

STATE LEGISLATIVE ASSEMBLY, LAHORE

SESSION No. _____

SESSION _____

Sessional Paper No. 2 of 2005

on

Development of Micro and Small Enterprises

for

Wealth and Employment Creation

for

Poverty Reduction

FOREWORD

Micro and Small Enterprises (MSEs) cut across all sectors of the country's economy and provide one of the most prolific sources of large industries, not to mention the breeding ground for medium and enterprises are found in every corner of Kenya and they have great potential for creating a variety of jobs, while generating widespread economic benefits.

A well-functioning policy on MSEs is critical for attracting and spreading investment in both urban and rural areas. In order to enhance the capacity of the MSEs to create durable and decent jobs, the Government, in consultation with key in MSE, stakeholders, has reviewed policies and strategies outlined in previous Government Policy Documents, including Sessional Paper No.2 of 1992 on *Small Enterprises and Jua Kali Development in Kenya*; and has developed a new policy framework that this Sessional Paper embodies. The framework provides a more balanced policy focus in line with national goals of fostering economic growth, employment creation, income generation, poverty reduction and industrialization as stipulated in the *Poverty Reduction Strategy Paper and the Economic Recovery Strategy for Wealth and Employment Creation, 2003 - 2007*.

The Government's pledge to create 500,000 jobs annually is set to be achieved within a framework of enhanced partnership between public and private sectors, and development partners. The private sector is expected to seize the available opportunities to invest in productive enterprises, develop competitive industrial sector and create jobs. The bulk of the jobs will have to come from the Micro and Small Enterprises sector. It is for this reason that this policy framework seeks to promote Micro and Small Enterprises to perform at the optimum for increased economic benefit.

Effective policy co-ordination and implementation has remained a major challenge in this country. The weaknesses will be resolved through the introduction of institutional changes that include strengthening the capacity of the Department of Micro and Small Enterprise Development to play an oversight function; and establishment of a broad-based and independent National Council for Small Enterprises (NCSE) to advise on appropriate policies for MSE sector and to mobilize resources for the same. A Micro and

TABLE OF CONTENTS

FOREWORD.....iii-iv

TABLE OF CONTENTS.....v-vii

ACRONYMSix-xi

CHAPTER 1: INTRODUCTION.....1

CHAPTER 2: PROFILE OF MICRO AND SMALL ENTERPRISES IN KENYA.....5

CHAPTER 3: CHALLENGES TO THE DEVELOPMENT OF MICRO AND SMALL ENTERPRISE SECTOR.....7

Unfavourable Policy Environment.....7

Inhibitive Legal and Regulatory Environment.....8

Limited Access to Markets.....9

Limited Access to Financial Services.....10

Inadequate Access to Skills and Technology.....12

Limited Access to Infrastructure.....13

Inadequate Business Skills.....14

Limited Linkages with Large Enterprises.....15

Gender Inequality.....15

Limited Access to Information.....16

Unfavourable Taxation Regime.....17

Entry Barriers (Formal and Informal).....17

Health and Safety in Workplaces.....18

HIV/AIDS.....18

(v)

Small Enterprises (MSE) Act will be legislated to provide the appropriate legal framework to support the growth and development of the sector. The policy also solicits active support and participation of key stakeholders. Much more critical is the partnership building and working, in an enabling legal and regulatory framework which mark the hallmark of the new policy. Critical to the success of the sector is its integration into the national economic grid.

This Paper is structured as follows: Chapter 1 which is the introduction, is essentially an Executive Summary to the Paper which gives the thrust of the Policy framework. The goal of the policy framework is to develop a vibrant MSE sector that is capable of sustainably contributing to economic growth and employment creation in this country. In order to achieve this, it is imperative that the private sector takes the lead while the Government plays a facilitative role. Chapter 2 summarizes the profile of the MSE sector. It emphasizes the significance of the sector in the economy, and the need to fully mainstream it into the national economic grid. Chapter 3 presents the major challenges and key constraints hampering the growth and development of the sector. Key among these challenges is weak implementation and co-ordination of the sector's policies and activities. Other constraints include unfavourable legal and regulatory framework, poor access to markets and market information and limited access to financial services. Chapter 4 outlines policy interventions aimed at mitigating the above challenges and constraints. Chapter 5 gives the framework for policy implementation including the roles of various stakeholders. Critical is the enhancement of policy co-ordination through an institutional arrangement that involves the establishment of the National Council of Small Enterprises (NCSE) and the legislation of a Micro and Small Enterprises (MSE) Act.



Hon. Newton W. Kulundu, M.P,
MINISTER FOR LABOUR AND HUMAN RESOURCE
DEVELOPMENT

(iv)

CHAPTER 4: POLICY FOR DEVELOPMENT OF MICRO AND SMALL ENTERPRISES19

Guiding Principles.....20

Legal and Regulatory Environment.....21

Licensing and Regulations.....22

Business Registration.....22

Local Government Reforms.....22

Land Laws.....23

Labour Laws.....23

Arbitration and Dispute Resolution.....23

Micro and Small Enterprises (MSE) Act.....24

Markets and Marketing.....24

Business Linkages.....26

Financial Services.....27

Skills and Technology.....29

Infrastructure Development.....31

Business Management and Entrepreneurship Skills.....32

Gender Equity.....33

Information Management and Dissemination.....34

Tax Regime.....35

Formal and Informal Entry Barriers.....35

Health and Safety in Workplaces.....35

HIV/AIDS.....35

CHAPTER 5: POLICY IMPLEMENTATION.....37

Co-ordination Mechanism.....37

legal framework.....38

Role of Stakeholders.....39

Government.....39

MSE Sector Associations.....40

Private Sector.....40

Civil Society.....40

Development Partners.....40

Monitoring and Evaluation.....41

Implementation Matrix.....42

Annex : Indicative Policy Implementation Matrix.....43

ACRONYMS

AG	Attorney General
IPAR	Institute of Policy Analysis and Research
AMFI	Association of Micro Finance Institutions
BDS	Business Development Services
CBK	Central Bank of Kenya
COTU	Central Organization of Trade Unions
CBS	Central Bureau of Statistics
DPP	Directorate of Public Procurement
DFIs	Development Financial Institutions
DIT	Directorate of Industrial Training
DMSED	Department of Micro and Small Enterprise Development
EPC	Export Promotion Council
EPZA	Export Processing Zones Authority
FKE	Federation of Kenya Employers
GDP	Gross Domestic Product
ICDC	Industrial & Commercial Development Cooperation
ICT	Information Communication Technology
IDB	Industrial Development Bank
IDS	Institute of Development Studies
MSETDF	Micro and Small Enterprises Technology Development Fund
KNCCI	Kenya National Chamber of Commerce and Industry
KAM	Kenya Association of Manufacturers
KEBS	Kenya Bureau of Standards
KEPSA	Kenya Private Sector Alliance
KIBT	Kenya Institute of Business Training
KIE	Kenya Industrial Estates Limited

Acronyms—(Contd.)

