations which have a cost implication.
	SO 1.3: To curb runaway corruption	• Automation of business processes & reduce human discretion in administrative processes. • Adoption of 'publish what you buy policy' policy in Government (national & County) procurement to enhance transparency and openness in government procurement • Integrated use of technology such as digitising the investigation and prosecution of corruption cases to enhance efficiency, independence and timely determination.

	SO 1.4: To eliminate illicit trade and counterfeiting and enhance IPR protection	● Enhanced multi-agency approach and foster coordination of enforcement agencies to increase compliance and implementation. ● Leveraging on technology to implement the single product unique identifier for compliance and authentication ● Periodic impact analysis on the extent of illicit and counterfeit trade to ascertain the damage and trends as part of the measure of the multi-agency team KPIs
	SO 1.5: To solidify Kenya's place as an anchor state in the deepening regional and continental economic integration in a multilateral trade environment	● Establishing EAC Customs Union and AfCFTA as the fulcrum of Kenya's economic agenda around which engagements with third parties must align in light of the place of market size as critical locational determinant of Foreign Direct Investment including for investment and trade from outside the region ● Spearheading the ratification of the Protocol on Investment of the AfCFTA through inter alia engaging other relevant State Departments ● Review of the state of play in the WTO discussions on Investment facilitation for development with a view to providing guidance on Kenya's membership of the related Joint Initiative Statement Group ● Advocacy for the full implementation of the WTO Trade Facilitation Agreement as the TFA's objectives of expediting the movement, release and clearance of goods across borders is integral to an enabling business environment.
	SO 1.6: To address gaps in the key infrastructure areas of transport and ICT	● Expedited utilisation of private and public investment in cellular mobile and broadband network infrastructure and services to underserved regional having potential for digital service businesses ● ICT curriculum development at all levels of education to ensure building of the requisite digital skills amongst the Kenyan youth to enable them to avail themselves of the opportunities in the digital economy in line with Kenya's E-Commerce Strategy ● Development of measures to enhance efficient and cost-effective inland transport from the ports,
	SO 1.7 To build an investment ecosystem anchored on the global climate mitigation and adaptation agenda	● Framing of appropriate investments promotion measures, to avail Kenya of the SDG-gap financing investments, Based on the Kenya Nationally determined contributions (NDCs) to climate mitigation and adaptation ● Design of NDC bankable projects and channelling of investments into the renewable energy, blue economy and other SDG-related sectors
	SO 1.8 Strengthening the Coordination mechanism and	● Legal reform impact assessment. ● Investment grievance management mechanism

	institutional capacity building for investment .	
	SO 1.9 To increase access to affordable finance for productive activities	• Strengthening of development finance institutions • Availing of long-term lending at lower interest rates
KRA 2: Promotion and Facilitation of Existing Investment Opportunities	SO 2.1: To integrate Strategic Planning into Investment Promotion and Facilitation at the National and County Level through resource-based sector prioritisation.	• Resource mapping in counties (to inform long-term strategic planning and sector prioritisation) • Development and implementation of a rolling 3- year National Investment Promotion Plan to coordinate execution of investment promotion goals, pinpoint specific investment opportunities, profile target investors, marketing tactics and detailing marketing budget • Facilitation of county preparation of County Investment Profiles and investment regulatory frameworks • Implementation of the National Investment Promotion Plan to promote and facilitate domestic, foreign and diaspora investments through targeted incentives • Diaspora Investment Initiative to create products that facilitate translation of remittances into productive investments
	SO 2.2. Strengthen the institutional coordination and capacity of KenInvest, county investment units and investment related agencies	• Coordination of investment promotion and facilitation functions at national level with the core agencies (KenInvest, NIFCA, SEZA, EPZA and Konza Technopolis Development Authority) and at intergovernmental level with County Investment Units, for synergy and effective implementation of national investment strategy for Kenya • Coordination of investment promotion and facilitation activities in the national core agencies - KenInvest, NIFCA, SEZA, EPZA and Konza Technopolis • Intergovernmental investment coordination through the Intergovernmental relations structures contemplated by the Intergovernmental relations Act of 2012 (with a view to creating synergy between two levels of Government on investment matters). . • Provision of targeted capacity development support to County Investment units

	SO 2.3: To Foster Inclusive and Data-Driven Investor Services	● Establishment of upgraded, centralized Investment Promotion Information Dissemination Portal to support investor decision making at pre-investment, establishment and aftercare stages ● Implementation of National Investment Customer Relationship Management (CRM) system at national, cross-agency level, to support investor relations, streamline investment processes and automate updating of customer records ● Establishment of a centralised secure data collection portal for all investment related data and information (including the creation of a standardised mechanism for tracking investments at the County and National level - KNBS, KenInvest, SEZA, EPZA, NIFCA, Konza TDA, County Investment Units (CIUs)) ● Streamline investment project evaluation systems. ● Promotion and facilitation of domestic and diaspora investments through targeted incentives
	SO. 2.4 To Enhance Customer Service and Aftercare as means of attraction, retention and expansion of investment	● Promotion of development of investment aftercare in all investment agencies including CIUs ● Harmonisation and strengthening of One Stop/One Go Services (One Stop Shop) to facilitate investors at all stages in investment life cycle
KRA 3. Utilisation of Incentivised Zones	SO 3.1 To enhance availability of infrastructure and utilities in incentivized zones	● Implementation of priority zone development programme ● Development of land banks for incentivised zones ● Undertaking supply enhancement initiatives in water-stressed zone
	SO 3.2: To harmonise requirements, services and utility charges for similar licences in SEZ and EPZ schemes	● Incentivised power tariffs for manufacturers in both SEZ and EPZ areas ● Establishment of special immigration facilitation package for EPZs and SEZs
	SO 3.3: To enhance vertical integration for competitive SEZ value chains	● Promotion of expanded production and supply of local raw materials and intermediate goods required by existing zone enterprises ● Promotion of investment in new ventures that use local inputs
KRA 4: De-risking FDI and DI in Kenya	SO 4.1: To create an integrated National De-risking Framework (NDF) for FDI, DDI and DI to boost	● Development of a single integrated National De-risking Framework (NDF) to guide, manage, monitor and close-out FDI, DDI & DI proposals, projects and program across all selected value-chains and sectors to ensure a one-source-of-truth for predictability

	and maximise investment inflows into Kenya	and measurability across all selected value-chains and sectors as a Whole-of-Govt policy initiative. ● Inclusion of application and operation of Financial & Non-Financial De-risking Instruments in investment mobilisation and retention of FDI, DDI & DI across all selected value-chains and sectors. ● Development and refinement of a De-risking Valuation methodology (DVM) for the calculation of Net Economic Value of proposed investment proposals, projects and program. ● Definition, capture, enumeration and integration into one place of ESG & Other Risks (for the purpose of integrating and mainstreaming them into the De-risking framework and paradigm to include climate, environment and natural disaster risk reduction using the Sendai Framework as a general or value chains approach)
	SO 4.2: To create, augment and effectively deploy innovative Financial de-risking Instruments and mechanisms under the National De-risking Framework	● Definition and development of Financial De-risking Instruments to support investment mobilization and retention of FDI, DDI & DI across all selected value-chains and sectors (with the aim of underwriting specific risks relating to Domestic Private Sector plays so as to encourage and support partnerships with foreign Capital into preferred sectors that are, e.g. high employment generators. Examples include: Credit-support instruments, loan guarantee schemes, political risk insurance; blended finance, Co-investment arrangements etc...) ● Collection or generation of financial data rising from use of such financial instruments to feed into analytical tools such as the DVM to support decision-making and statistical analysis and such uses as developing financial models to strengthen local enterprises earmarked for partnership with foreign investors. ● Design of such instruments that seamlessly interface with other regional and international financial de-risking instruments to ease transition friction of FDI, DDI & D into the economy. Example: with MIGA (World Bank)
	SO 4.3: To create, augment and effectively deploy Non-Financial de-risking Instruments and mechanisms under the National De-risking Framework	● Non-financial Instruments ● Identification of laws and regulations relevant for investment for review with regard to the regulatory risk they impose on FDI and DI. Develop a Regulatory Impact Assessment (RIA) tool. Apply this tool to advice MDAs and legislators in the development of new policy.

		● Delineation of mandates of organisations in FDI and DI promotion and facilitation increase regulatory clarity. ● Development of an inter-governmental regulatory risk coordination approach between national government and county government.
	SO 4.4 To establish and maintain a National Investment Risk Register (NIRR) of all Investment programs under the National De-risking Framework	● Creation and maintenance of Investment Risk Register (that captures all investment-related risks identified and against which Financial de-risking instruments have been applied, by project and essential details under the Contract Management Project management operational paradigm). ● Identification and enumeration all non-financial risks (by Investment proposal, project or program and the related non-financial de-risking instruments applied to mitigate it and the cost thereof). ● Feeding of data and analysis into other risk registers both private and national(for the purpose of continuous monitoring; informing decision making; financial and scenario modelling by various stakeholders especially potential foreign and domestic investors; and, national and county government policy makers.)

6 Implementation and Coordination Framework

6.1 Overview

This implementation plan for the National Investment Strategy, breaks down the Strategic elements under each of the four KRAs into Strategic Objectives, then Strategic Initiatives and the Key Activities. Each activity is assigned to a responsible Ministry, Departments or Agencies (MDA) who will lead implementation of the activity. Other relevant agencies who will be involved in the activity are also listed with the responsible MDA being highlighted (bolding and underlining).and also indicates the directorate within SDIP or the state corporation under SDIP responsible for coordinating and championing this activity within the 5-year time frame. The expected timelines for each activity are also listed by quarters within the five years of strategy implementation.

The Matrix will enable specific activities to be planned within a particular timeframe and cascaded down to annual performance contracts of institutions involved. Generally all strategic initiatives commence within the first year and while some are short projects, others have key activities which are spread throughout most of the five year period.

The acronym for the key MDA responsible for implementing the key activity in this matrix is underlined and in bold font, while supporting, collaborating institutions are also listed. The key owner of the activity within SDIP being either a departments or a State corporation under SDIP is also indicated. The full version of any abbreviated names of institutions are given in the list of abbreviations and acronyms at the beginning of this report.

6.2 Implementation Plan

6.2.1 KRA 1: Improved investment climate & business environment

Strategic Objective	Strategic Initiatives	Key Activities	Responsible MDA and other involved agencies.	SDIP Owner	Time line
SO 1.1: **To increase access to quality, affordable and reliable clean energy**	Remove taxes and levies on the electricity tariffs cost build up and on the fuel for electricity generation to reduce the cost of electricity tariff.	**Review tax structure to eliminate 16% VAT embedded tax on demand charges, fuel energy in the power tariff** and make proposals for Finance Bill 2025.	**SD Energy/**The National Treasury (TNT)/EPRA/	DBRT	Q2Y1 – Q3Y1
		Have the proposal adopted and **effected through Finance Act 2025 or Miscellaneous Amendments Bill**.	SD Energy**/National Treasury/SDIP**	DBRT	Q4Y1 – Q1 Y2
	Expand Generation of private off-grid and on-grid sustainable electricity	Open Captive power market **by lifting the 1 MW cap on sales of own-generated power** to customers.	**SD Energy**/EPRA/	DBRT	Q2Y1-Q3 Y1
		Promote **establishment of Captive Power Units which use renewable energy,** in the productive sector	EPRA/**KenInvest**	DBRT	Q4Y1 - Q4Y4
		Expedite operationalization of net metering regulations and wheeling tariff framework for small power generators to transmit power via grid.	**EPR**A/SLOS/	DBRT	Q3Y1-Q4Y1
		Promote Usage of Net Metering and Wheeling Tariffs to provide additional power to the productive sector.	**EPRA/**	DBRT	Year 2- Year 5
		Establish Policy and regulatory Framework to Retool/relocate thermal Independent Power Producers (IPPs) to utilize renewable energy (geothermal, wind, biomass, LNG, biogas) under renegotiated terms for remainder of PPA term.	**SD Energy/**EPRA/SDIP	DBRT	Q2Y1- Q2Y2

