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REPUBLIC OF KENYA

MINISTRY OF INDUSTRY, TRADE AND COOPERATIVES

STATE DEPARTMENT OF TRADE

Paper Laid
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STATUS OF IMPLEMENTATION OF THE DEPARTMENT'S MANDATE

APRIL 2017

1.0 MANDATE OF THE STATE DEPARTMENT OF TRADE

According to the Executive Order No. 1/2016 on “Organization of the Government of the Republic of Kenya”, released in May 2016, the following are the functions of the State Department of Trade:

- Trade Policy
- Buy Kenya Policy
- Promotion of Retail and wholesale Markets
- Export Promotion
- Fair Trade Practices
- Coordination of Regional Trade matters – COMESA, AGOA, IOR-ARC & IGAD
- Trade Negotiations and Advisory Services
- Enforcement of International Trade Laws, Regulations and Agreements

VISION

To be a global leader in promoting trade, investment and private sector development

MISSION

To facilitate trade and investment by championing an enabling environment for domestic and export trade to thrive

STRATEGIC OBJECTIVES:

1. Promote Enterprise and entrepreneurship development
2. Improve business environment and promote attractive investment climate
3. Promote growth of wholesale and retail trade
4. Broaden and deepen export base and markets
5. Enhance Fair trade practices and consumer protection

2.0 ACHIEVEMENTS OF THE STATE DEPARTMENT OF TRADE

A. NATIONAL TRADE POLICY (NTP)

The Cabinet approved the National Trade Policy developed by the Ministry in consultation with the Private Sector and County Governments. Despite trade policy reforms in the past, there lacked a coherent framework for coordination of the formulation and implementation of trade policies. This omission led to a situation where trade policies were scattered in different government documents and regulations with absolute lack of a harmonization and coordination mechanism. The effect of this omission manifested itself in conflicting policies, weak policy implementation and inability of the policies to correct the deteriorating balance of trade and unexploited trade potential in the domestic economy, regional and global market.

The Trade Policy which has been approved by Cabinet aims at spurring economic growth by enhancing export growth through value addition in export oriented manufactures and in the services sector as well as pursuing diversification to fully exploit the export opportunities in the emerging markets. In addition, the policy will address the country's global competitiveness which is a major challenge, the un-conducive business regulatory environment and inadequate infrastructure development.

The State Department is in the process of developing the Trade Development Bill to operationalize the policy.

B. ECONOMIC PARTNERSHIP AGREEMENT (EPAS)

EPA negotiations begun in 2002 at All ACP level and Kenya negotiated as a bloc with the other EAC Partner States pursuant to a Summit decision in 2002 and 2007. The negotiations were undertaken in two phases. Phase I was done at the ACP level from 2002 and Phase II at the EAC level from 2004. The decision to form EAC Configuration was made pursuant to the above Summit directive, thus making the ACP negotiating configurations to 7, namely ECOWAS, ESA, SADC-EPA, Pacific Forum, Cariforum, and CEMAC.

The Economic Partnership Agreement (EAC –EU EPA) negotiations were completed in October, 2014 with the initialling of the agreement by EU and all Partner States to signify completion of the negotiations. EAC negotiated this agreement jointly and have always agreed and initialled or signed off agreement including the final initial in 2014 and all the decisions of council and Sectoral Councils.

The EU Council considered the EPA and all EU Countries have signed the agreement.

Status

- i. Kenya has signed, ratified and notified the EU on the ratification of EPA, while Rwanda has similarly signed the EPA. Kenya had to sign the agreement since a notice had already been given to start the process of removing Kenya from the duty free and quota free market access to the EU. The EU Parliament had scheduled debate on removing Kenya from EU MAR (EU MAR 1528/2007).
- ii. Republics of Burundi, Tanzania and Uganda are yet to sign the EPA, giving different reasons for not signing. Tanzania has raised issues which she wants to be addressed before considering signing the agreement, while Burundi is blaming the EU sanctions slapped on her due to the political challenges being experienced in that country.
- iii. The EAC Summit is scheduled to meet in April to deliberate on the signing and implementation of EPA. In the meantime, since Kenya signed and ratified EPA, Kenya's export products continue to access the EU market on duty free and quota free basis. This free access will however not continue for ever since it might be challenged at the WTO for being discriminatory against WTO members that are not Party to this agreement.