KIM Kenya Institute of Management
 KIRDI Kenya Industrial Research and Development Institute
 KIPRI Kenya Industrial Property Institute
 KIPPRA Kenya Institute for Public Policy Research and Analysis
 KRA Kenya Revenue Authority
 KTDC Kenya Tourism Development Cooperation
 LAS Local Authorities
 LAN Local Area Network
 M & E Monitoring and Evaluation
 MENRW Ministry of Environment, Natural Resources and Wildlife
 MFIs Micro Finance Institutions
 MLHRD Ministry of Labour and Human Resource Development
 MOA Ministry of Agriculture
 MOFA Ministry of Foreign Affairs
 MOH Ministry of Health
 MOL&FD Ministry of Livestock and Fisheries Development
 MOPND Ministry of Planning and National Development
 MOCCD Ministry of Cooperative Development
 MOES&T Ministry of Education Science and Technology
 MOF Ministry of Finance
 MOGSC&SS Ministry of Gender, Sports, Culture and Social Services
 MOJCA Ministry of Justice and Constitution Affairs
 MOTC Ministry of Transport and Communication
 MOTI Ministry of Trade & Industry
 MSEs Micro and Small Enterprises
 MT&I Ministry of Tourism and Information

MOLG Ministry of Local Government
 MOLS Ministry of Lands and Settlement
 MSE Act Micro and Small Enterprise Act
 NACC National Aids Control Council
 NCBDA Nairobi Central Business District Association
 NCSE National Council for Small Enterprises
 NCST National Council for Science and Technology
 NYS National Youth Service
 OP Office of the President
 PCK Productivity Centre of Kenya
 SACCOS Savings and Credit Cooperative Societies
 TOLs Temporary Occupation Licenses
 TTIs Technical Training Institutions
 WAN Wide Area Network
 YPs Youth Polytechnics

Acronyms—(Contd.)

(x)

(xi)

CHAPTER 1

INTRODUCTION

1.1 The Micro and Small Enterprises (MSEs) are businesses in both formal and informal sectors, classified into farm and non-farm categories employing 1-50 workers. These enterprises cut across all sectors of the Kenyan economy and provide one of the most prolific sources of employment creation, income generation and poverty reduction. According to the 2003 Economic Survey, employment within the MSE sector increased from 4.2 million persons in 2000 to 5.1 million persons in 2002, accounting for 74.2% of the total persons engaged in employment. The sector contributes up to 18.4% of the country's Gross Domestic Product (GDP). The MSE sector is therefore, not only a provider of goods and services, but also a driver in promoting competition and innovation; and enhancing the enterprise culture which is necessary for private sector development and industrialization. The MSEs' performance and competitiveness must therefore be increased if it is to effectively respond to the challenges of creating productive and sustainable employment opportunities, promoting economic growth, and poverty reduction in the country.

1.2 Despite the significant role played by the sector, it has continued to experience many binding constraints that have inhibited the realization of its full potential. These include poor access to markets and financial services, and unfavourable policy, legal and regulatory environments among others. In the past, the Government has put in place measures geared towards promotion and development of the MSE sector. One of the notable interventions is the publication of the Sessional Paper No.2 of 1992 on *Small Enterprise and Jua Kali Development in Kenya*. The Paper emphasized the need to create an enabling environment through an appropriate legal and regulatory framework; and put in place support and facilitative measures to promote the growth of the sector. However, these measures have not

yielded the expected impact, largely due to their inappropriate design and weak implementation.

1.3 This Sessional Paper therefore fills the identified gaps and builds on the previous MSE policies in very specific ways.

- The emphasis is on the role of markets: making markets work. Government objective for the sector is to promote the number and competitiveness of MSEs by reducing the cost of doing business and, generally, creating a more favourable environment for businesses to thrive while improving the quality of employment in the sector;

- To integrate the MSE sector into the national economic grid. To achieve this integration, the new policy will promote MSEs in the formal and informal economies, including commercial small-scale agriculture, in a policy framework that will encourage all forms of linkages. The definition of the MSE sector is therefore expanded in the Paper to include all enterprises, both farm and non-farm, employing less than 50 persons;

- Improving the effectiveness of the existing institutions by strengthening the Department of Micro and Small Enterprise Development (DMSED) and MSE Associations, establishing National Council for Small Enterprises and legislating a Micro and Small Enterprises Act. These institutions and legal framework will strengthen policy coordination, implementation, and monitoring and evaluation, which have been largely lacking in previous attempts by Government to promote the MSE sector;

- Partnership between key stakeholders including the citizenry, MS entrepreneurs, community, private sector, civil society, NGOs and development partners will be promoted through

2

appropriate policy dialogue to harness the synergy for effective resource mobilization, utilization and overall development of the sector;

- Incorporation of a plan of action for policy implementation and a mechanism for monitoring and evaluation of the policies and their impacts.

1.4 The Vision of the Policy Statement is to promote a strong Kenyan economy into which the MSEs are effectively integrated and able to make significant contribution in the production of goods and services. Thus, the overall goal of this policy framework is to develop a vibrant MSE sector capable of promoting the creation of durable, decent and productive employment opportunities; stimulating economic growth; reducing economic disparities; strengthening linkages between firms; diversifying the domestic production structure and industrial base, leveling the playing field between MSEs and the larger enterprises; improving MSE

sector funding; and enhancing institutional collaboration and coordination of interventions in the sector. This policy framework therefore provides an enabling framework to increase the competitiveness of all the MSEs in Kenya.

1.5 In order to realize the above, Government commits itself to the promotion of an enabling environment for the growth of the sector. In particular, Government is committed to pursue restoration of a stable macro-economic policy environment; improve infrastructure, remove legal and regulatory burdens on businesses; provide incentives to promote both vertical and horizontal growth of the MSE businesses and the integration of informal and formal sectors; and promote competition.

1.6 This Sessional Paper provides a policy framework that will support research and development to boost MSEs' access to appropriate technologies; encourage innovation; and promote product

3

design, development and quality control. It therefore provides a policy framework, which when effectively implemented should enable MSEs to increase their share of both export and domestic markets through increased linkages with the large enterprises. MSEs will, in this regard, play a more significant role in contributing to the national goal of wealth and employment creation, and the vision of making Kenya an industrialized country.

CHAPTER 2

PROFILE OF MICRO AND SMALL ENTERPRISES IN KENYA

2.1 There is no clear and universally acceptable definition of Micro and Small Enterprises (MSEs). The number of employees engaged by the enterprises is the more commonly used unit of measurement of the size of a business than the turnover, the degree of formality, or legitimacy of the enterprise; capital investment; and degree of skills per worker. The 1999 National Micro and Small Enterprise Baseline survey however defined MSEs as enterprises in both formal and informal sectors employing 1-50 workers. The same definition is adopted in this Paper.

2.2 Previous policies on MSEs have not recognized farm-based activities as part of the MSE sector and more so with respect to small-scale agriculture. This downplays the role of these sub-sectors in promoting economic growth and development, especially in the rural areas. It is now recognized that most economic activities are carried out on the farm. This is where majority of Kenyans eke their livelihood. This Sessional Paper, therefore, seeks to integrate small-scale commercial farming activities into the MSE sector.

2.3 The MSEs sector is fast growing. According to the 1999 MSE Baseline Survey, the number of enterprises in the sector has grown from 910,000 in 1993 to about 1.3 million in 1999. Out of the 1.3 million enterprises in 1999, about 66% were located in the rural areas while women owned 48% of the enterprises. According to the Survey, 64.3% of the MSEs in trade, 14.8% in services, 13.4% are in manufacturing while 7.7% are involved in other activities. Apparently, out of the 48% enterprises owned by women 75% are in trade and service sub-sectors.

2.4 According to the 1999 MSE Baseline Survey, the sector employed 2.4 million persons. This has increased to 5.1 million

persons in 2002 as per the 2003 Economic Survey and translates to 675,000 jobs per year. The level of employment within MSEs in 2002 accounted for over 74.2% of the total number of persons engaged in the country. This is evidence that, with proper development strategies, the sector is capable of providing and surpassing the Government's target of creating 500,000 jobs per year.