Strategic Objective	**Strategic Initiatives**	**Key Activities**	**Responsible MDA and other involved agencies.**	**SDIP Owner**	**Time line**
		Conduct and conclude negotiations of PPA with Independent Power Producers (IPPS**) to Retool and/or Relocate their plants in order to generate affordable, sustainable power** using renewable energy sources.	**SD Energy** /EPRA/SDIP	DBRT	Q1Y2 - Q4Y 3
		Promote **financing of power distribution and transmission sector** to create transmission networks to offtake geothermal power and surplus night power.	**SD Energy** /EPRA/SDIP	DBRT	Q1Y2 - Q4Y5
		Promote investments in decentralized grids and mini grids.	SD Energy / EPRA/**Keninvest.**	DBRT	Q1Y2 - Q4Y5
	Introduce a well-designed auction-based procurement system and foster development of storage technologies (Battery Energy Storage Systems (BESS) to encourage transition to REs and reduce reliance on thermal on grid management.	Review and **revise current procurement system for greater compatibility with auction-based procurement system**, to lower costs for same quality.	**SD Energy** / National Treasury/EPRA/	DBRT	Q3Y1 -Q4Y2
		Promote adoption of Battery Energy Storage Systems for power generators through exemption of import duty on inverters and on lithium ion storage batteries.	**SD Energy** /EPRA/ National Treasury/SDIP	DBRT	QY3-Q4Y5
	Have a single competitive process for all energy projects being procured	**Review and revise public procurement policy and regulations for energy sector** to align procurement specifications for similar purchases, in order to	**SD Energy**/National Treasury/	DBRT	Q4Y1- Q3Y2

Strategic Objective	Strategic Initiatives	Key Activities	Responsible MDA and other involved agencies.	SDIP Owner	Time line
	to increase transparency, competition, and lower prices.	enhance competitiveness, economies of scale and efficiency of procurement for energy sources.			
		Establish and operationalise an **Energy Project Procurement Information Window at the EPRA**, mirrored by and in collaboration with the Public Procurement Information Portal, to provide information on tender bids and resulting contracts with further analysis of costs.	**SD Energy**/National Treasury	DBRT	Q2Y2—Q4 Y2
		Promote use of the **Energy Project Procurement Information Window** by stakeholder	**EPRA**/KenInvest	DBRT	Q1Y3-Q4Y5
	Review Time of Use (TOU) policy (for cheaper off-peak power tariff) for large commercial and industrial consumers	Engage Regulators and Industry to propose and approve an **enabling preferential TOU tariff for large consumers**	**SD Energy**/ EPRA/SDIP	DBRT	Q2 Y1-Q4 Y1
		Promote Implementation and use of new **Time of Use (TOU) tariff**	**EPRA /**SDIP	DBRT	Q1Y2- Q4Y5
	Regional power pools in KPLC, with independent but interconnected generation and distribution systems to minimise commercial losses and improve profitability. Kenya Power & Lighting Company to encompass regional companies for power distribution to reduces	Engage with stakeholders (regulator, consumers, distributors, generators) to **review this and other proposals for optimizing efficiency of distribution networks, reduce commercial losses.**	**SD Energy**/EPRA /SDIP	DBRT	Q2Y1 – Q1Y2
		Approve the **power pools or other policy** choice to effect the reduction of **current high level of commercial losses (**due to illegal connections, non-collection/billing)**,** implemented through regulatory measures.	SD Energy**/EPRA** /SDIP	DBRT	Q2Y2-Q3Y2
		Effect the power pools in KPLC and monitor both system reliability and commercial losses.	SDIP/SD Energy/**EPRA**	DBRT	Q4Y2-Q4Y5

Strategic Objective	**Strategic Initiatives**	**Key Activities**	**Responsible MDA and other involved agencies.**	**SDIP Owner**	**Time line**
	losses & enhancing the corporation's viability				
SO 1.2 To reduce regulatory compliance burden	Harmonization of regulations between counties and national government and amongst national government bodies, to reduce overlaps and duplication of mandates	**Advance the harmonization of county licensing and revenue collection mechanisms** through enactment of the **County Government (Revenue Raising Process) Bill** and the **County Licensing (Uniform Procedures)** Bill.	**SDIP**/ CoG	DBRT	Q3Y1-Q4Y1
		Review **overlapping regulatory** mandates amongst national institutions and between national institutions and the county governments. (**Including business registration and licensing, labelling and inspection, safety of premises,** cess requirements, occupational safety and health. environmental standards, food and beverage processing, waste disposal, licences to transport waste, noise and vibration, construction and health regulations).	Office of the President/ **SDIP**/ CoG	DBRT	Q3Y1-Q4Y2
	Review tariffs, charges, cess and fees at national and county level for affordability by investors.	**Benchmark competitiveness of charges levied by various regulatory agencie**s for licences; then implement rationalized competitive, business friendly tariffs for county and national bodies; Engage with regulatory bodies and county governments and get **approval of phased reduction of some county level charges**, as other avenues for Own Source Revenue (OSR) are being development	**SDIP**/CoG	DBRT	Q3Y1-Q3Y2
		Monitor the implementation of the revised charges, levies and fees.	SDIP/**CoG**	DBRT	Q4Y2- Q4Y5

Strategic Objective	Strategic Initiatives	Key Activities	Responsible MDA and other involved agencies.	SDIP Owner	Time line
	Implement a more enabling tax policy environment	Advocate for policy to **enable KRA offset overpaid taxes against an enterprise's tax liabilities**.	National Treasury/**SDIP/**KRA	DBRT	Q2Y1-Q1Y2
		Advocate for **KRA to be allowed to reserve adequate resources for tax refunds**.	**SDIP/** National Treasury/KRA	DBRT	Q2Y1-Q1Y2
		Engage with national government so as to effect **enactment and implementation of National Tax Policy**, as well as provide regulatory measures to effect the policy.	**KRA**/National Treasury	DBRT	Q2Y1-Q1Y2
	Support introduction of mandatory regulatory impact assessments (RIA) for all proposed regulations which have a cost implication.	**Develop, propose and have enacted a Regulatory Procedures Bill** which will guide the development of regulations by government agencies, particularly those with negative impact on stakeholders such as investors; where such regulations include requirement for a mandatory. Regulatory Impact Assessments (RIAs) and for evaluation of regulations once enacted and implemented.	SDIP/**State Law Office (SLO)**	DBRT	Q3Y1- Q2Y2
		Establish mechanism for periodic evaluation of regulatory measures to assess actual impact and need for possible review.	SDIP/KNBS/ **State Law Office** /National Treasury	DBRT	Q3Y1- Q2Y2
		Undertake periodic review of all investment related regulatory measures to assess impact and recommend any revisions.	**SDIP**/KNBS	DBRT	Q3Y2-Q3Y5
SO 1.3: To curb runaway corruption	Automation of business processes & reduction of human discretion in administrative processes.	**Support reinvigoration of public service delivery and customer care culture** in all public MDA offices, including updating service charters, re-training staff in customer care, implementing rewards and recognition for quality of service delivery and	**SD Performance and Delivery Management**/ Office of Prime Cabinet Secretary (Coordination Unit)/ SDIP/	DBRT	Q3Y1-Q3Y2

Strategic Objective	**Strategic Initiatives**	**Key Activities**	**Responsible MDA and other involved agencies.**	**SDIP Owner**	**Time line**
		elevating performance management excellence as key deliverable for Kenya's public sector.			
		Design and **Implement accelerated and expanded automation of delivery of administrative services** across government, using only non-cash payment system incorporating records of services delivered/decisions rendered, accessible through a revamped E-Citizen, Huduma Service or other portal	**SD Performance and Delivery Management/** SDIP/ICT Authority (ICTA)	DBRT	Q3Y1-Q4Y2
		Collect data and publish quarterly reports of each agency's performance on service delivery.	**SD for Performance and Delivery Management**/ ICT Authority	DBRT	Q1Y3 -Q4Y5
	Adopt a 'publish what you buy policy' policy in Government (national & County) procurement to enhance transparency and openness in government procurement.	**Assess data captured on** Public Procurement Information Portal and **how effective it is in enhancing transparency and openness in government procurement** and if further transparency is required.	**ICTA**/ ***National Treasury***/*SDIP*	DBRT	Q3Y1-Q1Y2
		Propose & have approved the "***Publish What you Buy***" policy which obliges public bodies to share information on what has been procured, with information on terms of the purchases made. **Amend the presentation of information on the portal to provide adequate information** for increased transparency and analysis of procurement. and train public procurement units on its use.	ICTA/**National Treasury**	DBRT	Q3Y2- Q3Y3
		Promote use of the portal by public procurement departments and by professionals and BMOs.	**National Treasury**/ ICTA	BDRT	Q4 Y3-Q4Y5

Strategic Objective	Strategic Initiatives	Key Activities	Responsible MDA and other involved agencies.	SDIP Owner	Time line
	Integrate use of technology such as digitizing the investigation and prosecution records of corruption cases to enhance efficiency, independence and timely determination.	**Evaluate current system for handling data on corruption cases and tracking their progress** to identify sources of delay, loss of information and evidence, insufficient data security and other impediments to successful investigation and prosecution of cases.	ICTA/ Director of Public Prosecution (DPP)/ **EACC**/Judiciary/SDiP	DBRT	Q3Y1-Q2Y2
		Propose, develop and adopt improvements the current system through secured access**,** modern information technology system to record and digitize investigation and prosecution information (e.g. investigation report, evidence from recorded statements, scene of crime pictures, documentary records etc) as well as prosecution pleadings and case notes.	DPP/**ICTA**/ EACC/SDIP/Judiciary	DBRT	Q3Y2 – Q4Y2
		Implement and **monitor** the **secured-access, modern information technology system** to record and digitize investigation and prosecution case records, for corruption cases.	**EACC/ DPP**/ICT Authority/SDIP	BDRT	Q1Y3-Q4Y5
SO 1.4: To eliminate illicit trade and counterfeiting and enhance IPR protection	Enhance the multi-agency approach and foster coordination of enforcement agencies to increase compliance and implementation.	Update stakeholders on state of play of multi-agency task force and on illicit trade and counterfeiting.	**Anti-Counterfeit Authority (ACA)**/MITI	DBRT	Q3Y1
		Propose and obtain **Cabinet approval of high-level reporting on inter-agency anti-counterfeiting** actions	ACA/ MITI/ **SD Industry**/State Law Office	DBRT	Q4Y1-Q3Y2
		Expedite implementation of IPR Recordation regulations to reduce import of illicit goods.	ACA/ MITI **/SD Industry**/SLO	BDRT	Q3Y1-Q4Y1

Strategic Objective	Strategic Initiatives	Key Activities	Responsible MDA and other involved agencies.	SDIP Owner	Time line
	Leverage on technology to implement the single product unique identifier for compliance and authentication	Support ACA and relevant agencies to **share learning from previous single products unique identifier (SPUI) projects** e.g. for seeds, to identify policy lessons and best practice.	MITI/**ACA/**	DBRT	Q3Y1- Q4Y1
		Engage with stakeholders to **create public awareness of SPUI technology** as a means to identify genuine goods.	MITI/**ACA/** KRA	DBRT	Q1Y2-Q4Y4
		Implement phased roll out of SPUI technology in prioritised sectors and product markets.	MITI/**ACA**/KRA	DBRT	Q3Y2-Q4Y5
	As part of the multi-agency team KPIs, conduct periodic impact analysis on the extent of illicit and counterfeit trade in Kenya to ascertain trends and assess resulting	Support **ACA and multi-agency taskforce to develop framework for assessing impact** of illicit and counterfeit trade which will include impact on manufacturing sector, and on investment.,	**ACA**/KEBS/MITI	DBRT	Q2Y1-Q4Y1
		Promote periodic (annual) impact assessment of effect of illicit goods on consumers, manufacturers, brand holders, regulators, revenue agencies, traders and others.	**ACA**/KNBS/MITI	DBRT	Q1 Y2 – Q4Y5
SO 1.5: To solidify Kenya's place as an anchor state in the deepening regional and continental economic integration in a multilateral trade environment	Establish EAC Customs Union and AfCFTA as the fulcrum of Kenya's economic agenda around which engagements with third parties should align in light of the place of market size as critical locational determinant of Foreign Direct Investment	Expedite the development and enactment of **regulations under the East African Customs Management Act (ECMA**) to provide access to **domestic and EAC market for goods manufactured by SEZ enterprises**, without which SEZ investors will be limited to 20% of annual production, as provided for EPZs including taking into considerations concerns of partner states in preventing market disruption.	**SD EAC Affairs**/ SDIP/National Treasury	**DBRT**/SEZA	Q2Y1 – Q4Y1