It is necessary for Kenya to have an option in the event that some EAC Partner States do not sign the EPA. The EAC Summit is expected to meet in April 2017 to make a pronouncement and give guidance on the way forward.

C. ELIMINATION OF NON-TARIFF BARRIERS (NTBs)

The Ministry is mandated to resolve and eliminate NTBs that have been facing Kenyan exporters. The elimination of NTBs and TBTs will facilitate free movement of Kenyan goods to other countries resulting to increase in exports, improvement in Balance of Trade and employment creation.

The following is a list of some of the NTBs that the Ministry is in the process of resolving NTBs within EAC and COMESA.

a) Ugandan Restriction of Beef & Beef Products from Kenya: Reported in 1996.

The restriction of beef and beef products from Kenya to Uganda has been outstanding for a long time. In 2012, the Ministers responsible for International Trade urged Republic of Kenya to review the legal notice No. 69 to address the issues of the BSE disease by December 30th, 2012. Subsequently a bilateral meeting was held between Kenya and Uganda between 29th – 30th October, 2015 and among others deliberated on the NTB where Kenya agreed to put in place guidelines to address the issues of BSE.

Kenya has since provided documentary evidence on revision of the revision legal notice No. 69. The process for having the ban lifted started and was expected to be completed by the end of September 2016.

D. ESTABLISHMENT OF A COMMODITIES EXCHANGE

The absence of a transparent and efficient structured trading system for agricultural commodities necessitated the need for the establishment of Commodities Exchanges in the region. The establishment of a Commodities Exchanges will motivate farmers to produce agricultural produce in the quantity and quality required for domestic and international market as there will be ready market for commodity produced and at the right price. The increase in production and trade of agricultural produce will have a positive impact on the livelihoods of millions of smallholder producers and other actors in both agricultural and non-agricultural commodity value chains.

The Commodities Exchanges will among other things:

- i. Streamline the market for commodities and make it more transparent, efficient and provide a structured trading system that will lead to improved export competitiveness for Kenyan commodities;
- ii. Stimulate domestic value addition and processing;
- iii. Result to a significant economic impact by improving the regional export competitiveness for commodities and stimulating domestic value addition, processing and other post-harvest activities;
- iv. Enable all actors to participate in a “level playing field” and facilitate producers achieve their goal of financial inclusion and support to less advantaged actors in the economy, particularly small-scale farmers and traders largely operating in the informal economy;
- v. Develop linkages with all sectors of the economy;
- vi. Generate better prices, enhance market transparency and enable small holder producers to earn better farm gate prices;

- vii. Facilitate traders by streamlining their procurement operations and better manage their transactions costs which have been unpredictable;
- viii. Reduce the impact of price and quality fluctuations on their processing margins.
- ix. Enable small holder farmers/producers to access credit as financial institutions will find agricultural lending much safer and predictable.

The marketing system deployed by the exchange will enable all actors to participate in a “level playing field” and facilitate producers achieve their goal of financial inclusion and support the less advantaged actors in the economy, particularly small-scale farmers and traders largely operating in the informal economy.

The State Department of Trade is coordinating the process of establishing the exchange and as per the implementation plan, it is envisaged that the exchange will be commissioned in June 2017 and by December 2017, the exchange will start mock trading. The exchange will be fully operational within the next eighteen (18) months.

E. DEVELOPMENT OF BUY KENYA BUILD KENYA STRATEGY (BKBK)

The Ministry has developed a Buy Kenya Build Kenya Strategy whose objective is to encourage consumption of locally produced goods and services. Past efforts to improve on both elements of production locally and consumption has met appreciable success as manufacturers have started industries in the country to address the process of production for the local market. Despite this good progress, recent trends show that local consumption of locally produced goods and services has not grown in proportion to the population growth. Consequently the gap created by the internal demand for goods and services has been bridged by imports.