2.5 As compared to the other sectors of the economy, the contribution of the MSE sector to the country's Gross Domestic Product (GDP) has been impressive increasing from 13.8% in 1993 to over 18% in 1999. Considering the tremendous expansion and growth of employment within the sector in the last three years, value addition within the sector is envisaged to have correspondingly increased.

2.6 The average Kenyan MSE employs 1 – 2 workers while over 70 percent employ only one person. The lower end of these MSEs is often confined to subsistence and low value adding activities, both in urban and rural areas. Only a few MSEs grow to employ 6 or more workers. According to research findings, MSEs have high mortality rates with most of them not surviving to see beyond their third anniversaries. This phenomenon has made it difficult for MSEs to graduate into medium and large-scale enterprises, thus the "missing middle". This has resulted in a weak base for industrial take-off and sustainable development.

CHAPTER 3

CHALLENGES TO THE DEVELOPMENT OF MICRO AND SMALL ENTERPRISE SECTOR

3.1 The MSE sector in Kenya plays an important role in the socio-economic development of the country. Its significance can be seen in terms of contribution towards economic growth, employment creation, poverty reduction and development of an industrial base. However, despite the critical role played by the sector, it is faced with many challenges and constraints that include unfavourable policy environment and inhibitive legal and regulatory framework; limited access to financial services and markets; inadequate access to skills and technology; insecurity of land tenure; poor access to infrastructure; inadequate business knowhow and linkages with large enterprises; gender inequality; job quality deficits; limited access to information; impact of HIV/AIDS pandemic; unsatisfactory occupational health and safety standards.

Unfavourable Policy Environment

3.2 The major shortcomings in the MSE sector development have been inappropriate policy design, weak implementation framework and failure to institute and effectively monitor policy implementation. In the past, the policy formulation process and design has not been consultative and has mainly been driven by Government. As a result, the policies failed to address the specific needs of the target groups; and lacked ownership by the entrepreneurs.

3.3 Over the period there has been no provision for an institutional mechanism to promote consultation and coordination of stakeholders. The previous policy documents failed to address the critical area of delegation of responsibility and follow-up on the actual implementation to identify who was going to do what, when and how. In some instances, lack of clarity of roles and responsibilities of various stakeholders has led to conflicting signals to MSEs. At the

operational level, poor coordination has led to duplication of efforts and sub-optimal utilization of scarce resources.

3.4 While the Government, in Sessional Paper No.2 of 1992, acknowledged the potential of the MSE sector in employment creation and poverty reduction, institutional framework for effective coordination of the various MSE policies, and programmes were not put in place. Specifically, there was no institutional mechanism within Government for identifying and resolving policy conflicts and for overseeing implementation of policies, and programmes. Neither was there a mechanism for co-ordinating all the stakeholders and facilitating their participation in policy development and implementation.

3.5 Because of lack of a coherent Monitoring and Evaluation mechanism, it has not been possible to follow the progress on policy implementation to identify policy gaps, take corrective measures, develop feedback mechanism, and assess the impact.

Inhibitive Legal and Regulatory Environment

3.6 An enabling legal and regulatory environment is imperative for the MSE sector to play an effective role as an engine for economic growth, poverty eradication and employment creation. Despite significant achievements in reforming the legal and regulatory framework, a number of existing laws and regulations still remain cumbersome, out of step with current realities and hostile to the growth of MSE sector. Specifically, the by-laws applied by many Local Authorities are not standardized and appear, in most cases, punitive instead of facilitative. At the same time, the role of Provincial Administration in the enforcement of regulations, and in jurisdiction over land and utilities tends to overlap and conflict with those of Local Authorities. Finally, the bureaucratic and lengthy process of transacting business with Government agencies adversely impacts on the operations of the MSEs by diverting the scarce resources from production to sheer housekeeping.....

3.7 The centralization of registration of Business Names in Nairobi poses problems for MSEs located outside the capital city. The requirement for details of business physical and postal address also poses a major problem to business operators who may not have permanent physical locations. All these translate into high implicit costs forcing many entrepreneurs to stay informal. The Single Business Permit (SBP) system, launched in 1999, is not yet fully operational and the fees charged are considered by many MSEs to be prohibitive.

3.8 Most MS entrepreneurs consistently encounter harassment from Local Authorities and Government officials over attempts to operate on unused land, and the daily licence fees are often demanded several times as there is no clear policy and for managing informal trade. Those operating from licensed stalls feel equally insecure in view of the out-dated by-laws that are often indiscriminately applied.

3.9 Dispute resolution is another area of problems for small business people. They find the judicial system complex, expensive, time consuming and sometimes unfair. While an alternative dispute resolution mechanism is critical in facilitating sub-contracting arrangements and contract enforcement, this framework is currently lacking.

3.10 Majority of MSEs have no legal title deeds for the sites on which they operate, and they cannot therefore invest in the work sites. The absence of security of tenure denies them access to credit. Policies regulating the provision of power, roads, and water, coupled with stringent building standards, compound their insecurity.

Limited Access to Markets

3.11 Access to markets and marketing information is a severe constraint to MSE development in Kenya. Overall, aggregate demand is low, markets are saturated due to dumping and overproduction, and

in many cases markets do not function well due to lack of information and high transaction costs. Competition in some products is unfair, with imported goods finding their way into the local market without payment of statutory duties. Many MSEs are also ill-prepared to compete in liberalized markets. Very few are capable of venturing into export markets and even fewer are able to tap the new market frontiers through electronic commerce. As a result, most MSEs are confined to very narrow local markets where intense competition drives prices down, resulting in very low profit margins. In many cases, the market mechanisms that can deal with these problems are either missing or weak. Also, a small capital base and limited technological sophistication confine MSEs to products and services, which cannot compete effectively in a globalized and competitive market environment due to quality limitations.

3.12 While the Government has made efforts to liberalize financial and product markets over the past decade, significant barriers to entry into certain markets still exist. There are also high unit transaction costs for small volume producers due to their underlying low economies of scale. Specifically, public sector purchasing practices, where pre-qualification standards demand assurance of large supplies and proof of adequate financial resources to produce them, have, for the most part, excluded MSEs from the large public sector market.

3.13 Although the flow of information on MSE markets has slightly improved, many MSEs still do not know where and how to access existing and relevant marketing information. As a result, the majority rely on informal feedback from customers. Competitiveness of the MSEs remains weak due to poor product quality, packaging, advertising and distribution.

Limited Access to Financial Services

3.14 Lack of access to credit is a major constraint inhibiting the growth of the MSE sector, and more so for women entrepreneurs. The issues and problems limiting MSE acquisition of financial services

can be grouped into two broad categories: lack of tangible security coupled with an inappropriate legal and regulatory framework that does not recognize innovative strategies for lending to MSEs; and the limited access to formal finance due to poor and insufficient capacity to deliver financial services to MSEs.

3.15 In addition, there is no structured institutional mechanism in Kenya to facilitate the flow of financial resources from the formal financial sector through Micro Finance Institutions (MFIs) to the MSEs. This increases the cost of credit to both the entrepreneur and financial institutions. Operations of financial institutions are tailored to offer credit services to formally registered businesses, which meet criteria such as proper maintenance of books of accounts and a verifiable asset base. Most MSEs cannot, however, meet these criteria. Further, availability of collateral is limited by the difficulty of obtaining legal title to land. Even where collateral exists, commercial banks are no confident that the legal system will allow them to realize it in cases of default.

3.16 Formal financial institutions perceive MSEs as high risk and commercially unviable. As a result, only a few MSEs access credit from formal financial institutions in the country. The problem is greater in the rural areas where bank branches are few and far apart. Limited competition between banks accentuates the problem.