Strategic Objective	Strategic Initiatives	Key Activities	Responsible MDA and other involved agencies.	SDIP Owner	Time line
	including for investment and trade from outside the region	**Harmonise import tariffs under the UK-Kenya and the EU-Kenya Economic Partnership Agreements (EPAs**) with **EAC CET,** to prevent distortion of intra-region tariff framework in EAC.	**SD for Trade/** SD East Africa Community/SDIP/ National Treasury	DBRT	Q2Y1-Q4Y1
		Support the **Renewal of the Africa Growth and Opportunity Act (AGOA**) through lobbying by Kenya's private sector BMOs, U.S. buyer associations, Pro-African Caucuses in the U.S., and Kenya's Mission in Washington., for Congress to pass the AGOA Extension Bill which proposes at 20-year extension,	**SD for Trade**/ SDIP	DBRT	Q2Y1-Q4 Y1
	Spearhead the ratification of the Protocol on Investment of the AfCFTA through inter alia engaging other relevant State Departments	Engage with other state departments **to sensitize stakeholders on the AFCFTA Protocol on Investment and to hear views** on benefits and drawbacks of ratifications.	**SD Foreign Affairs**/MITI	DBRT	Q2Y1-Q4Y1
		Put forward **MITI's position on the ratification**	**SD Foreign Affairs/MITI**	DBRT	Q1Y2-Q2Y2
	Undertake review of the state of play in the WTO discussions on Investment Facilitation for Development (IFD) with a view to providing guidance on Kenya's membership of the related Joint Initiative Statement Group	Form an **inter-ministerial IFD working team** on IFD Agreement,	MITI/**SD Foreign Affairs/** National Treasury.	DBRT	Q2Y1- Q3Y1
		Assess progress made at WTO following Ministers' adoption of the IFD Agreement in February 2024. **Identify key investment issues** facing Kenya under WTO multilateral investment frameworks, areas eligible for IFD support, benefits of IFD assistance; and the **cost and impact of comm**itments Kenya would have to make under the IFD Agreement.	MITI/**State Department of Foreign Affairs**, National Treasury.	DBRT	Q4Y1-Q1Y2

Strategic Objective	**Strategic Initiatives**	**Key Activities**	**Responsible MDA and other involved agencies.**	**SDIP Owner**	**Time line**
		Provide **guidance on Kenya's position on IFD agreement** and on if and when Kenya should join the IFD's Joint Statement Initiative and adopt the IFD Agreement.	MITI/**State Department of Foreign Affairs/** National Treasury	DBRT	Q2Y2 - Q3Y2
	Advocate for the full implementation of the WTO Trade Facilitation Agreement as the TFA's objectives of expediting the movement, release and clearance of goods across borders is integral to an enabling business environment	Engage stakeholders on current state of play, **current challenges in multilateral trade requiring assistance from the TFA support mechanism** for developing countries, with classification of ability of effect required measures as category A, B or C.	MITI/**SD Foreign Affairs,** National Treasury/ State Department for Transport	DBRT	Q3Y1-Q4Y1
		Support Kenya's **full implementation of WTO TFA** including application of Special and Differential Trade (SDT).	MITI/**SD Foreign Affairs,** National Treasury		Q1Y2- Q1Y3
SO 1.6: To address gaps in the key infrastructure areas of transport and ICT	**Expedite utilization of private and public investments in cellular mobile and broadband network infrastructure** and services, linking underserved regions which have potential for digital service businesses	Support policy makers to **develop/enhance incentives for investors who establish digital infrastructure and networks** providing affordable and reliable Internet access to communities .	National Treasury**/ SD for ICT and Digital Economy**/ICTA/SDIP/KenInvest	DBRT/KenInvest	Q3Y1 – Q2Y2
		Support Promotion of investment in digital connectivity infrastructure and services including those serving Ajira Youth Empowerment Centres.	ICTA/**KenInvest**/SD ICT & Digital Economy	DBRT/KenInvest	Q3Y2-Q4Y5
		Support **private investment in ICT training** with updated curricula at all levels of education to	ICTA/**KenInvest**/Min of Education	DBRT/KenInvest	Q3Y2-Q4Y5

Strategic Objective	Strategic Initiatives	Key Activities	Responsible MDA and other involved agencies.	SDIP Owner	Time line
		ensure building requisite digital skills in Kenyan youth to enable them utilize opportunities in the digital economy in line with Kenya's E-Commerce Strategy.			
		To promote **linkages between skilled ICT workers/entrepreneurs and economic opportunities** in the sector.	ICTA/**SD Labour & Skills Development**	DBRT	Q3Y2-Q4Y5
	Develop measures to enhance efficient and cost-effective inland transport from the ports.	Engage with Transport Policy sector and stakeholders for **reduction of cargo handling fees at airports and sea ports** (Kenya Airports Authority-KAA and Kenya Ports Authority - KPA).	**SD Transport**/SDIP/KAA/KPA	DBRT	Q2Y1- Q4Y1
		Engage with Transport policy sector and KR **to review tariff for Standard Gauge Railway (SGR) and Medium Gauge Railway (MGR)** to make them competitive with road transport and to sustain usage of railways. haulage capacity	**SD Transport** /SDIP/KR	DBRT	Q2Y1- Q4Y1
		Advocate for prioritization of construction and **repair of MGR and SGR sidings** to reduce cost of inland transport and to enhance last mile connectivity.	SD Transport/**KR**/SDIP	DBRT	Q2Y1-Q4Y1
		Undertake **comprehensive systems audit of agencies that support verification and clearance of cargoes**, including Single Clearance Window (KENTRADE), product standards quality verification system (KEBS) and Integrated Customs Management System- ICMS (KRA) to establish	**ICTA**/SD of Transport/DBRT	DBRT	Q3Y1- Q1Y2

Strategic Objective	Strategic Initiatives	Key Activities	Responsible MDA and other involved agencies.	SDIP Owner	Time line
		source of systems downtime and delays on verification and release of cargo from either ports or ICD. **Recommend measures to reduce delays and downtimes** in the cargo clearance system.			
		Promote adoption of **policy that all merchant's cargo going through KPA to be Non-Through Bill of Lading** (NTBL) for clearance at Mombasa Port, while Through Bill of Lading (TBL) is railed and cleared at ICD Nairobi or Naivasha.	**SD of Transport**/KPA/KR/ SDIP	DBRT	Q3Y1 – Q4Y1
		Engage with stakeholders in logistics industry to adopt **an Electronic Container Tracker system** to assist locate containers within the port and while in transit and to monitor real time progress from port to destination. (Will save time wasted locating containers at port and optimize container loadings onto wagons, reduce demurrage).	**SD Transport**/KPA/ KR/SDIP/KENTRADE/ICTA	DBRT	Q1Y2 – Q4Y2
		Implement the Electronic Container Tracker system to assist locate containers within the port and while in transit and to monitor real time progress from port to destination.	**SD Transport/**KPA/KR /KENTRADE/SDIP/ICTA	DBRT	Q1Y3-Q4Y5
		Develop concept for, recommend and get approval for the **establishment of a Cargo Clearing Performance Monitor** to show in real-time, the speed of clearance and verification of cargo and adherence by clearing and verification bodies (KRA, KeBS, KenTrade, KPA, KAA, KEPHIS, KR) to set performance standards for import cargo. The report	**SD Transport**/ICTA/ KR/KeBS/SDIP/KEPHIS/Ken Trade/KPA/KAA/SDIP/EAFF A	DBRT	Q2Y1-Q4Y1

Strategic Objective	Strategic Initiatives	Key Activities	Responsible MDA and other involved agencies.	SDIP Owner	Time line
		will be used by importers, logistics service providers and regulators to identify bottlenecks for resolution			
		Develop, test and pilot the use of an **automated container wagon demand scheduling system** to ensure KR provides the right number of wagons at port, to expeditiously off-take the projected inbound container cargoes.	**SD Transport**/KR/ICTA /KPA/EAFFA	DBRT	Q1Y2-Q4Y2
		Implement automated container wagon demand scheduling system	**SD Transport**/ KR/ICTA/KPA/EAFFA	DBRT	Q1Y3-Q4Y5
SO 1.7 To build an investment ecosystem anchored on the global climate mitigation and adaptation agenda	Based on the Kenya Nationally Determined Contributions (NDCs) to climate mitigation and adaptation, frame appropriate investments promotion measures to avail Kenya of the SDG-gap financing investments	**Identify financing mechanisms** for sustainable investments and their requirements and conditions and establish agency for such funds, to enable Kenyan enterprise access them.	SDIP**/**KenInvest**/KDC**/NEMA/National Treasury/KenInvest/CoG/SD Environment & Climate Change	KDC	Q2Y1- Q3Y1
		Promote **awareness and use of available sustainable financing facilities, amongst interested investors**, through product development and through targeted communication	**KDC**/ Keninves**t**/NEMA/CoG	DBRT/KDC	Q4Y1-Q4Y5
	Contribute to the design of NDC bankable projects and channelling of investments into the renewable energy, blue economy and other SDG-related sectors	Engage stakeholder to reach investors in the target sectors to **identify their capacity to develop bankable project proposals**, for sustainable financing.	SDIP/**KDC**/KenInvest/ KAM/National Treasury	DBRT	Q1Y2-Q4Y5
		Identify technical support for the preparation of documents to access sustainable funding and link this support with the investors in renewable energy, blue economy, food security, health and other SDG sectors.	SDIP/KenInvest/KIE/**KDC**	DBRT	Q1Y2-Q3Y2

Strategic Objective	**Strategic Initiatives**	**Key Activities**	**Responsible MDA and other involved agencies.**	**SDIP Owner**	**Time line**
SO 1.8 To strengthen investor confidence to retain and expand FDI and DI	Undertake a legal reform impact assessment. (The proposed parameters to guide the assessment are contained in chapter 2)	**Map the MDAs** to identify members of a **technical working group** to undertake a legal reform impact assessment and establish a multi-sectoral technical working group to undertake the assessment and upgrade of the laws	**SDIP/**Office of Prime CS/SLO	DBRT	Q1Y2
		Undertake a legal reform impact assessment to examine the impact of previous legal reforms to the investment climate and business environment, identify the gaps	SDIP/ **KNBS**/Office of Prime CS/SLO	DBRT	Q2Y2-Q4Y2
		Undertake an **evidence-based upgrade of the laws as guided** by the legal reform impact assessment.	**SDIP**/Office of Prime CS/SLO	DBRT	Q1Y3- Q4Y3
	Establish an investment grievance management mechanism	**Coordinate establishment of an investment complaints mechanism** for all investment related agencies that is in line with each institution's service charter	**SDIP**/KenInvest/SEZA/NIFCA/EPZA/Konza TDA/ Commission on Administrative Justice	DBRT	Q3Y1-Q3Y2
		Implement an **investment grievance management mechanism that escalates unresolved grievances** to Commission on Administrative Justice for Resolution	**SDIP**/KenInvest/SEZA/NIFCA/EPZA/Konza TDA/ Commission on Administrative Justice	DBRT	Q4Y2-Q4Y5
		Undertake **reporting, monitoring and evaluation of the investment grievance resolution system**.	SDIP/**KenInvest**/SEZA/NIFCA/EPZA/Konza TDA/ Commission on Administrative Justice	DBRT	Q1Y3-Q4Y5
SO 1.9 To increase access to affordable finance for productive activities	Strengthen development finance institutions	Establish source and avail Exchequer and development partner grants to re-capitalise development finance institutions including Kenya Industrial Estates, Agricultural Finance Corporation	SDIP/ **National Treasury**/KDC/SD MSME	KDC	Q3Y1-Q4Y5