The Buy Kenya - Build Kenya Strategy, therefore, provides not only a road map but also a suitable framework to stimulate Kenya’s economy by strongly encouraging public and private sector expenditure to favour goods and services produced locally.

The strategy aims at fostering the spirit of patriotism and pride among Kenyans, stimulate production of locally produced and services and encourage consumption of those goods by the Public Sector (National and County Governments), Private Sector and the citizens.

F. COMESA-EAC-SADC Tripartite FTA (TFTA)

To diversify the market for Kenyan goods and services, the Ministry is negotiating the establishment of the COMESA-EAC-SADC Tripartite FTA (TFTA). The TFTA was adopted/signed by the Tripartite Summit in June 2015. The Tripartite Member States are in the process of ratifying the TFTA before it’s implemented. The TFTA will:

- i. Expand market access for Kenya’s exports;
- ii. Enhance export earnings
- iii. Enhance investment area and job opportunities and earnings
- iv. Enhance industries competitiveness and improved productions and welfare gains.

G. FAIR TRADE AND CONSUMER PROTECTION

The State Department of Trade is also mandated to ensure that traders practice fair trade; protect consumers against unscrupulous businessmen; eliminate anti-counterfeit goods; and protect the

manufacturers from dumping of goods from other countries. Towards this, the State Department has achieved the following;

- i. Developed the Legal Metrology Bill to expand the scope of regulated measurements (The Bill is in Parliament for Second Reading).
- ii. Developed the Trade Remedies Bill to prevent Dumping of goods (The Bill is in Parliament for Second Reading).
- iii. Kshs. 2 billion worth of suspected counterfeit goods have been seized.
- iv. Kshs. 1.3 billion worth of counterfeit goods destroyed.
- v. Approved 50 Patterns of weighing and measuring instruments.
- vi. Verified 344,349 weighing and measuring instruments at strategic national installations.
- vii. Approved 29 Patterns of weighing and measuring instruments.

H. BILATERAL TRADE AGREEMENTS

Non-Tariff Barriers (NTBs) - The State Department has been engaging various countries at the bilateral level to ensure that NTBs affecting market access for Kenyan products are resolved. Bilateral discussions have been held with Uganda, Tanzania and Zambia to address restriction on meat and meat products. Some of the issues deliberated upon include:

- Trade in sugar between Kenya and Uganda. Kenya has undertaken a verification exercise on Uganda sugar sector.
- Access of beef and animal products to the Ugandan market. Kenya has already submitted to Uganda the improved guidelines and regulations on enforcement of Animal Diseases Act Cap 364.
- However, Uganda has not yet gazetted the lifting of the ban on beef and beef products as agreed in the 2015 JTC meeting.

With regard to Tanzania, a Joint Commission for Cooperation meeting took place in Dar-es-Salam in November/December 2016. The JCC recommended that a Joint Trade Committee meeting to resolve outstanding NTBs takes place by the end of March, 2017. The State Department is still waiting for the Tanzanian counterparts so that JTC meeting can be convened at the earliest convenience.

As a strategy to eliminate NTBs, the State Department is considering establishing a Market Access Committee whose role is to look at NTBs not only in the EAC, but also beyond the region and engage bilaterally with a view to resolving the issues.

I. BILATERAL ENGAGEMENTS

The State Department coordinated various bilateral engagements which involved the government, private sector and other stakeholders. These activities are aimed at deepening market access, investments, and business ties as well as forging new partnerships.

a) Business and Investment Forums

France – Kenya and Germany – Kenya Investment and Trade Mission, April, 2016

The State Department in collaboration with Kenya Private Sector Alliance, Kenya National Chamber of Commerce and Industry and **MEDEF** (Mouvement Des Entreprises De France) organized a trade and investment Forum on the sidelines of the Presidential Visit to France which took place on 5th April, 2016. The Business Forum in Berlin, Germany took place on 8th April, 2016 and was organized in collaboration with Kenya Private Sector Alliance, Kenya National Chamber of Commerce and Industry and the Association of Germany Chambers of Commerce and Industry (DHIK);

- Promote business partnerships, closer ties and networking of business community,
- Provide an opportunity to exchange views, ideas and opinions on how to work together,
- Show case investment opportunities in Kenya.