3.17 The present legal and policy framework for financial services is less supportive of smaller than larger borrowers and needs to be addressed. The Banking Act prohibits MFIs from mobilizing savings and taking deposits for re-investment. As a result, the MFIs face problems in building a sustainable funding base for MSEs. The Post Office Act prohibits the Post Bank from lending, and the Co-operatives Act does not provide for effective supervision of the Savings and Credit Co-operative Societies (SACCOs).

3.18 Despite the increasing number of MFIs, their outreach has remained severely constrained, especially in the rural areas, because

of their limited resource base and lack of institutional capacity to provide a wide range of financial services. At present, MFI outreach is basically through group lending schemes, which have limited absorptive capacity for financial resources. Commercial banks however, have a strong resource base and wider outreach but lack the expertise and "best practice" for MFI lending to the MSE sector.

3.19 Policies and strategies designed to boost credit and finance to the MSE sector have been formulated in the absence of reliable information on reliable methodologies, data on the magnitude of the MSE sector, characteristics of MSE operators, and factors influencing the growth and dynamics of the sector. The situation translates into high credit transaction costs, for collecting and verifying available information, mainly on the creditworthiness of MSE borrowers.

Inadequate Access to Skills and Technology

3.20 Kenya's MSEs are characterized by restricted levels of technology, inappropriate technology, and inadequate institutional capacity to support adaptation and absorption of modern technological skills. In addition, they also suffer lack of information on existing technologies and their potential for increased trade. Specifically, MSEs suffer a weak environment that hampers coordination and transfer of appropriate technology. Consequently, the sector continues to experience low productivity, poor quality and limited range of products, resulting in low competitiveness of the MSE products.

3.21 Technological advancement in any sector depends on the level of efforts made towards finding new products and processes that target the needs of the market. This is achievable either through research and development, or adoption and adaptation of technology available elsewhere. Similarly lack of capacity to identify, seek and use appropriate technology constrains the MSE sector. The sector also lacks access to limited technical services available, as well as outputs and innovations arising from research activities.

3.22 Low levels of education and technical training of the majority of MSE operators; and inadequate financial capacity to acquire available technology and infrastructure, typify the MSE sector. Most of the operators in the MSE sector are primary leavers, only a few of whom have ever had technical training.

3.23 The institutions expected to provide technical services to MSEs are weak and lack specialized capacity to meet the needs of the sector. Where such capacity is available, there exist poor links between MSEs and the institutions of technology training. There are also no information networks between MSE operators and in technology experts and therefore the vast amount of available is of little use to MSEs. The constraints limiting the availability and accessibility of relevant technology to MSEs are further compounded by the general low investment in research and Development.

Limited Access to Infrastructure

3.24 The inadequacy of physical infrastructure is a principal cause of low levels of investment and unsatisfactory performance of micro and small enterprises. The *Economic Recovery Strategy Paper, 2003* has identified poor infrastructure as a critical factor that constrains profitable business in Kenya. The poor state of the country's road network, for example, adds to the cost of producing and marketing of goods and services, thereby rendering them less competitive than imported substitutes. Other infrastructural problems include inaccessibility to land, workspace, feeder roads, electricity and other utilities.

3.25 Most of the land-related problems faced by MSEs revolve around ownership, titles deeds, and encroachment onto their workspaces by private developers. Lack of land allocation of suitable land to MSEs in most urban and rural areas is a major impediment to their growth and development. The Government has over the years directed Local Authorities and Provincial Administration to provide land for the Jua

Kali sector. However, the allocated land has more often than not been inaccessible, without titles or with only temporary have grabbed land meant for MSEs. Other cases involve encroachment of land meant for the Jua Kali entrepreneurs by private developers. In addition, both physical and economic planning within the country have not taken into consideration the needs of MSEs. Shortage of serviced sheds and stands further undermines the quantity and quality of MSE products.

3.26 Inaccessibility to land and lack of property rights hamper access to infrastructure and utilities by the MSEs. In particular, access to water, electricity and other utilities is a problem in rural areas, where most MSEs are located. Limited access to electricity by MSEs is compounded by the fact that the MSEs are expected to obtain an approval from Local Authorities before a connection can be made. Since most MSEs do not own land, it is difficult for them to get such approvals. In addition, energy costs in Kenya are extremely high and have a negative impact on all businesses, large and small alike. This constraint limits MSEs' technological capacity thereby adversely affecting the competitiveness of their products and services.

Inadequate Business Skills

3.27 Lack of basic skills in business management and entrepreneurship is a major drawback in the growth and development of the MSE sector. The integration of entrepreneurial training into the country's education system, exposure of potential MSE entrepreneurs to modern business management skills and the creation of an environment that permits MSE businesses to emerge and flourish has been a major challenge. The traditional approach to vocational and technical training has not addressed this need either because there exists no provision in their curricula for appraising the programmes at business start-up, survival and growth stages to establish the extent to which their programmes are demand-driven, value-adding and address the specific needs of the operators and beneficiaries. In addition, most of the institutions providing entrepreneurship and business development training suffer from inadequate capacity. They are

therefore, unable to offer training in a wide range of trades. Consequently, potential entrepreneurs enter the sector ill-prepared to effectively contribute to its success, while the existing ones remain latent in their operations.

Limited Linkages with Large Enterprises

3.28 Linkages between MSEs and large enterprises in Kenya are either weak or non-existent. This leads to inadequate technological transfer and development, poor information flow, weak subcontracting arrangements and inadequate marketing opportunities to promote expansion, and especially vertical growth of MSEs. This state of affairs is a hindrance to the goal of developing and mainstreaming MSE sector into the national economic framework.

Gender Inequality

3.29 Promotion of equality of opportunity and elimination of all forms of discrimination based on sex is a fundamental step that provides a necessary and important condition for effective development. Empirical studies show that women are more vulnerable to chronic poverty because of gender inequalities in the distribution of income, access to productive inputs such as credit, access to and control of property and earned income, multiple roles of women, inadequate access to education and training, as well as gender biases in labour markets.

3.30 It is apparent that the most critical factor in gender inequality is limited access to formal education and training and high drop out rates for girls. According to the MSE Baseline Survey of 1999, 13.7% of women have no formal education as compared to 6.8% of men. As a result, more women are concentrated in the unskilled and semiskilled categories in the labour market and also in trade and service sub-sector of the MSE. This perpetuates poverty levels amongst women as they are mainly concentrated in the low paying jobs and operate enterprises with low value addition.

3.31 The need to integrate gender concerns in all sectors of the Kenyan economy and in particular MSE sector has gained significance mainly due to the gradual realization that women have been a disadvantaged group in all aspects of development. Though women's participation in MSEs is increasing, accounting for 48% of all MSE enterprise owners in 1999, gender inequalities still persist. In Kenya, discrimination is manifest relative to women's access to economic resources and participation in decisions affecting their status and advancement. Evident in connection to the gender imbalance is the pattern of land ownership. In most cases, family land and property are registered in the names of husbands, who also may be registered members of the co-operative societies; yet women are the ones who till the land. Consequently, women have little claim to family property. Such gender imbalances in ownership and control of productive resources is a key factor that has contributed to the prevalence of incidences of poverty in the country.