Strategic Objective	Strategic Initiatives	Key Activities	Responsible MDA and other involved agencies.	SDIP Owner	Time line
		and the Kenya Development Corporation to enable them expand lending to productive sectors			
		Through technical assistance, provide support for capacity building for human resources in DFIs to expand capacity for customer and business advisory services to industrial, commercial and agricultural customers	**SDIP/**KDC/National Treasury/SD MSME/KIE	KDC	Q3Y1- Q4Y2
	Avail long-term lending at lower interest rates	For enterprises with export earnings, develop and promote long term loan products denominated in foreign currency denominated at more competitive interest rates	SDIP/**KDC**/National Treasury/CBK	DBRT	Q2 Y1-Q4Y!
		Promote increased lending at lower interest rates to Kenyan private sector by regional and continental DFIs like African Development Bank, Trade and Development Bank and East African Development Bank including through local DFIs.	SDIP/**KDC/**National Treasury	DBRT	Q2Y1-Q3Y2
		Utilise external and local sources of loan or equity capital such as sovereign wealth funds, pension funds, SACCOs and Diaspora investors, their risk profiles and requirements	**KDC**/KIE/SDIP/National Treasury/ CBK/CMA/KAM/ SACCOS	DBRT	Q2 Y1-Q4Y1
		Work with DFI sector and Regulatory bodies to develop and have approved financial intermediation instruments that will avail investment capital to deserving and viable projects in target sectors.	**KDC**/ KIE/SDIP/SD Industry/ National Treasury/CMA/ CBK/KAM/SACCOS	DBRT	Q1Y2-Q1Y3
		Pilot and then promote the new financial intermediation products for investment or loans to targeted productive sectors.	**KDC/** SDIP/National Treasury/KAM/ SD Industry	DBRT	Q2Y3-Q4Y5

6.2.2 KRA 2 Promotion and Facilitation of Existing Investment Opportunities

Strategic Objective	Strategic Initiatives	Activities	Lead MDA	SDIP Owner	Timeline
SO 2.1: To integrate Strategic Planning into Investment Promotion and Facilitation at the National and County Level , through resource-based sector prioritization	Conduct resource mapping in the counties to inform long-term strategic planning and sector prioritization	Working with the intergovernmental working Group on investment (IGWGI), develop a framework for resource mapping in the counties to help identify various endowments and capacities present in the counties, which can be exploited through investment.	Office of President/IGWGI/ CiUs/**CoG**	KenInvest	Q2Y1
		Seek out, obtain and provide where necessary, technical assistance to help counties conduct resource mapping.	SDIP/**CoG/** National Treasury/Office of President/	KenInvest	Q2Y1-Q2Y1
		Undertake and complete the Resource Mapping Process to enable inclusion of findings in other county investment documents.	SDIP/IGWGI/CIUs /Office of President/ **CoG**	KenInvest	Q3Y1-Q4Y1
	Develop and implement a rolling 3-year National Investment Promotion Plan to coordinating investment promotion goals, pinpoint specific investment opportunities, profile target investors, marketing tactics	Convene a National Investment Promotion Planning Process, through the intergovernmental Working Group on Investment with key institutions involved including SDIP, NIC and KenInvest as well as sectoral investment agencies and the CIUs. The rolling 3-year National Investment Promotion Plan will cascade targets set in the National Investment Strategy and MTP-IV into year by year activities and activities by investment related agencies and CIUs.	**SDIP**/IGWGI/ CiUs/KenInvest /NIC /Stakeholders	KenInvest	Q1Y2-Q2Y2

Strategic Objective	Strategic Initiatives	Activities	Lead MDA	SDIP Owner	Timeline
	and detailed marketing budget	Complete and disseminate the National investment Promotion Plan	IGWGI/CiUs/KenInvest/NIC/**SDIP**	KenInvest	Q2Y2-Q3Y2
		Counties and individual investment promotion agencies produce their aligned rolling 3- year investment promotion plans for priority sectors, with investment goals, profiles of target investors, promotion tactics and budgets.	**SDIP**/CiUs/KenInvest/ SEZA/EPZA/NIFCA /Konza TDA /CoG	KenInvest	Q3Y2
	Facilitate counties in the preparation of County Investment Profiles and investment regulatory frameworks.	Working through the Intergovernmental Investment Working group establish the status of preparation of County investment profiles and investment regulatory frameworks	IGWIGI/NIC/KenInvest/CIUs/CoG	KenInvest	Q3Y1-Q2Y2
		Assist the Working Group to identify & on-board available funding and technical support for preparation and dissemination of County Investment Profiles and Investment Regulatory Frameworks	IGWIGI/NIC/KenInvest/CIUs/**CoG**	KenInvest	Q1Y1-Q3Y1
		Support Counties to build capacity in undertaking research, design of regulatory measures, benchmarking and communication design for the county investment profiles and investment regulatory frameworks using best practices.	SDIP/**KenInves**t/CiUs/CoG	KenInvest	Q4Y1-Q2Y2
		Support dissemination of the county investment profiles and engagement of stakeholders to build understanding of proposed regulatory frameworks and their impact	SDIP/KenInvest/CiUs/**CoG**	KenInvest	Q4Y2-Q1Y3

Strategic Objective	Strategic Initiatives	Activities	Lead MDA	SDIP Owner	Timeline
	Implement the National Investment Promotion Plan to promote and facilitate domestic, foreign and diaspora investments through targeted incentives	Review incentive framework, assess areas of weakness and strength and propose improvements through the regulatory review process	**SDIP**/KenInvest/EPZA/SEZA/NIFCA/ Konza TDA/ National Treasury	DBRT	Q4Y2-Q2Y3
		Support the development of coordinated annual promotion plans, for all investment promotion bodies, with budget, to implement the current portion of the rolling 3-year National Investment Promotion Plan. The annual plans will seek to synergise, align and support the activities of agencies for optimal use of resources and effectiveness	**SDIP**/NIC/ KenInvest/CIUs/CoG/EPZA, NIFCA, SEZA, Konza TDA/	KenInvest	Q3Y1, Q3Y2, Q3Y3, Q3Y4, Q3Y5,
		SDIP to support monitoring and evaluation (M&E) of national investment activities to achieve effective coordination, measurement and reporting of results	**SDIP**/KNBS/KenInvest/NIC	DBRT	Q3Y2, Q3Y3 Q3Y4, Q3Y5,
	Establish Diaspora Investment Initiative to create products that facilitate translation of remittances into productive investments	Engage with Kenyans in the Diaspora to understand trends in their savings and remittance, their investment patterns and asset classes, their investment needs including preferred currency, tenors, expected return on investment, and to gauge their openness to new investment vehicles. Assess if investment incentives are needed and if so propose a package.	SDIP/D Diaspora Affairs/CMA/DBK /CBK/Treasury/**KenInvest**	DBRT	Q1Y2
		Engage with National Treasury, capital markets and development financial institutions and banking sector, to design and develop new investment instruments (possibly with incentives) to channel diaspora funds into productive investments.	SDIP/SD Diaspora Affair/CMA/DCBK /**KDC/** /Treasury/KenInvest	SBRT	Q2Y2-Q3Y2

Strategic Objective	Strategic Initiatives	Activities	Lead MDA	SDIP Owner	Timeline
SO 2.2: To Strengthen the Institutional Capacity of KenInvest and County Investment Units (CIUs)	Spearhead coordination of national investment promotion and facilitation functions at national level, with the core agencies (KenInvest, NIFCA, SEZA, EPZA and Konza Technopolis Development Authority) and at intergovernmental level with CIUs, for synergy and effective implementation of national investment strategy for Kenya	Support establishment of CIUs, in the counties which do not have them	SDIP/**CoG**/KenInvest	DBRT	Q2Y1-Q4Y1
		Provide targeted development support on investment promotion and provide facilitation to County Investment Units through the Intergovernmental Investment Working Group.	**KenInvest**/CoG/CIUs/IGWGI	DBRT	Q1Y2-Q4Y5
	SDIP to coordinate investment promotion and facilitation activities in core national promotion agencies - KenInvest, NIFCA, SEZA, EPZA.	Assess institutional capacity of national agencies involved in investment promotion to deliver on mandates. Identify resource and capacity gaps.	**SDIP**/KenInvest/SEZA, EPZA, NIFCA, Konza TDA	DBRT	Q3 Y1
		Propose alignment of any overlapping, unclear mandates.	**SDIP**/KenInvest/SEZA, EPZA, NIFCA, Konza TDA	DBRT	Q4Y1
		Identify capacity building needs and develop capacity building programmes for staff of relevant investment agencies	**SDIP**/KenInvest/SEZA, EPZA, NIFCA, Konza TDA	DBRT	Q4Y1
		Assess financial needs against budget allocation and seek alignment of resourcing to needs.	**SDIP**/KenInvest/SEZA, EPZA, NIFCA, Konza TDA	DBRT	Q4Y1
		Provision of targeted capacity development support to CIUs	CoG/**KenInvest/**CIUs/SDIP	KenInvest	Q2Y2-Q3Y3

Strategic Objective	Strategic Initiatives	Activities	Lead MDA	SDIP Owner	Timeline
SO 2.3: To Foster Inclusive and Data-Driven Investor Services	Establish Upgraded Centralized Investment Promotion Information Dissemination Portal to support investor decision making at pre-investment, establishment and aftercare stages	KenInvest to review and upgrade its "Single Investment Window" Portal containing relevant investment related information for pre-investment, establishment and after care stages. Information from all key agencies and CIUs to be included in the Portal	ICTA/SD Information Communication and Digital Economy/**KenInvest**/SEZA, EPZA, NIFCA,KTDA.	KenInvest	Q2Y2-Q2Y2
		Monitor use of the Portal and streamline collection and presentation of information on the Portal.	ICTA/SD Information Communication and Digital Economy/**KenInvest**/SEZA, EPZA, NIFCA,KTDA.	KenInvest	Q3Y2, Q3Y4
	Implement National Investment Customer Relationship Management (CRM) system at national agency and CIU level, to support investor relations, streamline investment processes and automate updating of customer records	Engage with development partners including those who funded the KenInvest CRM to seek support for expansion and re-tooling of that CRM into a national investment CRM to manage all investor relations for all investment agencies and CIUs	**KenInvest/**ICTA/ SEZA, EPZA, NIFCA, Konza TDA)	DBRT	Q3Y1-Q2Y2
		With available technical support, undertake re-tooling of CRM tool to manage investor relations, including provision of information, receipt of enquiries, review of applications for general authority to invest—with project data, approvals, aftercare support and annual performance statistics for reporting.	**KenInvest**/ICTA/ SEZA, EPZA, NIFCA, Konza TDA)	KenInvest	Q3Y1-Q2Y2
		Pilot the CRM in several agencies (It should hold information on entire investment process from application to establishment including all key decision points and information shared with or collected from investors).	**KenInvest**/ ICTA/ SEZA, EPZA, NIFCA, Konza TDA	KenInvest	Q4Y2-Q2Y3

Strategic Objective	Strategic Initiatives	Activities	Lead MDA	SDIP Owner	Timeline
		Once perfected, roll out secure CRM system in all CIUs and in National investment promotion institutions like SEZA, EPZA, NIFCA and Konza Technopolis	**KenInvest**/ICTA/SEZA/EPZA, NIFCA/ Konza TDA/CIUs	KenInvest	Q3Y3-Q2Y4
	Establish a centralized, secure data collection **system** for investment outcome-related data and information, including the creation of a standardized mechanism for tracking investments at the County and National level -	Develop and promote a standardized mechanism for tracking investments at the County level - KNBS, KenInvest, County Investment Units (CIUs)	**KenInvest**/KNBS/ DBRT/SEZA/EPZA / Konza TDA/NIFCA NIFCA/CIUs	KenInvest	Q3 Y1-Q1Y2
		Implement the Investment Promotion and Facilitation Bill, once enacted; draft and after regulatory impact assessment, have enacted regulations to require investors both local and foreign to provide data and information on new investment projects at the time of applying for authority. (Data to include projections of key outcome from the project; with obligation to provide annual status updates on actual position of the parameters)	**KenInvest**/KNBS/ DBRT/ DBRT/SEZA/ EPZA/Konza TDA/NIFCA/CIUs	KenInvest	Q2Y1-Q2Y2
		Use this and other investment data to collect data and information for national and institutional performance statistics reports. This will provide reliable, accurate investment data on DI, FDI and Diaspora DI, which can be used by KNBS, Central Bank and other interested stakeholders	**KenInvest**/KNBS/ DBRT/ DBRT/SEZA/ EPZA/Konza TDA/NIFCA/CIUs	KenInvest	Q4Y2 Q4Y3 Q4Y4 Q4Y5
	Streamline investment project evaluation systems	SDIP to support Investment Agencies develop and update investment project evaluation criteria and timelines, including minimum requirements, information to be submitted, and any restrictions described in laws and regulations, as well as administrative guidelines to ease evaluation. Include a clause where automatic approval is	**KenInve**st, SEZA, NIFCA, Konza TDA, EPZA, CIUs/DBRT/SDIP	KenInvest	Q2Y1-Q4Y1