Presidential Visit to Belgium, 15th June, 2016

The Belgium – Kenya Business-to-Business meeting and forum was held on 15th June, 2016. The event was organized in collaboration with the Kenya National Chamber of Commerce and Industry and the Chamber of Commerce in Belgium and Luxembourg for African, Caribbean and Pacific countries (**CBL-ACP**) in collaboration with the International Trade Directorate.

Presidential visit to India –January 2017

H.E the President called for increased trade and investment between the two countries. During the same visit and in a bid to promote trade between the two countries, an MOU on promotion of trade in pulses was discussed and follow-up is being made.

Other Presidential visits:

- Exchange of State visits with Israel
- State visit by the Indian Prime Minister
- State visit by the President of Turkey
- State visit by the Prime Minister of Japan – August, 2016
- State visit by the President of South Korea
- State Visit by the President of Tanzania – October, 2017
- State visit by the Prime Minister of Ethiopia
- State visit by the President of Egypt – January, 2017

- **State visit by the President of Slovakia, February, 2017**
- **State visit by the Emir of Qatar – March, 2017**

The State Department in collaboration with Kenya National Chamber of Trade and Industry, Kenya Private Sector Alliance coordinated the participation of the private sector during the visits. As the leaders engaged in matters of mutual bilateral interest on wide-ranging socio-economic and political spheres, the private sector engaged their counterparts and discuss opportunities for business. The fora bring together Kenyan business community with the counterparts accompanies leaders during the above visits. The events provided a framework for mutually beneficial engagements across all economic sectors which have opened up avenues for doing business.

Joint Economic Commission with Turkey, September 2016

The Kenya – Turkey Joint Economic Commission meeting took place in Nairobi in September, 2016. During the meeting, the two countries agreed to complete negotiations on the following MOUs:

- An MOU in the field of Housing and Urban development;
- An agreement on Defense industry cooperation;
- Cooperation agreement between Kenya News Agency and Andola Agency of Turkey.

b) Joint Trade Commissions

The State Department has been involved in Trade discussions through Joint Trade Committees, Joint Commissions for cooperation, country briefings and ministerial exchange visits, all aimed at smoothening the flow of trade. Some of the JTC and bilateral trade meetings which have taken place in ten recent past include:

- a) Kenya - Egypt Joint Trade Committee – December, 2016
- b) Kenya – Zambia Bilateral Trade meeting – February 2017
- c) Kenya – Tanzania Joint Commission for Cooperation – November, 2016
- d) Kenya - South Korea Joint Economic Commission – March, 2017

c) Business Fora

The State Department in collaboration with Government Ministries, Departments and Agencies, and the private sector organized several business fora bringing together the Kenyan private sector with their international counterparts. During the Forums and B2B meetings, the private sector discussed wide ranging topics such as export market opportunities and market access requirements. Kenyan exporters took advantage of these engagements to find importers of Kenya products. Some of the business fora include:

- i. Kenya-South Korea business forum- June, 2016
- ii. Kenya – Japan business forum – August 2016
- iii. Kenya – India business forum – June, 2017
- iv. India – Kenya business forum – January, 2017

- v. Kenya-Turkey business forum - June 2016
- vi. Israel – Kenya business forum – February, 2016
- vii. Kenya-Israel business forum –July 2016
- viii. Kenya-Ethiopia Business Forum - May, 2016
- ix. Kenya-South Africa business forum - October 2016
- x. Kenya-Tanzania business forum - October 2016
- xi. Kenya – France business forum – April, 2016
- xii. Kenya – Germany Business Forum - April, 2016
- xiii. Kenya- Austria Business Forum - October, 2016