Limited Access to Information

3.32 The major factors facing MSEs in relation to information are its acquisition, capacity to interpret and effectively utilize the acquired information, and dissemination of the same. In this regard, dissemination of information on legal and regulatory issues to the public and MSEs is poor, while no major efforts have been made to sensitize key players on their roles in the formulation and implementation of policies. At the same time, MSEs have been inadequately sensitized on their obligations and rights. This makes it difficult for them to factor in guidelines on policy and legal issues into their decision-making processes. A result of all these shortcomings is the continued harassment of the MSEs by the law-enforcement agencies. Without access to timely, simplified, reliable and relevant information on market opportunities, production technology and government regulations, MSEs are unable to survive and grow in the fast-changing, increasingly globalized and highly competitive market environment.

3.33 Past efforts to acquire information have focused on research geared towards increasing the development of technology, products and markets in the MSE sector. The efforts have contributed to increased knowledge and information on new products and production processes for MSEs, but institutions involved in the acquisition of information are not only few and inadequately funded, but also have limited capacity to address the enormous problems facing the sector. As a result, very little is known about the MSE sector with regard to products, prices, needs, constraints, opportunities and ways of dealing with the myriad issues affecting the sector.

Unfavourable Taxation Regime

3.34 The existing tax regime is not only cumbersome but is also a deterrent factor in the growth of MSEs. The tax regime does not encourage MSEs to either register or pay taxes. Instead, it serves as a formidable barrier to the graduation of informal enterprises into the formal sector. It also increases compliance costs and restricts upward mobility of MSEs. Value Added Tax (VAT), which is applicable to most products and services, is costly for businesses to administer, increases transaction costs, and inhibits cash flow for all categories of enterprises.

3.35 There is lack of vigilance by customs administrators against the dumping of subsidized imported goods. This poses unfair competition to MSEs products. Costs and delays in clearing imports and exports through customs continue to deter the productivity and market outreach of most MSEs, as well as deterring domestic investment.

Entry Barriers (Formal and Informal)

3.36 While formal barriers inhibiting the growth of the MSE sector are well-understood, informal barriers especially those relating to self-regulatory bodies (matatu industry where cartels control businesses) though less understood also greatly hinder entry into the

sector. In addition, insecurity is also a major challenge as it afflicts all the business sectors including the MSEs. While the legal framework can effectively deal with the formal barriers, it may not effectively deal with cartels and informal trade practices which are not clearly visible and documented.

Health and Safety in Workplaces

3.37 Occupational health and safety is critical for enhanced productivity, enterprise growth and expansion. Currently, the MSE sector is adversely affected by limited access and adherence to the health and safety regulations. The Factories and Other Places of Work Act, Cap. 514 does not cover the sector, yet it is in this sector where workers and operators are exposed to all sorts of occupational hazards and other forms of work-related accidents emanating from the nature of their work and sites, equipment and materials used, mostly without any protective measures.

HIV/AIDS

3.38 The HIV/AIDS pandemic has great economic impact on all sectors of production. The future growth potential of the MSE sector is particularly affected by the impact of HIV/AIDS on productivity, skilled manpower, social and economic burden, and concentration of resources to productive activities. Furthermore, the scourge has led to high mortality rates of the entrepreneurs, increased labour costs as a result of high absenteeism, inability of affected enterprises to meet their business obligations. Although various HIV/AIDS programmes including advocacy and awareness creation in the mass media, Voluntary Counseling and Testing Centers (VCTs) and subsidized treatments are in place, the majority of workers in the MSE sector have little access to them particularly. This is more so in the rural areas where there are few medical institutions, fewer medical personnel, low incomes, general lack of medical insurance and inadequate access to both print and electronic media.

CHAPTER 4 POLICY FOR DEVELOPMENT OF MICRO AND SMALL ENTERPRISES

4.1 Since independence, the Government has recognized the potential of the MSE sector in employment creation and poverty reduction in its numerous policy documents. The *Sessional Paper No.1 of 1986 on Economic Management for Renewed Growth* was the first to give explicit recognition of the sector's role in economic growth and development. Its recommendations led to the publication of *Sessional Paper No. 2 of 1992 on Small Enterprises and Jua Kali Development in Kenya*, which provided a more comprehensive policy framework for the promotion of the sector. Further, the *Economic Recovery Strategy for Wealth and Employment Creation, 2003 - 2007* recognizes the need to establish and maintain a conducive environment for the graduation of MSEs into medium sized enterprises that have more capacity to produce high quality products and create sustainable employment opportunities. Several other Sessional Papers, Development Plans and Legal Notices have established procedures for the management of the sector.

4.2 Despite the numerous policy prescriptions the sector has to stagnated giving rise to the need for drastic change of attitude towards this sector. This demands policy re-evaluation that will lead to restructuring of the sector for sustainable growth, and renewed Government's commitment to provide the necessary support and impetus for its development. Within this framework, private sector participation, public-private sector partnership, and continuous consultations and dialogue with the MSE entrepreneurs and other Micro and Small Enterprises support organizations are considered critical for effective implementation of this renewed policy framework.

4.3 In this regard, the overarching goal of this policy framework is to facilitate the development of a vibrant MSE sector that is able to

sustainably contribute to economic growth, employment creation and poverty reduction in Kenya. The purpose of this policy is, therefore, to facilitate the creation of an enabling policy and regulatory environment that will increase competitiveness of MSEs in Kenya. It is envisaged that the following major outputs will be realized:

- Enabling policies that support MSE growth and development;
- Favourable institutional framework for effective implementation of policies; and
- An MSE sector that is integrated into the mainstream national economic grid.

Guiding Principles

4.4 The success of this policy framework is pegged on the following guiding principles:

- Government involvement in the MSE sector is to create an enabling environment to increase the competitiveness of MSEs in Kenya so that MSEs can meaningfully contribute to economic growth, employment creation and poverty reduction;
- Recognition of the importance of MSE sector in terms of creating decent employment, income generation, promotion of creativity and innovation, and generation of output; hence the need to integrate the MSEs into the broader formal economy;
- Government to play a facilitative and catalytic role rather than engaging in direct intervention in the market, and Government to intervene only when there is clear market failure;

- Priority will be given to interventions that remove barriers in order to open up markets for MSEs;

- Government will welcome all forms of support from development partners channeled through appropriate instruments, and where such support do not create market distortion. Such support should be channeled towards areas where the private sector is unable to invest;

- Government, in full consultation with all stakeholders in the sector, will pursue an implementation framework that is specific and sustainable. This will be ensured through capacity building of Department of Micro and Small Enterprise Development, establishment of a National Council for Small Enterprises (NCSE), and legislation of an MSE Act to give legal force to the implementation framework and its underlying principles;

- Government will continue pursuing macro-economic policies that will facilitate generation of high and sustainable aggregate demand, while keeping inflation and interest rates low; and

- Commitment by all stakeholders promotion of gender equity in the MSE sector.

Legal and Regulatory Environment

4.5 An enabling legal and regulatory environment is imperative if the MSE sector is to create the desired impact and play an effective role as an engine of economic growth, income generation and poverty reduction. In this regard, the Government is committed to continue with the legislative reforms, which encompass review and updating of the existing pieces of legislation and enactment of new laws. The regulatory reforms are geared towards development of laws and

regulations which are dynamic, responsive to the needs of the MSEs, and supportive to the growth and development of the sector.

Licensing and Regulations

4.6 Favourable legal and regulatory environment will be achieved through consolidation and harmonization of trade licensing and regulation services. In this respect, licensing requirements, including the rationale for licensing, will be reviewed to make them more effective and user friendly. Licensing services will be decentralized to cut down on the time and cost that entrepreneurs incur to acquire the licences. In addition, the licensing fee structure will be reviewed to make them affordable and supportive to the MSE operators. Trade licensing will continue to be streamlined and made less discretionary, easily understandable and efficient. Action will be taken to speed up licensing and cut down on unnecessary red tape. The Single Business Permit (SBP) guidelines will also be operationalized in all the Local Authorities.

