Africa Business Initiative
U.S. Chamber of Commerce

Investment Climate Update: Kenya

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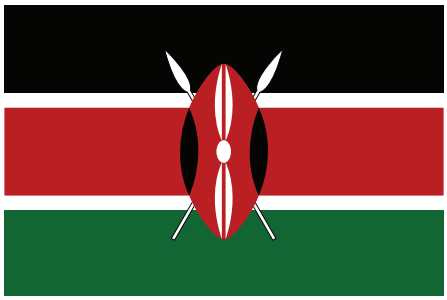
FAST FACTS:

- Kenya will receive an average of $472 million annually from the World Bank's International Development Association between 2011 and 2016.
- Kenya's health care industry is expected to grow 6% in 2011. Private equity funds plan to invest about $250 million in health delivery, drug distribution, and Kenyan manufacturers of health consumables.
- Three exporters of raw cashew nuts are setting up a $3.5 million processing unit in Mombasa following a ban on the export of in-shell nuts.

Constitutional Referendum: An Investment Outlook



On August 4, 2010, the people of Kenya approved, by a 2-to-1 margin, the first new constitution since Kenya gained independence in 1964. The new constitution set out to limit the power of the president while expanding the role of the legislature and the counties. It also made provisions to secure individual rights, including freedom of expression, and set up sweeping changes to the judiciary.

In 2010, Kenya's investment community came out in strong support of the constitution, calling for the government to ensure the private sector's engagement throughout the implementation process. The business community's endorsement stood on its faith that the reform framework will create a more enabling business environment.

The international community is also weighing in on how to improve Kenya's investment environment. In January 2011, Kenya embarked on a new, three-year International Monetary Fund (IMF) backed reform program, which will focus on fiscal reform, infrastructure investment, and implementation of the constitution. The program will include a $500 million extended credit facility. Working alongside the Kenya Private Sector Alliance (KEPSA), companies such as General Motors have lobbied President Kibaki and Prime Minister Odinga to reduce business uncertainty in the coming years through close adherence to the constitution's deadlines. ★

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New Plan to Foster EAC Integration

Kenya has developed a plan to push through the reforms needed for East African Community (EAC) integration. The plan sets out to market the country as the EAC's most attractive investment destination for foreign investors as well as enhance awareness among its citizens of the opportunities that come with integration. The first phase of the implementation began with officials from Kenya's Ministry of EAC traveling around the country to familiarize local people with the integration process.

Other elements of the plan are as follows:

- Setting up two Regional Integration Centers (RICs) at the country's busiest border posts—Namanga and Busia—to speed movement across the borders and eliminate unnecessary nontariff barriers.
- Drafting a Miscellaneous Amendment Rider on 27 pieces of legislation to harmonize Kenya's existing policy frameworks with those of the other EAC nations.
- Auditing EAC laws and protocols to ascertain their impact on the new constitution.
- Improving the Ministry's internal effectiveness and service delivery accountability to both internal and external stakeholders.

Courtesy of: The East African

Flagship Projects: Kenya's Vision 2030

Kenya's Vision 2030 was launched in 2007 to guide the nation's economic growth path. Supported by three pillars—economic, social, and political—the plan aims for Kenya to maintain an economic growth rate of 10% annually between 2012 and 2030. Vision 2030's economic pillar highlights sectors critical to Kenya's success, including agriculture, manufacturing, infrastructure, financial services, and business process outsourcing. Within each sector it identifies flagship opportunities to promote foreign and domestic investment, employment opportunities, and value-added products.

BUSINESS AND TRADE HUBS

Central to Vision 2030 is a strategy of creating business and trade hubs to promote Kenya's development in manufacturing, financial services, business process outsourcing, as well as other sectors. Vision 2030 identifies key clusters where it intends to attract foreign investment and has begun the process of mobilizing resources.

NAIROBI INTERNATIONAL FINANCIAL CENTER

Kenya plans to position itself regionally as a financial services hub, in part, through the establishment of the Nairobi International Financial Center (NIFC). NIFC is slated to offer a range of financial services to domestic and international investors, including incentives to attract banks, insurance companies, investment groups, pension funds, and others to set up offices at NIFC. Eventually, the Nairobi Stock Exchange and the Capital Markets Authority Kenya will relocate there.

ICT PARK

Under Vision 2030, Kenya will establish a Special Economic Zone just south of Nairobi that will be East Africa's first "technopolis" (a city constructed specifically for technology firms). The Konza Technology City will house information and communications technology (ICT) companies and business outsourcing firms, offering significant potential for creating employment and boosting economic development.