Strategic Objective	Strategic Initiatives	Activities	Lead MDA	SDIP Owner	Timeline
		given when an investment regulatory agency fails to provide a written decision on approval or rejection of any investment application within the required time.			
		Publish on each institution's Website the minimum criteria , restricted activities and any policy limitations provided in law and regulations; as well as supporting documents required for the application, fees, and timelines for making decisions on any application for investment approval. Update when changes are made.	**KenInvest**, SEZA, NIFCA, Konza TDA, EPZA, CIUs/DBRT	DBRT	Q1Y2-Q2Y2
		Revise service charters and internal working processes to comply with the criteria and timelines for review of investment projects. Implement the new benchmarks for review and approval of projects while monitoring performance of the application review system.	**KenInvest**, SEZA, NIFCA, Konza TDA, EPZA, CIUs/DBRT	DBRT	Q3Y2-Q4Y5
	Promote and facilitate domestic and diaspora investments through targeted incentives	As part of the Diaspora Investment Initiative (See SO 2.1 earlier) Evaluate Kenyan Diaspora's pain points in investing in productive activities in Kenya. Design incentives to overcome the pain points , have them approved, and then develop a Diaspora Investment Value Proposition and Communication and Marketing Strategy for this customer group.	**KenInvest** /SD Diaspora Affairs/National Treasury/CoG	KenInvest	Q2Y1-Q4Y2
		Execute the Diaspora investment marketing strategy including investment incentives.	**KenInvest**/SD Diaspora Affairs /CoG/CiUs/ SEZA/EPZA, NIFCA/Konza TDA	KenInvest	Q1Y3-Q4Y5
SO 2.4 To Enhance Customer	Promote development of investment Aftercare in all	Engage with CIUs and National Investment Agencies to assess technical capacity to provide best practice investor customer service and aftercare support.	**KenInvest/** SEZA/EPZA,	KenInvest	Q4Y1-Q2Y2

Strategic Objective	Strategic Initiatives	Activities	Lead MDA	SDIP Owner	Timeline
Service and Aftercare as means of attraction, retention and expansion of investment	the investment promotion agencies including in CIUs.		NIFCA/Konza TDA/CIUs/CoG		
		Identify and Commit source of Technical Assistance for Investment Customer Care and Investor Aftercare Service delivery by national and county investment bodies in Kenya	**KenInvest**/ SDIP/CoG	KenInvest	Q4Y1-Q2Y2
		Provide technical assistance to establish and staff the customer care and investor after care services in the CIUs and investment agencies	**KenInvest/** SEZA/EPZA, NIFCA/Konza TDA/CIUs/CoG	KenInvest	Q3Y2-Q3Y3
		Provide training for customer care staff of CIUs and national investment agencies.	**KenInvest/** SEZA/EPZA, NIFCA/Konza TDA/CIUs/CoG	KenInvest	Q4Y2-Q3Y3
	Harmonize and strengthen One Stop Shop/ One Stop - One Go Services (One Stop Shop) to facilitate investors at all stages in investment life cycle	Survey investors on their needs for investment related support including obtaining business permits, licences, accessing property, paying taxes immigration work permits and passes, connection to utilities, hiring staff, commencing import and export operations etc. and whether they are getting the necessary support at national or county level.	**SDIP**/KNBS	DBRT	Q2Y1-Q4Y1
		Review the operation of the One Stop Shop serving KenInvest and other investment agencies and the One Stop - One Go Centre established by SDIP, to evaluate and recommend how they can be harmonized to provide the support identified in the investor survey and to provide services in line with best practices	**MITI**/ KenInvest	DBRT	Q1Y2-Q3Y2

Strategic Objective	Strategic Initiatives	Activities	Lead MDA	SDIP Owner	Timeline
		Include review of regulatory bodies incorporated in the centre, reporting relationships, delivery mechanisms and recommend changes to technology, to extend the reach of the Centre's service to diverse sectors and locations, including the counties.			
		Adopt the recommendations and establish and effective, harmonised One Stop Shop/One Stop-One Go Centres	**MITI/** KenInvest	DBRT	Q4Y2
		Build Capacity for Staff from different agencies supporting the Centres.	**MITI**/ KenInvest	DBRT	Q1Y2-Q4Y5

6.2.3 KRA 3: Incentivised Zones

Strategic Objective	Strategic Initiatives	Key Activities	Responsible MDA and other involved agencies.	SDIP Owner	Time line
SO 3.1 To enhance availability of infrastructure and utilities in incentivized zones	Implement Priority Zone Development Programme	Develop a 5-year zone infrastructure investment plan to prioritize and sequence public zone development taking into consideration inter-alia investor demand, access to nearby infrastructure, available private zones, estimated development costs and availability of resources to develop the zone adequately to attract clients.	SDIP/**SEZA/EPZA**/ SD Water and Sanitation/SD Energy/Konza TDA/ KPA/SD Roads/SD Econ Planning/National Treasury	SEZA/EPZA	Q2Y1-Q4Y1
		Undertake feasibility studies for prioritised public zones to assess viability and to inform project design, including sources of funding	SDIP/**SEZA/EPZA**/ Konza TDA	SEZA/EPZA	Q1Y2-Q2Y2
		Identify which aspects of infrastructure development are best undertaken by available private investors e.g captive power plants, industrial buildings, common effluent treatment plants, prepare and promote bankable infrastructure and services projects to investors. Seek Budget Resources from National Government for remaining development needs.	SDIP/**SEZA/EPZA**/ Konza TDA	SEZA/EPZA	Q3 Y2-Q4Y2
		Budget for land acquisition, master-planning and engineering design and construction and identify sources of funding and obtain commitment of funding preliminary expenses and zone development.	SDIP/**SEZA/EPZA**/ Konza TDA/National Treasury	SEZA/EPZA	Q3Y2-Q4Y2
		Execute Phased Development of each Priority zone with other zone lands assigned to land banks as funds are awaited for development	SDIP/**SEZA/EPZA**/ Konza TDA	SEZA/EPZA	Q1Y3-Q4Y5

Strategic Objective	Strategic Initiatives	Key Activities	Responsible MDA and other involved agencies.	SDIP Owner	Time line
	SO 3.2 Develop Land Banks which can be used for incentivized zones	Work with State Department for Lands and Physical Planning, National Land Commission and other agencies and with stakeholders develop and approve a land banking policy(which had been proposed in Kenya Investment Policy 2019) for incentivized zones. Policy to cover lands intended for productive investment, primarily for user industrial, agricultural and commercial. Policy to reflect aspects such as purpose for acquisition, method of ownership/tenure; period for development, expected lease terms for investors to utilize the land and requirements for gazettement.	SDIP/ **SD Lands and Physical Planning**/ NLC/ SEZA/EPZA/CoG	SEZA/EPZA	Q2Y1-Q1Y2
		When policy adopted, work with stakeholders to develop legal/regulatory framework to implement land banking.	SDIP/ **SD Lands and Physical Planning**/ NLC/ SEZA/EPZA/COG	SEZA/EPZA	Q2Y2-Q4Y2
		Zone agencies to identify and acquire suitable land which can be land-banked.	**SDIP/SEZA**/EPZA/ CIUs/ CoG	SEZA/EPZA	Q2Y1-Q4Y5
	Undertake Supply Enhancement Initiatives for Water-Stressed Zones	Prioritize Athi River Zone water supply needs for urgent special attention by the Ministry of Water and Regional Water Authority for execution including identifying source of finance for works.	SDIP/**SD Water and Sanitation**/Athi Water Works Development Agency/ EPZA	EPZA	Q2Y1-Q4Y1
		Implement Measures to Increase Water Supply in Athi River Zone	SDIP/**SD Water and Sanitation**/Athi Water Works	EPZA	Q1Y2-Q4Y2

Strategic Objective	**Strategic Initiatives**	**Key Activities**	**Responsible MDA and other involved agencies.**	**SDIP Owner**	**Time line**
			Development Agency/ EPZA		
		Ministry of Water and the Regional Water Authority to study Kilifi and Mombasa industrial water supply and sewerage needs and to prioritize supply to these high employment industrial clusters in Mombasa Mainland and around Mtwapa and Kikambala, including identifying source of finance for works.	SDIP/**SD Water and Sanitation**/ The Coast Water Works Development Agency (CWWDA) /EPZA	EPZA	Q2Y1-Q4Y1
		Implement measures to Increase Water Supply and Sewerage Services to zone industrial clusters in Mombasa Mainland and around Mtwapa and Kikambala in Kilifi	SDIP/SD Water and Sanitation/ **CWWDA**/ EPZA	EPZA	Q1Y2-Q4Y2
	Offer an incentivized, lower power tariff for manufacturers in both SEZ and EPZ areas	Extend the lower tariff of KES 10.0 per kWh to all zone areas planned for manufacturing, with an even lower off peak tariff.	SDIP/SD Energy**/EPRA**/National Treasury/EPZA	EPZA	Q2Y1-Q4Y1
		Promote investment by licenced Power Operators to generate power plants in zones to supply zone customers under captive power arrangement, as regulated by EPRA.	SDIP/ SD Energy/**EPZA/SEZA/**KenInvest/EPRA	EPZA/SEZA	Q3Y1-Q4Y5
SO 3.2 To harmonise requirements, services and utility charges for similar licences in SEZ and EPZ	Establish a Special Immigration Facilitation Package for EPZs and SEZs	Directorate of Immigration to review the high cost and delays in issuance of work permits. With stakeholders, conduct benchmarking with competing countries and review best practices as an incentive for expanded investment. Develop a package for Zone investors which includes a lower work permit fee for investors and their key staff, number of	SDIP/ **Directorate of Immigration**/EPZA/SEZA	SEZA/EPZA	Q3Y1 – Q3Y2

Strategic Objective	Strategic Initiatives	Key Activities	Responsible MDA and other involved agencies.	SDIP Owner	Time line
		permits allocated per firm and faster turnaround time through the One-Stop Shop.			
		Implement the new immigration scheme for incentivized zones and evaluate effectiveness.			
SO 3.3: To enhance vertical integration for competitive SEZ and EPZs	Promote expansion of production and supply of local raw materials and intermediate goods required by existing zone enterprises	Conduct assessment of sourcing supply gaps in SEZ/EPZ enterprises which can be filled through local raw materials, the technical requirements, benchmark pricing and enterprises' interest in developing local supply chain.	SDIP/**<u>EPZA/SEZA</u>**/ MSME Authority/ SD Agriculture/SD Industry/KAM/CoG/CIU	EPZA/SEZA	Q2Y1-Q3Y1
		Identify potential suppliers, and assessment of supply capabilities.	SDIP/**<u>EPZA/SEZA</u>**/ SD MSME/SD Industry/ SD Agriculture/KAM/ CoG/CIUs	EPZA/SEZA	Q4Y1-Q2Y2
		Linkage of suppliers to SEZ/EPZ buyers.	**EPZA/ SEZA**/KAM/MSME Authority	EPZA/SEZA	Q3Y2-Q4Y5
	Promote investment in new ventures which use local inputs	Identification of available local raw materials and intermediate goods which can be processed in SEZs and EPZs for local, regional and international markets with emphasis on MTP-IV Value chains and Sector opportunities	SDIP/**<u>EPZA/SEZA</u>**/ SD Agriculture/SD Livestock Development/ SD Industry/SD Blue	EPZA/SEZA	Q2Y1-Q4Y1

Strategic Objective	Strategic Initiatives	Key Activities	Responsible MDA and other involved agencies.	SDIP Owner	Time line
			Economy/SD Mining/CoG/CIUs ./KAM		
		Assessment of industries and value chains where these materials can be processed and whether local materials meet the requirements.	SDIP/**<u>EPZA/SEZA</u>**/ SD Agriculture/SD Livestock Development/ SD Industry/SD Blue Economy/SD Mining/CoG/CIUs /KAM /	EPZA/SEZA	Q1Y2-Q3Y2
		Promotion of investment to attract and facilitate investment in these value chains.	SDIP/**<u>SEZA/EPZA</u>**/ KenInvest	EPZA/SEZA	Q4Y2-Q4Y5