Business Registration

4.7 In order to facilitate business registration through reduction of cost and time, the Government will decentralize registration of businesses. This will be done, initially at the Provincial levels, with the long-term objective of making the services available at the District levels. To expedite business registration, the Government will undertake computerization of the process and network the activities in all relevant offices.

Local Government Reforms

4.8 The Government will amend the Local Authority Act (Cap.265) to reflect limited and essential regulatory powers by Local Authorities to ensure that compliance to standards relating to security, public health and safety, and environment are preserved. Urban and town councils, in collaboration with traders and relevant stakeholders, will be

required to develop clear guidelines for enforcement of the measures. The Local Authority By-Laws will be reviewed and standardized to make them supportive to the promotion of business and consistent with the changing socio-economic environment.

Land Laws

4.9 Laws governing land ownership will continue to be reviewed for simplification and harmonization with the other relevant pieces of legislation. Specifically, the Physical Planning Act, 1996, will be effected to encourage Local Authorities to earmark land for MSE development. Such land will be registered and the titles issued in the name of the Permanent Secretary to the Treasury as a Trustee. Written warrants duly authorized by full councils with appropriate press notices will be issued before the demolition of MSE structures by Local Authorities. Overall, MSE associations will be assisted through targeted capacity building to become strong legal entities capable of effectively managing their affairs.

Labour Laws

4.10 The review of labour laws will continue to make them more dynamic, supportive and responsive to the needs of both employers and employees. Specifically, the Employment Act, (Cap.226) and the Regulation of Wages and Conditions of Employment Act, (Cap.229) will be reviewed to make the minimum statutory standards prescribed in the legislations take cognizance of the compliance constraints of MSEs. In addition, the Factories and Other Places of Work Act (Cap.514) will be reviewed to make them sensitive and accommodative to the operations of MSEs.

Arbitration and Dispute Resolution

4.11 The Government recognizes the need for MSEs to access justice and have their disputes resolved conveniently and at reasonable cost.

In this regard, an MSE Court will be established to dispense justice and deal with small but non-trivial claims emanating from the sector.

Micro and Small Enterprise (MSE) Act

4.12 To give the sector legislative recognition and provide an appropriate legal framework supportive to its growth, the Government will formulate and enact an MSE specific legislation, the Micro and Small Enterprises Act. The Act will provide the legal and institutional framework for implementation of MSE policies. In this respect, the Act will make provision for the establishment of a National Council for Small Enterprises (NCSE) to advise and follow-up the implementation of MSE specific policies and programs.

Markets and Marketing

4.13 The Government recognizes that the growth and development of the MSE sector depends on the existence of a vibrant market for MSE products and services. Access to information on the existing market opportunities is also crucial in developing the markets. In order to expand the marketing frontiers of the MSE products and, as a way of demonstrating Government commitment to the growth of the sector, the Government will allocate at least 25 percent of its procurement requirements to the sector. To effect this, the Ministry of Finance will adjust public tendering procedures to promote the participation of MSEs in the procurement process. In the case of large tenders, the Government will encourage the formation of MSE consortia capable of registering group bids.

4.14 The Government, through public-private sector partnership and in consultation with MSE operators and stakeholders, will encourage sub-contracting arrangements between large and medium firms, and the MSEs. This will be achieved through provision of incentives such as tax rebates and duty waivers to encourage the large firms to participate in the arrangement. The sub-contracting arrangement will be done in consultation with the Kenya Bureau of Standards for

quality assurance. Capacity building of MSE Associations will further promote business linkages within the sector.

4.15 The largest market for MSE products is the domestic market. However, this market share has in the recent past shrunk as a result of increased dumping, low purchasing power of the citizens, and the general negative attitude of domestic consumers towards local products. In order to reverse this trend, the Government will restrict dumping of goods. In addition, the Government, within the framework of the Economic Recovery Strategy, will increase per capita incomes of the citizenry that are the ultimate source of increased aggregate demand. In order to encourage the citizens to embrace the need to purchase local products, the Government in collaboration with MSE stakeholders, will spearhead "Buy Kenyan Build Kenya" sensitization campaigns to influence the change of mindset and attitude towards local products. The MSE associations will be required to undertake lobbying and advocacy to strengthen the above initiatives.

4.16 In order to facilitate entry of MSE products into the international markets, measures will be put in place to improve product design and development, commission market research, and support appropriate packaging of goods and services so as to respond to the needs of the international customers. In particular, the private sector will be encouraged to take the lead role.

4.17 The Government will facilitate marketing of MSE products in both local and international markets. Specifically, the Export Promotion Council (EPC) and Kenya missions abroad will intensify publicity and dissemination of information on available opportunities in the external markets. Avenues such as exhibitions, catalogues of goods produced, trade fairs, media and MSE websites will be used to promote information flow and enhance marketing opportunities. Further, the Government will put in place measures to promote Information and Communication Technologies (ICT) as a means of enhancing marketing and other aspects of MSE activities. Such

mechanisms will include lowering barriers to ICT development, and creating an appropriate policy and legislative framework to promote ICT adoption and skill development.

4.18 The Local Authorities will continue to implement creative approaches aimed at promoting marketing for MSE products. Such approaches include marketing in public parks on specific days, operating evening markets, and temporary closure of certain streets to allow MSE operators to sell their wares. To this end, relevant by-laws will be reviewed and amended to facilitate the implementation of these approaches. Measures will also be put in place to ensure that order, safety, hygiene and environmental management principles are observed by both operators and buyers. In addition, the Government will provide incentives to private sector investors to purchase land in commercially viable locations in order to establish and operate malls for MSE products.

Business Linkages

4.19 Weak business linkages is one of the causes of poor market access by MSEs. The Government will therefore provide incentives to the private sector to invest in areas that enhance development of business linkages between MSEs and large enterprises. These areas will include establishment of trade information centers and improvement of the quality of MSE products. In addition, the Ministry of Finance will work out modalities for providing appropriate fiscal incentives to both large and small firms to encourage market/supply linkages with MSEs. Further, DMSED in collaboration with NCSE will initiate studies on the feasibility of subcontracting between the large firms and the MSEs. The study will also investigate other possible linkages which are currently emerging in the country, such as franchising and business clusters.

4.20 To enhance linkages between MSEs and the large-scale enterprises, the Government will identify suitable zones with basic infrastructure, which will serve as incubators, and improve the image

of MSEs and their visibility. To address the phenomenon of the "missing middle", mechanisms will be put in place to enable the growth oriented MSEs to graduate to medium enterprises, and for the others to thrive.

4.21 To increase rural incomes and reduce poverty, the Government will put in place mechanisms that will promote linkages between MSEs and agricultural sector. These mechanisms will encourage establishment of agro-processing enterprises, especially in food production, processing and packaging for value-addition of agricultural products. These enterprises will create forward and backward linkages through provision of inputs to the agricultural sector, raw materials for micro and small industries, and marketing of agricultural products.

Financial Services

4.22 The Government recognizes that access to credit and financial services is key to the growth and development of any enterprise and more so the MSEs. In this regard, the Government will promote development of the financial services sector by providing incentives to attract savings and investments, and development of venture capital. The Government will establish a Micro Finance Trust Fund from which the MFIs can borrow for on-lending to the MSEs at affordable interest rates. Currently, only a negligible number of established financial institutions are wholeselling to the MSEs at resources will be provided to the MFI clients. In this regard, more Support Programme Trust (MESPT) to be able to wholesale to the MFIs. Further, an insurance scheme will be established to underwrite commercial banks to develop an appropriate risk classification system governing loan collateral, documentation and inspection risks for the MSE sector. This is aimed at encouraging commercial banks to open up lending to MSEs.