ENERGY INFRASTRUCTURE

As the projects envisaged in Vision 2030 gather momentum, demand for power is expected to rise from 1,200MW to more than 15,000MW by 2030. If Vision 2030's targets are to be met, the government will need investments of $10 billion

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Counterfeit Goods in Kenya

> *"Those convicted of counterfeiting can be sent to jail for 5 to 15 years and heavily fined."*
>
> **–Anti-Counterfeit Agency**

In 2008, the Kenyan government passed the Anti-Counterfeit Act, which serves as a means of enforcing punishment for the infringement of intellectual property rights laws. The act fulfills part III of the World Trade Organization's TRIPS (trade-related aspects of intellectual property rights) Agreement. It also protects copyrights, trademarks, designs, patents, and plant breeders' rights and defines counterfeiting as follows:

The manufacture, production, packaging, re-packing, labeling or making, whether in Kenya or elsewhere, of any goods whereby those protected goods are imitated in such manner and to such degree that the counterfeit goods are identical or substantially similar copies of the protected goods.

The act established the Anti-Counterfeit Agency (ACA) to lead and coordinate the government's efforts to combat substandard and counterfeit goods. ACA is tasked with the following:

- Educating the public on matters related to counterfeiting.
- Combating trade in counterfeit goods.
- Coordinating with national, regional, and international organizations involved in dealing with counterfeit goods.
- Devising and promoting training programs in combating counterfeiting.
- Investigating and arresting individuals found guilty of trading in counterfeit goods.

When inspectors find goods thought to be counterfeit, they are seized and moved to a depot. The state then must launch a criminal investigation. If it is determined that the products are counterfeit, ACA has the power either to destroy them or send them back to their countries of origin. Those convicted of counterfeiting can be sent to jail for 5 to 15 years and heavily fined. Customs officials also have the power and obligation to seize all counterfeit materials. ACA has made some successful seizures, but its effectiveness is constrained by a lack of capacity. In March 2011, ACA began soliciting input from the private sector on how it can most effectively combat counterfeit goods.

The U.S. government has acknowledged the importance of a strong coordinated effort among the public and private sectors to combat counterfeit and substandard goods around the world. To this end, a number of U.S. government agencies are supporting a four-day workshop promoting a coordinated government approach to enforcement. The workshop is to be held from May 17 to 20, 2011, in Nairobi.

Further, on ABI's February mission to Kenya, the delegation met with Prime Minister Odinga. In this meeting, Scott Eisner, executive director of ABI, underscored the importance of the ACA becoming a strong enforcement body and suggested that ACA be elevated within the government and moved into the Office of the Prime Minister. ★

http://ipkenya.ip4all.com/?p=125
http://www.capitalfm.co.ke/business/Kenyabusiness/Kenya-Anti-Counterfeit-Agency-sets-off-3467.html
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Flagship Projects: Kenya's Vision 2030

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in electricity generation resources and at least $2 billion in transmission systems.

In addition to opportunities in large-scale wind, hydroelectric, and geothermal facilities, in September 2010, the Kenyan government identified its $2.5 billion renewable energy market as open to private sector investment. The IFC also has committed to invest almost $100 million in renewable energy projects in the country in the next five years.

AGRICULTURE

Kenya's Agricultural Development Strategy recognizes the country's agriculture sector as essential to reaching middle-income status. Private sector participation in agribusiness and agricultural value-addition is highly encouraged. One flagship opportunity is the provision of productivity-boosting farming inputs.

BOND ISSUANCE TO FUND INFRASTRUCTURE DEFICIT

On the heels of its record 2010 bond issuance, Kenya's Treasury announced that it may quadruple its total borrowing in infrastructure bonds by June 2011. The Treasurys plans to borrow at least 120 billion shillings ($14 million) by the end of June. Additional funds will support the construction of roads and energy projects.

The Kenyan government's focus on structural improvements to the Port of Mombasa over the last 5 years, Kenya is beginning to see dividends. Port traffic grew 16.1% between 2008 and 2009. The average number of days containers wait for turnaround dropped from 8.6 days in 2008 to 5.6 days in 2009. Average container dwell time decreased 51% between 2008 and 2009 and another 50% between 2009 and 2010. Government-led improvements included the automation of cargo handling, a 24-hour, 7-day working schedule, and container freight stations outside of port. ★

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» To learn more about ABI, visit **www.uschamber.com/international/africa**. Contact ABI staff at **abi@uschamber.com**.

ABOUT ABI

The Africa Business Initiative (ABI) is an advocacy-driven initiative focused on market access and trade facilitation, financing, and engagement with the governments of the U.S. and African nations.

ABI engages the U.S. business community on legislative policies that foster foreign direct investment in Africa. It provides tailored guidance to American companies about doing business in African nations and introduces U.S. companies to the continent's vast economic opportunities.

Under ABI's leadership, working groups made up of U.S. corporate representatives engage key members of Congress, the Administration, and foreign governments in strategic dialogues to promote private sector engagement. The established working groups include the Ghana Working Group and the Banking and Finance Working Group. Later this year, two additional working groups will kick off—one focused on doing business in Kenya and one focused on business and investment in post-conflict nations.

–Investment Climate Update Staff

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