6.2.4 KRA 4: De-risking FDI and DI in Kenya

Strategic Objective	Strategic Initiatives	Key Activities	Responsible MDA & Agencies	SDIP Owner	Time line
SO 4.1: To create an integrated National De-risking Framework (NDF) for FDI, DDI and	Develop a single integrated National De-risking Framework (NDF) to guide, manage, monitor and close-	Establish a National De-Risking Framework Development Technical Working Group (NDFDTWG) with membership of technical officers drawn from relevant MDAs including MITI, Treasury, OP, KNBS and Attorney General's and	**<u>SDIP</u>**/KDC/ NDFDTWG	KDC	Q2Y1 – Q4 Y1

Strategic Objective	Strategic Initiatives	Key Activities	Responsible MDA & Agencies	SDIP Owner	Time line
DI to boost and maximise investment inflows into Kenya	out FDI, DDI & DI proposals, projects and program across all selected value-chains and sectors to ensure a one-source-of-truth for predictability and measurability across all selected value-chains and sectors as a Whole-of-Govt policy initiative.	Chaired by Principal Secretary SDIP or his designate (as Chair of NISK initiative)			
		Cost & budget for NDFDTWG activities and projects done by SDIP & drawn from an NISK Implementation budget.	**SDIP**/KDC/ National Treasury/	KDC	Q2Y1 – Q3Y1
		Prepare and have completed a Draft National De-Risking Framework within 6 months which is adopted as national standard.	**SDIP**/KDC/NDFDTWG/	KDC	Q4Y1-Q1Y2
	To include the application and operation of Financial & Non-Financial De-Risking Instruments in investment mobilization and retention of FDI, DDI & DI across all selected value-chains and sectors.	Set up a statistical & mathematical modelling experts group under the National De-Risking Framework Development Technical Working Group (NDFDTWG) with membership of technical officers drawn from MITI, Treasury, KNBS and KIPPRA and Chaired by Principal Secretary's (PS's) designated chief expert answerable to Chair of NISK initiative.	SDIP/**KDC**/ NDFDTWG/ KIPPRA	KDC	Q2Y1-Q3Y1
		Use available development partner technical assistance or other resources to build Specialist Capacity of NDC on use of de-risking instruments and applications.	SDIP/ Development partner **/KDC**	KDC	Q3Y1-Q4Y1
		Use available development partner technical assistance or other resources to build capacity of key investment agencies to promote the use of de-risking instrument and to collect information for use in the De-risking Valuation methodology.	**KDC**/ Development partner KenInvest/EPZA/Konza TDA/NIFCA/CIUs/ SDIP	KDC	Q4Y1-Q1Y2

Strategic Objective	Strategic Initiatives	Key Activities	Responsible MDA & Agencies	SDIP Owner	Time line
	Develop and refine a De-risking Valuation methodology (DVM) for the calculation of Net Economic Value of proposed investment proposals, projects and program (for projects whose value is above an agreed threshold limit).	Create and apply a DVM digital platform or application to run the various valuation functions attached to each financial de-risking instrument. The application incorporating strong encryption, is able to collect, compile and generate financial and non-financial data arising from the use of such financial instruments. (The application of embedded analytical tools in the DVM such as statistical and financial modelling are used to support decision-making and thus strengthen institutional support for local enterprises earmarked for partnership with foreign investors).	**KDC/**National Treasury/ ICTA	KDC	Q3Y1-Q1Y2
		Compile a quantitative practice reference manual detailing the application methodology applied for each instrument into the computer Application and as an annexure to the NDF & DVM	**KDC**/ICTA/SDIP	KDC	Q4Y1-Q1Y2
		Assign the task of daily operational and oversight to a specialist technical staff team.	**KDC**	KDC	Q1Y2
		Promote the use of the DVM amongst investment related agencies, monitor and evaluate the use and benefit of the DVM	**KDC**	KDC	Q3Y2-Q4Y5
	ESG & Other Risks Define, capture, enumerate and integrate into one place ESG & Other Risks for the purpose of integrating and mainstreaming them into the De-risking framework and paradigm to include	Compile and consolidate all ESG-related compliance protocols in government under the NDF roof.	SDIP/KDC/ SD Environment and Climate Change/ National Treasury/ State Law Office	KDC	Q3Y1-Q2Y2
		Research and incorporate international best practice in the quantification and costing of ESG-related risks and	**KDC**	KDC	Q3Y1-Q2Y2

Strategic Objective	Strategic Initiatives	Key Activities	Responsible MDA & Agencies	SDIP Owner	Time line
	climate, environment and natural disaster risk reduction using the Sendai Framework as a general or value chains approach	costings thereof, to create a full "ESG & Other Risks" De-risking protocol for application across all investment proposals, projects and programs ,which are above an agreed investment threshold value.			
		Roll out the application of "ESG and other Risks" De-risking Protocol for use in investment proposals, projects and programs.	KDC/ **SDIP/**KenInvest/SEZA, EPZA/ Konza TDC/NIFCA	KDC	Q3Y2-Q4Y5
SO 4.2: To create, augment and effectively deploy innovative Financial de-risking Instruments and mechanisms under the National De-risking Framework	Define and develop Financial De-risking Instruments to support investment mobilization and retention of FDI, DDI & DI across all selected value-chains and sectors with the aim of underwriting specific risks relating to Domestic Private Sector plays so as to encourage and support partnerships with foreign Capital above an agreed threshold, into preferred sectors that are, e.g. high employment generators.	Develop and compile a compendium matrix of all Financial De-risking Instruments deployed locally and other jurisdictions to attract DI, FDI & DDI (e.g. Credit-support instruments, loan guarantee schemes, political risk insurance; blended finance, Co-investment arrangements etc...Credit-support instruments, loan guarantee schemes, political risk insurance; blended finance, Co-investment arrangements etc..) for each: providing a short description of its uses, listing pros and cons and best recommended use providing a formula for application in context	SDIP/**KDC**/National Treasury/	KDC	Q2Y1-Q3Y1
		Incorporate the Compendium Matrix into the digital platform and the related computer application(s) and roll out its use	K**DC**/ICTA	KDC	Q4Y1-Q2Y2
	Collect or generate financial data arising from use of such financial instruments to feed into analytical tools such as the DVM (see above)	Develop a financial data collection template for use with the DVM and other tools, to support decision-making and statistical analysis and such uses as developing financial models to strengthen local enterprises earmarked for partnership with foreign investors	**KDC**/KNBS	KDC	Q3Y1-Q2Y2

Strategic Objective	Strategic Initiatives	Key Activities	Responsible MDA & Agencies	SDIP Owner	Time line
		Identify a cohort of local enterprises suited for partnership with foreign investors who may utilize the financial de-risking instruments	SDIP/**KDC**/KenInvest/Konza TDA/NIFCA/SEZA/EPZA/SDI/CIUs/COG	KDC	Q3Y1-Q2Y2
		Apply the data collection template to collate financial information from use of financial instruments and apply them in the DVM to decision making, statistical analysis and for developing financial models to strengthen local enterprises suited to partnership with foreign investors	SDIP**/KDC**/KenInvest/Konza TDA/NIFCA/SEZA/EPZA/SDI/CIUs/CoG	KDC	Q4Y1-Q2Y2
	Design financial de-risking instruments to seamlessly interface with other regional and international financial de-risking instruments to ease transition friction of FDI, DDI & D into the economy. Example: with MIGA (World Bank Group)	Assess available financial de-risking instrument on their compatibility and ease of use with other regional and international financial risk instruments	**KDC/** National Treasury	KDC	Q4Y1-Q1Y2
		Propose and effect modifications to De-risking instruments to enhance compatibility with those in other domains.	SDIP/ **KDC**/ National Treasury/Insurance Industry/Banking Industry	KDC	Q2Y2-Q3Y2
SO 4.3: To create, augment and effectively deploy Non-Financial de-risking Instruments and mechanisms under the National De-risking Framework	Define and develop Non-Financial De-Risking Instruments to support investment mobilization and retention of FDI, DDI & DI across all selected value-chains and sectors with the aim of underwriting specific risks relating to Domestic Private Sector plays so as to	Develop and compile a compendium matrix of all Non-financial De-risking Instruments deployed locally and other jurisdictions to attract FDI & DDI; against each a short description of its uses, pros and cons and best recommended use formula for application in context	SDIP/**KDC/** National Treasury/	KDC	Q2Y1-Q3Y1
		Incorporate Non-Financial De-Risking instruments into the digital platform and the related computer application(s)	KDC/ICTA	KDC	Q2Y2-Q3Y2

Strategic Objective	Strategic Initiatives	Key Activities	Responsible MDA & Agencies	SDIP Owner	Time line
	encourage and support partnerships with foreign capital into preferred sectors that are, e.g. high employment generators.	Reference the DVM for evaluation methodology to apply to cost non-financial de-risking tools and instruments for Cost Benefit Analysis (CBA)	KDC/**National Treasury**/ ICTA	KDC	Q3Y2-Q4Y2
	Cost Non-Financial De-Risking Instruments to establish their Cost/Benefit Value as to their viability to apply as part of the overall net economic value equation	Apply the data collection template to collate financial information from use of Non-financial instruments and apply them in the DVM to decision making, statistical analysis and for developing financial models to strengthen local enterprises suited to partnership with foreign investors	SDIP/**KDC/**KenInvest/Konza TDA/NIFCA/SEZA/EPZA/SDI/CIUs/CoG	KDC	Q2Y2-Q3Y2
		Incorporate Non-Financial De-Risking instruments costings into the digital platform and the related computer application(s)	**KDC**/ ICTA	KDC	Q2Y2-Q3Y2
	Create standardized methodology to universalize application across all sectors and value chains	Develop and test a standardized methodology to apply across all sectors and value chains	**KDC**/SDIP/KNBS	KDC	Q3Y2-Q4Y2
		Roll out the standardized methodology to all projects (above an agreed threshold investment value)	**KDC**/KNBS	KDC	Q4Y2-Q4Y5
SO 4.4: To establish and maintain a National Investment Risk Register (NIRR) of all Investment programs under the National De-risking Framework	Implement an Investment Risk Register (that captures all investment-related risks identified and against which Financial de-risking instruments have been applied, by project and essential details under the Contract Management	Design, develop and establish a Digital Investment Register where all the relevant records associated with each investment proposal (for projects above an agreed threshold investment value) whether approved, pending or dismissed including but not limited to workings and analysis thereof. (Register include a smart keyword search function to retrieve similar analytics for investment types to speed up analysis of new proposals by integrating the DVM analytical functions and	SDIP/**KDC**/ICTA	KDC	Q3Y1-Q4Y1

Strategic Objective	Strategic Initiatives	Key Activities	Responsible MDA & Agencies	SDIP Owner	Time line
	Project management operational paradigm).	SDIP/KDC's technical specialist team for DVM to operate with KNBS and select relevant SGAs to have remote read-only access).			
		Link Digital Investment Register to the DVM to also ensure time-series and regression modelling and analysis among others	**KDC**	KDC	Q3Y2-Q4Y2
		Roll out use of the DI Register and use it to provide Investment risk status reports.	**KDC**/KenInvest/ SEZA/ EPZA/Konza TDA/ NIFCA/SDIP	KDC	Q4Y2-Q1Y3
		Identify and enumerate all non-financial risks by Investment proposal, project or program and the related non-financial de-risking instruments applied to mitigate it and the cost thereof	**KDC**	KDC	Q1Y3-Q2Y3
	Integrate the National Investment Risk Register with other risk registers.	Feed data and analysis from the NIRR into other risk registers both private and national	**KDC**	KDC	Q1Y3-Q2Y
		Utilise the NIRR data and analysis for continuous monitoring; for informing decision making; financial and scenario modelling by various stakeholders especially potential foreign and domestic investors; and, national and county government policy makers.	**KDC**/SD Industry/KenInvest/SDIP	KDC	Q3Y2-Q4Y5

6.3 Risk Mitigation Framework and Contingency Planning

This section provides an assessment of various risks which could negatively impact on successful implementation of the five-year National Investment Strategy for Kenya (2024/5 to 2028/9). The four major perceived risks are: significant reversal of Investment-enabling policies, lack of institutional capacity to undertake assigned roles and responsibilities assigned to them in the strategy; insufficiency of budgetary allocation for key projects and severe socio-economic shocks which impact capacity to implement elements of the strategy. The probability and severity of negative events and this the level of risk, plus the mitigation measures are described in the table below.