4.23 The Central Bank of Kenya (CBK) will develop appropriate performance standards and regulations that recognize the special nature of MFIs. In line with this undertaking, the Government will strengthen the CBK's Micro-Finance Unit through a Micro-Finance Act. This move is intended to harmonize the operations of MFIs, incorporate micro finance into the country's financial system, and synchronize operations of the institutions with the operations of mainstream financial establishments.

4.24 The Government will enact the Micro-Finance Bill, which will provide a legal framework for the operations of MFIs. This is aimed at making them sustainable and encouraging them to operate commercially. The sustainability of the MFIs and other MSE financial service providers will be enhanced through legal and regulatory reforms including institutional oversight through the CBK. Capacity building in the sector will be ensured through appropriate policy interventions and risk mitigation measures. In addition, the Government will develop a Micro Finance Policy whose aim will be to broaden the provision of financial services to the majority of Kenyans, especially the rural and urban poor, including the MSEs.

4.25 The Government will amend specific laws that inhibit those organizations that mobilize savings in the country to offer credit. The Kenya Post Office Savings Bank Act will hence be reviewed to allow Post Bank to lend to the MSEs. In addition, the Government recognizes the role of SACCOs and Cooperatives in providing financial services to the sector. Thus, measures will be put in place to ensure their effective participation in the MSE activities. Specifically, the Co-operative Act will be reviewed to provide effective supervision to SACCOs in order for the latter to benefit the majority of MSE operators who are also their members.

4.26 The Government recognizes the role of the Development Financial Institutions (DFIs) in providing long-term finance for the development of the sector. To enhance this role, the Government will restructure and strengthen their capital base so as to improve their

ability to offer affordable credit to MSEs. In addition, measures will be put in place to create the enabling environment for the broadening and deepening of financial services to the majority of Kenyans. Large enterprises are able to access finance through the Nairobi Stock Exchange. In this regard, mechanisms will also be put in place to enable MSEs access finance through the Stock Exchange.

4.27 Leasing is firmly established in many countries and is potentially able to expand access of MSEs to credit in ways that overcome traditional collateral requirements and contribute to capital formation. Thus, the Ministry of Finance will review the existing laws and regulations so as to incorporate the special requirements for micro leasing.

Skills and Technology

4.28 The policy framework for the development of skills and technological capacity of the MSEs will seek to enhance their ability to adopt and adapt new technology, improve the capacity of institutions that support technology development, increase overall access to information on available technology and acquisition of technological skills.

4.29 To address the problem of weak technology transfer mechanisms, the Government, through relevant institutions such as Kenya Industrial Research Development Institute (KIRDI), National Council of Science and Technology (NCST), Kenya Industrial Estate (KIE), Kenya Bureau of Standard (KEBS), and Productivity Centre of Kenya (PCK) will review the current modes of technology acquisition and transfer into the country, define laws and provide legislation that would (a) regulate and promote local and international technology transfer; (b) encourage partnerships through sub-contracting, franchising and licensing; and (c) vet and register of imported technologies to discourage dumping of obsolete and/or dangerous technologies, which hinder innovation,

4.30 Further, the Government will provide steady alternative sources of technological input into the sector through importation of relevant technologies from other countries such as India, South Korea, Pakistan and China. In addition, the Government will provide waiver of duty on basic engineering machines so as to improve quality and value of MSEs' products. To achieve this, the DMSED, in collaboration with private sector research institutions, will conduct research to identify MSE specific technology needs to facilitate development of appropriate technologies. Measures will be put in place to diversify technological innovation, research and development to cater for the needs of all MSEs. In addition, the Government will endeavor to encourage commercialization of technology and viable innovations.

4.31 In a bid to improve capacity utilization and technology transfer and diffusion in technological support institutions, the Government will strengthen links among MSEs, universities, technical institutions and research bodies; create awareness on available scientific and technological support services and encourage technical training institutions that provide technology management capacity to develop partnerships with a wide range of MSEs. In addition, the funding of Research and Development (R&D) in the country and in particular in the MSE sector is very low. To improve this situation, the Government will establish an MSE Technology Development Fund (MSETDF) to finance R&D, technological transfer and innovation in public and private institutions and MSE individual entrepreneurs.

4.32 The Government through the Kenya Industrial Property Institute (KIPi) will provide assistance to MSEs by improving their access to and making an effective use of the existing Intellectual Property System. This is aimed at enhancing their creativity and capacity to innovate and derive the full benefits of their innovations in the market place. The Government will also encourage creativity and innovation in the MSE sector through establishment of award schemes that recognize innovations and technology development within the sector. Further, measures will be put in place to design and implement

programs that build capacity to promote business incubators so as to support new businesses during start-ups and early growth phase. Special emphasis will be given to improve the technical skills of women entrepreneurs.

4.33 To promote skills acquisition and development within the MSE sector, programs will be developed to encourage private sector participation in skills up-grading within the MSE sector. Further, the Government in collaboration with the private sector will develop mechanisms to facilitate university-industrial, technical and business attachments. In addition, measures will be put in place to enhance the capacity of Technical Training Institutions, MSE Training and Demonstration centers, Youth Polytechnics and National Youth Service (NYS) skills development centers to offer appropriate skills to MSEs. Further, measures will be put in place to develop the capacity of Rural Technology Development Centres in order to promote development of simple technologies for farmers. These technologies will be passed to MSEs for commercial production.

4.34 The Government supports the reorganization of the MSE primary associations along sectoral lines. It is also the intention of the Government to strengthen the institutional capacities of the restructured associations to promote access to and use of information technology. The private sector will be encouraged to establish networks for information sharing between themselves and the MSE associations.

Infrastructure Development

4.35 The Government recognizes the significant role played by the private sector in infrastructure development. The Government, in collaboration with relevant stakeholders, will encourage more private sector participation in the development and management of market stalls and workites for MSEs. This will be achieved through leasing of land to developers at concessionary rates and granting tax incentives to such developers. Simultaneously, the Government will

introduce measures to privatize existing sheds in order to facilitate their efficient management and utilization.

4.36 To overcome insecurity of tenure of land allocated to MSEs, the Central Government in collaboration with the local authorities will promote the issuance of Temporary Occupancy Licenses (TOLs) for a longer and specified period of time. This will be followed by issuing of short-term leases to the individual MSE entrepreneurs. As a long-term measure, the MSE associations will be encouraged to adopt a Community Land Trust arrangement for the benefit of the members. This arrangement is expected to promote investment and infrastructure development within MSE sites.

Business Management and Entrepreneurship Skills Acquisition

4.37 Business management and entrepreneurial skills are critical in the growth and development of MSEs. In order to improve and promote the acquisition of entrepreneurial skills, the Government will encourage universities, polytechnics, technical institutions and other MSE support organizations to develop certified demand-driven courses on entrepreneurship and business management. In order to develop a widespread enterprise culture, the Government will introduce entrepreneurial development programmes in schools and other training institutions.

4.38 Given the important role that Business Development Services (BDS) play, the new policy framework will promote cost-effective BDS programmes and ensure that the programmes are tailor-made to specific needs of a range of MSE entrepreneurs and business sectors. The policy framework emphasizes the importance of basic business training techniques and enhancement of opportunities for MSE marketing, product development and quality assurance. The policy framework, besides encouraging provision of market-led BDS, will also promote the formation of an umbrella association of BDS providers for self regulation, and the use of existing Government

establishments within the Districts to promote access to these services by the MSEs.