Risk management Framework

Risk	Likelihood of risk (L/M/H)	Severity of Impact of risk (L/M/H)(L/M/H)	Overall Risk Level (L/M/H)	Mitigation measures
Significant Reversal of Investment-Enabling Policies	L	H	M	Engage with key policy makers during strategy development and implementation stages, to gain their understanding, input and buy-in for NISK. Involve key MDAs in implementation working groups and steering committee for the relevant aspects of NISK Provide key policy makers regular feedback and progress reports on strategy implementation, results and challenges which may need their intervention Constantly scan environment for indications of policy shifts which may negatively impact an enabling investment climate, promotion and facilitation of investment, utilization of incentivized zone and de-risking FDI and DDI.

				Engage with key stakeholders and policy makers to understand their thinking and then prepare well researched positions that will seek to mitigate negative policy shifts
Lack of Institutional Capacity to Undertake assigned roles and responsibilities in the strategy.	M	M	M	Involve the relevant institutions at the NISK Validation stage, to verify that their mandate and capacity will allow them to undertake the roles assigned Engage with individual institutions to assess present capacity both financial and technical, and where bridging support is needed. Through GOK and development partner programmes, seek technical assistance to bridge technical capacity gaps Estimate budgetary support for implementation and include in NISK resource budget
Insufficiency of Budgetary Allocation for key projects	M	H	H	Engage with National Treasury during development of NISK 5-year budget framework on likely funding levels Estimate and plan for budgetary requirements well in advance so as to attain strategy milestones Conduct phased implementation of initiatives to spread some high capital cost items over several budget cycles. Avoid duplication of existing initiatives and collaborate where possible Seek development partner support or PPP support for expensive components including infrastructure development.
Severe socio-economic Shocks which impact capacity to implement elements of the strategy	L	H	H	Periodically re-assess which elements are critical to overall success of the strategy and prioritise these Engage and collaborate at national and county levels with similar initiatives which can assist attainment of NISK strategic objectives. If shocks are too severe, suspend/postpone implementation for a time until the shock subsides.

Appendices

6.4 Appendix 1: Glossary/ Definition of Terms

Aftercare: is post-establishment investment facilitation designed to assist the investment navigate start-up, then develop and grow. Aftercare seeks to have the investor decide to stay in the country and reinvest. Aftercare focuses effort on getting investments to deliver economic benefits to the local economy in form of: (a) sustainable development; (b) employment opportunities; (c) linkage with local economy; (d) developing sector-specific knowledge advancement.

Business environment: the business environment comprises the legal, regulatory, policy and institutional frameworks that affect the firm at micro-level.

De-risking: the structured process for minimising or eliminating in-nation risks that improves its attractiveness as an investment destination.

Domestic Investment: this is where an investing entity acquires a lasting interest (usually over 10% share) of an enterprise located in the investing entity's country of residence. The investing entity also has a voice in the management of the enterprise.

Foreign Direct Investment (FDI): is a category of cross-border investment where a foreign entity acquires a lasting interest in a resident enterprise (usually above 10% share) and has a voice in the management of the enterprise. [33]

Foreign Portfolio Investment (FPI): is investment in financial securities such as stocks, bonds, and other financial assets within a country different from the investor's country of residence. It does not involve any active management by the investor.

Investment Climate: An enabling environment that fosters private investment flows into an economy for the achievement of broader inclusive growth and sustainable development goals. This includes macroeconomic stability, political stability, business environment, human development and natural environment, climate change and migration

Investment promotion (attracting DI/FDI): This is a means to attract potential investors that have not yet selected an investment destination. It focuses on image building initiatives, that is fostering a positive image of a host country. This includes branding of the host country as a profitable destination. Investment promotion also involves investment generation, by marketing techniques which target specific sectors, activities, or, in the context of this Report, priority value chains (OECD, 2020).

Investment facilitation: it relates to providing support to investors in their establishment, retaining existing ones, and encouraging reinvestments. This is done by responding to investor needs and challenges.[34] Unlike promotion, investment facilitation starts at the pre-establishment phase, once an investor has already shown interest in investing in the host country.

Investment retention: this involves monitoring and evaluation to get feedback from investors and includes the continued improvement of legal and regulatory framework for investment. Investment retention may be categorised into advocacy and aftercare services (World Bank, n.d.).

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[33] Balance of Payments and International Investment Position Manual, 6th edition, IMF.

[34] https://www.oecd.org/investment/Towards-an-international-framework-for-investment-facilitation.pdf

Appendix 2: Institutional Membership of Technical Working Group for National Investment Strategy

NO.	NAME OF INSTITUTION
1	State Department for Investment Promotion
2	State Department for Trade
3	State Department for Industry
4	State Department for Blue Economy and Fisheries
5	State Department for Diaspora Affairs
6	State Department for Agriculture
7	State Department for Lands and Physical Planning
8	State Department for ICT and Digital Economy
9	State Department for Economic Planning
10	State Department for Micro, Small and Medium Enterprises
11	Kenya Investment Authority
12	Kenya Development Corporation
13	Export Processing Zones Authority
14	Special Economic Zones Authority
15	Capital Markets Authority
16	Konza Technopolis Development Authority
17	Nairobi International Financial Service Authority
18	Kenya Institute of Public Policy Research and Analysis
19	Kenya Bureau of Standards
20	Council of Governors
21	Strathmore Research and Consultancy Centre Ltd/ Lotus Consulting Ltd

6.5 Appendix 3: Participants at the TWG Workshop, May 7-10, 2024

No.	NAME	TITLE	INSTITUTION
1	Matthew Maiyo	Senior Program Manager	Trademark Africa
2	Agatha Nderitu	Project Coordinator	BEEEP
3	Reuben Ng’eno	Deputy Director, DBRT	SDIP
4	Bernard Amimo	Assistant Director, DBRT	SDIP
5	Joseph Maina	Assistant Director	SDIP
6	Winnie Nyambok	Assistant Director	SDIP
7	Fidelis Mwika	Officer	SDIP
8	Larry Nyanja	PRCFSO	SDIP
9	Esther Karuri	BRO 1	SDIP
10	Rukiya Dahir	PRCFSO	SDIP
11	Edwin Kiplimo	BRO 1	SDIP
12	Leonard Mambo	RCFSO	SDIP
13	Esther Kathambi	Document Support	SDIP
14	Ruth Cynthia M	Economist	SDIP
15	Daniel Wachira	Assistant Director	SD for Trade
16	Margaret Waithaka	Team Leader	SRCC-Lotus
17	Alice Karuri	Stakeholder Engagement Expert	SRCC-Lotus
18	Abdirizak Musa	International Trade Expert,	SRCC-Lotus
19	Caroline Saroni	Legal Expert	SRCC-Lotus
20	Wohoro Ndoho	Financial Services Expert	SRCC-Lotus
21	Martin Mumo	Business Analyst	SRCC-Lotus
22	James Kariuki	Researcher	SRCC-Lotus
23	George Mutugu	Resource & Supply Chain Lead	SRCC-Lotus
24	Pheonah Ndolo	Researcher	SRCC-Lotus
25	Dr. Hesbon Otinga	Director Planning	SD for Agriculture
26	Dennis Olila	Senior Economist,	National Treasury
27	Muigai Wainaina	Director, Planning	SD for Economic Planning
28	Emmanuel Komora,	Deputy Director, Directorate of Enterprise Development, SDI	SD for Industry
29	Bosco Oleng’iyaa	Principal Economist	SD for Labour and Skills Development
30	Peter Chabari	Principal Economist	SD for Blue Economy and Fisheries
31	Jarso Boru	Assistant Director	SD of Diaspora Affairs
32	Cynthia Amaase	Senior Regional Economic Integration Officer	SD for East African Community
33	Naomi Shalli	Program officer	Council of Governors
34	Haron Ng’eno	Technical Lead, Trade and Investment	Council of Governors
35	Adan Shibia	Senior Policy Analyst, Private Sector Development	KIPPRA
36	Robert Bwire	General Manager, Research, Policy Advocacy & Planning	KenInvest
37	Jedidah Ndung’u	Ag. Director, Financial Sector	KIFCA

38	Moses Kipkebut	Manager Investment Promotion	EPZA
39	Victor Mageto	Deputy Director	SEZA
40	Sarah Njoroge	Manager, Portfolio Management	KDC
41	Luke Ombara	Director, Policy and Market Development	CMA
42	Wambui Murimi	BEEEP Communications	Trademark Africa

6.6 Appendix 4: Counties Participating in Baseline Strategy Framing Workshop for County Governments, May 11-17, 2024

Counties represented physically in the workshop

No.	Name of county	No.	Name of county
1.	Mombasa County	2.	Trans Nzoia County
3.	Kwale County	4.	Uasin Gishu County
5.	Kilifi County	6.	Elgeyo Marakwet County
7.	Tana River County	8.	Nandi County
9.	Taita Taveta County	10.	Narok County
11.	Garissa County	12.	Kajiado County
13.	Wajir County	14.	Kericho County
15.	Isiolo County	16.	Bomet County
17.	Tharaka Nithi County	18.	Kakamega County
19.	Embu County	20.	Vihiga County
21.	Kitui County	22.	Bungoma County
23.	Machakos County	24.	Busia County
25.	Nyandarua County	26.	Migori County
27.	Nyeri County	28.	Nyamira County
29.	Muranga County	30.	Kisii County
31.	Kiambu County	32.	

Counties that participated through online survey

No	Name of County	No	Name of County
1.	Mandera County	2.	Samburu County
3.	Marsabit County	4.	Baringo County
5.	Meru County	6.	Laikipia County
7.	Makueni County	8.	Kisumu County
9.	Kirinyaga County	10.	Homa Bay County
11.	Turkana County	12.	Nyamira County
13.	West Pokot County	14.	Nairobi County

6.7 Appendix 5: Thematic SWOT Summary Pillars 1-4

Pillar 1: Investment Climate and Business Environment

Strengths	Weaknesses
• Good energy generation mix dominated by renewable energy & availability of extensive geothermal and solar power resources • Established and effective tax administration • Extensive legal & regulatory framework including the anti-bribery law to fight corruption • Ratification of the WTO Trade Facilitation Agreement (TFA), ongoing implementation measures in infrastructure development and logistical connectivity-internet, air, water, and road • Preferential market access in the EU, UK, EAC & COMESA – a larger market to attract investment • Presence of a well-defined institutional mechanism including to register IPR in ACA • Established and diversified private sector in all sectors of economy with strengths in services • Young, educated, tech-savvy population • Capabilities in Innovation • Strong TVET training sector • Devolved governments with local reach	• High energy cost due to inefficiencies in the energy supply value chain including power outages and taxes • Increased corruption due to weak justice system/weak implementation & enforcement of policies and laws. • Unpredictability of tax e.g. proliferation of taxes and frequent increases including multiplicity/duplicity of taxes, fees, and charges • Lack of a coordinated approach in the fight against illicit trade and counterfeits • Low ease of doing business due to trade facilitation inefficiencies for movement of goods such as SGR • Complexity of tracking and tracing commitments in different trade and investment arrangements • High costs of doing business • Inadequate access to affordable credit • Macroeconomic instability in past year-rising public debt, negative balance of trade, exchange rate volatility, inflation
Opportunities	**Threats**
• Mechanisms in place for regulatory review including for tax policies • Technology solutions to enhance service delivery and reduce system inefficiencies • High constitutionalism and rule of law country a good avenue in uplifting the fight on corruption • The ongoing IPR recordation process is a useful tool to enhance the respect for IPR's encourages innovation • Landlocked neighbours needing access to sea ports • Availability of an in-built funding in the WTO TFA to help implement trade facilitation measures and eliminate inefficiencies • Market access through free trade areas, preferential trade agreements, bilateral agreements, common markets, and other regional economic blocs– COMESA, EAC, EU – EPA, UK- EPA, US-AGOA, Guided Trade Initiatives of the AfCFTA.	• Losing market share to locations with cheap, reliable energy supply and with predictable and favourable tax regimes • Adverse international publicity • Infiltration by uncustomed imports and counterfeits. • Trade facilitation inefficiency could hamper regional integration • Consequences of debt overhang

Pillar 2: Promotion and Facilitation of Existing Investment Opportunities

<table>
<tr><td colspan="2">Pillar 2. SWOT Analysis</td></tr>
<tr><th>Strengths</th><th>Weaknesses</th></tr>
<tr><td>More focused corporate planning through the KenInvest Strategic Plan (2023-27)
Existing institutional framework that includes organisations mandated to do investment promotion
Enhanced multi-agency collaboration in the provision of information to investors i.e. One Start One Go Centre & Single Window System</td><td>Lack of continuity in promoting priority sectors due to changes in national focus
Increased bureaucracy & overlapping of mandates, among investment coordinating agencies and county governments
Limited visibility of Kenya’s investment opportunities due to lack of IPA funding
Inability to accurately measure FDI
Insufficient capacity for investor aftercare services
Inadequate benchmarking, investor targeting and bankable project research capability</td></tr>
<tr><th>Opportunities</th><th>Threats</th></tr>
<tr><td>Improved investment promotion best practice available for benchmarking through participation in international bodies’ programmes such as WAIPA
Increased inter-agency coordination and investment quality that would be initiated by the enactment of Kenya Investment Promotion & Facilitation Bill
Tailored investor services, attuned to investor demands, preferences, and global investor ideals such as ESG.
Investment Opportunities in sectors under MTP-IV, particularly universal health (drugs, hospitals, medical tourism, hospital supplies) affordable housing (building materials, mortgage products)
Opportunities in MTP-IV Priority Value chains. (Tea, Edible Oils, Rice, Textile, leather and leather products, blue economy, dairy, meat, forestry, minerals)</td><td>Uncertainties over KenInvest institutional structure and mandate to the ongoing parastatal reforms
Kenya grey listed in FATF
Increased protectionism in core markets with a focus on near-shoring and regional value chains and less on global value chains.</td></tr>
</table>

Pillar 3 -Incentivised Zones

SWOT for Incentivised Zones	
Strengths	**Weaknesses**
• Kenya's incentivized zones (EPZs and SEZs) have an enabling legal and regulatory environment to promote investment. • Availability of ancillary infrastructure to EPZs and SEZs such as road, rail, and utilities such as water and electricity. • Nascent and diverse value chains to support incentivized zones and their role in attracting FDI and increasing DI. • Diversified export base including essential oils, fresh produce, processed vegetables and nuts, meat products, relief supplies, sisal goods, apparel.	• Regulatory uncertainty in the institutions with a mandate to manage incentivized zones e.g No ECMA regulations for SEZs. • Infrastructural and land deficits, costly utilities and low service quality make it difficult for Kenya's incentivized zones to attract investors. • Some uncompetitive, fragmented value chains with inadequate forward and backward linkages with domestic economy
Opportunities	**Threats**
• Opportunities in legal and regulatory reform to aid in the utilisation of incentivized zones • Growth in international conference travel (MICE opportunity) • Growth in BPO/ITES industry • Growth in global demand for natural products and organic foods.	• Global and regional regulatory uncertainty such as AGOA and Inconsistencies in commitments to tariffs between EPAs and EAC may limit SEZs and EPZs. • Investment destinations with adequate infrastructure, utility services availability and lower cost could woo existing investors to incentivized zones. • Investment destinations with skills, technology and well-integrated value chains especially textile and apparel, may woo away investors.

Pillar 4: De-risking foreign direct investment

SWOT Analysis: De-risking foreign direct investment	
Strengths	**Weaknesses**
• Constitutional and institutional framework, including separation of powers to reduce political risk such as risk of expropriation • Political and policy convergence to address macro-economic challenges, such as debt and pursue policies such economic diversification • Better performance amongst regional peers in the WGI areas of score for governance effectiveness and on Regulatory quality as a launchpad for investor focus reform • Good regional performance in disaster risk preparedness and government focus on environmental and climate risk reduction and mitigation,	• Poor performance in all three areas of political stability, rule of law and control of corruption in the World Bank's WGI index. • Sub-optimal macro-economic conditions, such as exchange rate fluctuations, debt, and structural constraints limiting the country's risk profile. • Poor performance below international benchmarks for regulatory quality and governance effectiveness. • Lack of financial climate risk de-risking tools, and poor coordination of disaster risk reduction, planning, coordination may heighten profile of investment loss.
Opportunities	**Threats**
• Opportunity to develop financial and non-financial de-risking instruments, to address cyclic and long-term political risks. • Macro-economic reform, with consideration of the country's investment destination image and the development of a national de-risking framework to address investor concerns • Harmonised regulatory approach and regulatory predictability improving the country's image as an investment destination. • Opportunity to integrate climate, environment risk and risk reduction into a national de-risking framework that also upholds international best practices such as ESG.	• Unavailability of a political de-risking approach, leading investors to opt out of destinations that are considered safer. • Risk of debt default and enforced structural adjustment limiting the country's image as a secure investment destination. • Regulatory reform in competing markets leading to investor flight. • Relegation of environmental risk and lack of investment in risk reduction leading to investor concerns and lack of investment.

6.8 Appendix 6: MTP-IV Sector and Value Chain Investment Opportunities

	Sector and Value Chain	Product Groups	Opportunity
1	**Finance & Production Sector**		
1.1	Leather and Leather good	• Finished leather, • leather shoes, • belts • bags, pouches, wallets • work gloves, • fashion accessories, leather upholstery.	• Kinanie Leather Industrial Park • Leather clusters in Kisumu, Naivasha, Lamu and Dongo Kundu • Hides and Skins collection centres • Tanneries • Design and Training • Manufacturing Exporting
1.2	Textile and Apparel	• Cotton yarn, • Knit Cotton fabric, • Woven Cotton fabric, • Woven and knit fabric. • Assorted apparel • Apparel trims, accessories	• Promoting investment through bankable project documents for following opportunities: - • Supply of 70 MT Bt and hybrid certified cotton seed in 24 target counties • Supply of compost and fertilisers • Expansion of planted acreage of cotton from 26,000 to 200,000 acres • new modern ginneries (Homa Bay, Siaya, Meru, Lamu, Kwale, Kirinyaga, Bungoma) • New modern textile mills should be considered to absorb some of the new cotton and to provide both knit and woven fabrics (within an SEZ with low power tariff to ensure competitive mill operation) • Additional industrial buildings at Athi River • Apparel factories • Skills upgrading services Export agents

1.3	Dairy	• Breeding • Feeding • Milk production • Value addition – pasteurisation, creameries, -yoghurt, fermented milk, and cheese.	• Promoting investment through bankable project documents for following opportunities • Production and supply of high-quality bull sire genetics for local and regional markets • Dairy cold chain equipment supplies • Fabrication of dairy products machinery and equipment • Production of animal feeds Dairy milk value addition factories
1.4	• Edible oils: • Palm oil • canola (rape seed), • coconut oil, sunflower, soya bean	• Farming of edible oil seeds on small and large scale • Oil extraction and refining • Packaging oil, • Distribution and Sales	• Promoting investment through bankable project documents for following opportunities: - Engaging 20,000 farmers - Large scale farming of oil seeds - Small scale farming of oil seeds - Supply of fertilisers – (possibly a fertiliser plant, municipal composting) - Supply of seeds (300 MT) - Production of 2.5 million oil palm seeds - Supply of 4,904 MT sunflower seeds - Agricultural extension and training - Production of Hand-tools, semi mechanised farm implements, large scale mechanisation - Irrigation technology - Organic and integrated pest management - Packaging materials - Value addition (agro processing) - Production of animal feeds from waste materials (soya bean meal, copra, coconut waste, canola meal, sunflower seed cake)
1.5	Tea	• Value added tea and packaged products (promoted through bankable projects) • Infusions,	• Promoting investment through bankable project documents for following opportunities: - Tea estates

		• Flavoured and spiced tea, • Hand-rolled Orthodox teas, • Tea bags and small packs, • Purple tea, • Green tea, • Tea extracts. • Instant teas.	- Tea processing - Tea packaging - Tea merchandising and sales, exports. -
1.6	Rice	• Brown rice • Polished Rice ("White" Rice) • Bye-products • Rice Polish, • Rice Bran, • Rice Straw, • Rice husks,	• Promoting investment through bankable project documents for following opportunities • Rice farming to cover 100,000 acres, under irrigation and 75,000 acres rain-fed, • 32,800 kg of rice seeds supply to farmers, • Rice Farm mechanisation and production of hand tools and semi-mechanized implements, • Common user facility for milling, cleaning, grading and packaging the rice • Supply of pest control products, including to deter quails , Supply of over 10,000 MT of subsidised fertiliser.
1.7	Blue Economy	• Marine and Freshwater fish • Crustaceans (prawns, crayfish, lobster) • Pond/aquaculture fish	• Promoting investment through bankable project documents for following opportunities: • Fishing and trawling, • Fish farming (aquaculture), • Fish processing – filleting, freezing, chilling, canning, • Supply of fish nets and tackle • Fish feeds for aquaculture,
1.8	Construction Materials	• Metal grilles for doors/windows, • Door handles, locks, • Nails, binding wire,	• Promoting investment through bankable project documents for following opportunities: • Design and Development, • Production,

		• Roofing tiles, • Roofing sheets • Cement • Ceramic floor tiles • Ceramic/clay tiles, • PVC floor tiles • Ceiling boards, • Light fixtures • Electric Switches and sockets, • Paints and varnishes,	• Housing construction to stimulate demand, • Retail Sales
1.9	Minerals including forestry	• Industrial Minerals • Coltan • Pozzolana • Iron Ore • Coal • Soda Ash • Salt • Titanium Dioxide • Diatomite • Niobium • Gemstones and Base metals • Copper (rubies, garnets, Tsavorite) • Gold • Gemstones • Forestry products • Indigenous forest- Meru Oak, Elgon Teak, Pod, Prunus Africana, Mvule, Cypress. • Exotic forest plantation -cypress, pine, cedar, grevilia, eucalyptus, cypress.	• Promoting investment through bankable project documents for following opportunities: • Mining • Beneficiation • Refining • Export

2	Infrastructure Sector	• Green Energy Industrial Park at Ol Karia Industrial Hub in Naivasha for industrial and commercial use. Its specific value proposition is clean energy from geothermal wells at the site.	• Promoting investment through bankable project documents for following opportunities: • Manufacturing of products requiring steady supply affordable power and steam
3	**Social Sector**		
	• Health Products and Technologies	• Health Products and Technologies – seeking to avail affordable and quality HTPs in medical services. MOH will identify them, provide incentives for production and seek investors.	• Promoting investment through bankable project documents for following opportunities: • Manufacturing of products required under HPT programme for KEMSA.
4	Other Opportunities	• Kenya as ideal MICE destination in the tourism sector. • Through private sector investment in integrated convention, entertainment and exhibition centres, Kenya can attract significant number of business and convention visitor, to utilise excess bed capacity and revive the hospitality sector. • Manufacture and assembly of Computers, mobile phones, IT equipment, other consumer electronics, household appliances and "white goods." • BPO and ITES investment • In 2024, Kenya was identified by Buck International Consultants as a high potential,	• Promoting investment through bankable project documents for opportunities • Integrated convention, exhibition and entertainment centres in locations with good hotel bed capacity and good logistic connections (air, train, road) e.g. Diani in Kwale, Mombasa North Coats/Kilifi/Vipingo circuit and Naivasha. • Rising demand in Kenya and region, for electronics arising from growing population, available electricity supply and increased use of electronic and electrical goods. • Major SSC countries include Lithuania, India, China and Philippines. Client sectors include pharmaceuticals, manufacturing, legal and banking, financial services and insurance.

		emerging location for global business services. Shared services centres (SSC) have a global demand for 75,000 units with projected growth of 19.8% CAGR between 2023 and 2030. (Grand View Research, 2024)	• There are already several local call centres and shared service centres operating in Kenya. • Kenya's young, well educated, English speaking labour force is well suited to careers in business process outsourcing and IT enabled services, including shared service centres. CC1 Global established a 5,000-seat call centre at Tatu City in 2022, with plans to grow it to 10,000. • Many local enterprises have customer service call centres.

Submitted by
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To. TradeMark Africa and
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(Ministry of Investment, Trade and Industry, Government of Kenya).