Gender Equity

4.39 In order to ensure gender equity, the MSE policy will be gender responsive as it is pro-poor. The policy framework will galvanize the creative and productive potential of women, who constitute the bulk of the country's labour force. The Government will pursue gender responsive policies that increase equal access to financial services for both men and women. In addition, the Government will build institutional capacity of Ministries, Parastatals and Government departments for gender integration and promote greater access to education, technological development and entrepreneurship.

4.40 The Government recognizes the need for a gender-mainstreaming framework in all MSE targeted activities. The framework will serve both as a tool to increase awareness of critical gender issues within the MSE development context, as well as an impetus to elicit sector specific gender mainstreaming strategies. The Government will undertake measures to identify gender-related constraints and opportunities that affect equal participation of both women and men at the local, institutional and policy levels. This will entail putting in place a monitoring system that tracks the effects of Government and donor activities on gender relations. Such monitoring system, through consultation with the MSEs and other stakeholders, will be incorporated in the Constitutions of all MSE associations, as well as in the performance monitoring plans of the various MSE programs.

4.41 In order to address gender disparities, the Government will pursue policies to empower women, increase their access to credit by encouraging them to form SACCOs, promote networking with formal banks and MFIs, and build institutional capacity of support organizations for gender mainstreaming. In addition, the Government in collaboration with the private sector will collect and avail gender-

disaggregated data to facilitate gender responsive planning and policy formulation. Other policies will include promotion of women's access to technology and technical skills and influencing orientation of women away from the traditional activities to production of more marketable and remunerative products; promote women's access to entrepreneurship development through training; and enhance gender equality in all levels of education.

4.42 To ensure that women's concerns are effectively mainstreamed in MSE activities and their participation enhanced, all MSE support programmes and projects will be designed to ensure equal opportunities.

Information Management and Dissemination

4.43 Policy on information management for MSEs seeks to improve the gathering, processing and packaging of information in line with the needs of specific MSEs. In this connection, the Government will encourage private sector investment in information centers for MSEs and support stakeholders' initiatives targeting dissemination of information generated within the sector. Further, it will support periodic baseline surveys of the sector and enhance the role of sectoral organizations in the dissemination of information gathered. In addition, measures will be put in place to strengthen existing institutions and documentation centers that specialize in MSE-related information.

4.44 The Government will encourage and provide incentive on the private sector initiative towards establishment of an information clearinghouse. Establishment of such a house will ensure that relevant information about the MSE sector is collected, organized, processed and disseminated according to the needs of different stakeholders. DMSED will on its part, establish a database on programmes, projects, experts and researchers as well as business, opportunity profiles for the MSE sector. The Department will also collaborate with relevant institutions such as the Central Bureau of Statistics

(CBS) to conduct surveys and gather information on MSE operations in line with users' needs.

Tax Regime

4.45 Taxation is an important ingredient determining the nature and growth of any economy and the Government will therefore continue with the tax reform. The reforms are aimed at improving transparency and efficiency of taxation, strengthening tax collection and harmonizing the tax system. Mechanisms will be put in place to ensure that the MSE can pay a tax that allows them to fulfill their tax obligation and thrive at the same time

Formal and Informal Entry Barriers

4.46 The Government recognizes the problems related to informal barriers such as cartels and informal trade practices that hinder the growth and development of the sector. To address this problem the Government will work closely with the private sector and other stakeholders to ensure promotion of good governance, ethical trading and rule of law. In addition, the capacity of the MSE associations will be strengthened to be able to play a self-regulatory role more effectively.

Health and Safety in Workplaces

4.47 To ensure improved working conditions in the MSE sector, measures will be put in place to ensure that order, occupational safety, health, hygiene and environmental management principles are observed by all operators, thereby improving the quality of jobs in the sector.

HIV/AIDS

4.48 To address HIV/AIDS in the MSE sector, a holistic approach will be developed. In this regard MSE operators will be facilitated to

take advantage of the all prevention, care and control programmes under the National AIDS Control Council (NACC) strategic plan. They will be encouraged to participate fully in HIV/AIDS activities at the constituency AIDS committee level in the respective localities. In particular, the MSE associations will spearhead HIV/AIDS campaigns amongst their members. Modalities will also be put in place to encourage MFIs to insure their services and develop relevant medical schemes. In addition, measures will be put in place to encourage insurance companies to develop insurance scheme for MSEs such as health insurance and business cover, and at the same time MSEs will be encouraged to insure their properties.

CHAPTER 5

POLICY IMPLEMENTATION

5.1 The Government recognizes that competitiveness of the MSE sector has to be increased through appropriate policy formulation, implementation, effective coordination, technological development and transfer, increased managerial capacities and competencies, and productivity mainstreaming, if it is to effectively respond to the challenges of creating decent, productive and sustainable employment opportunities for Kenya's growing labour force. Although many of the policy statements and follow-on programmes have been relevant, effective policy implementation has been lacking. This Policy Framework identifies this weakness as a major area for policy focus. Consequently, it puts premium on the urgency and manner with which actions need to be taken in the implementation and monitoring of the identified policies. In addition, implementation of this Sessional Paper will involve active participation of the Government, the MSE operators, the private sector, development partners and other key stakeholders with a mechanism for continuous dialogue and consultation.

5.2 Without exception, all the past Government policy documents make recommendations on the way forward, but fail to address one critical area, that is, delegation of responsibility and follow-on through actual implementation of proposed strategies. This Sessional Paper provides for the participation of all key stakeholders in the public and private sector.

Co-ordination Mechanism

5.3 Effective coordination is a prerequisite for successful policy development and implementation. Although a number of interventions have been made by the Government through Presidential Circulars such as No. 2 of 1999, No. 2 of February 2003 and No. 3 of July 2003 to improve coordination, MSE activities are still spread

over various Government Ministries/Departments. This has led to difficulties in harnessing synergies necessary for effective policy design, implementation and monitoring of outcomes.

5.4 To overcome this problem, the Government will strengthen the Department of Micro and Small Enterprises Development to provide a more effective institutional structure for the co-ordination and monitoring of stakeholder roles and activities. Furthermore, successful implementation of MSE policies and programmes will depend on the support given to the sector by stakeholders as well as the MSE associations, development partners, NGOs and private sector institutions. In this regard, a broad-based and independent National Council for Small Enterprises (NCSE) will be established to feed into the National Economic and Social Council. The Council will monitor policy and programme implementation and advise the Government on appropriate courses of action to be taken. It will also advise on mobilization of resources for the MSE sector. Membership to the Council will be drawn from MSE key stakeholders including MSE operators and associations, development partners, private sector, Government, Micro Finance Institutions and other MSE support organizations. In this respect, at least 50% of the membership of the Council will come from the private sector. The Department of Micro and Small Enterprise Development will be the Secretariat for the Council in addition to providing research, innovation and information on market and marketing services. The capacity of MSE Associations and other support institutions will be enhanced for effective monitoring and evaluation at field level.

Legal Framework

5.5 To give the sector legislative recognition and provide appropriate legal framework to support its growth and development, the Government will formulate and enact a specific legislation to be known as the Micro and Small Enterprises (MSE) Act. The same Act will formalize the establishment of National Council for Small Enterprise (NCSE), and to ensure that it has the necessary legal force

to lobby and advise on appropriate MSE policies and fundraise for the sector.

Role of Stakeholders

5.6 Government is committed to facilitating partnership building among all key stakeholders in the MSE sector.

Government

5.7 Government will facilitate the private sector participation in economic activities. This entails creating a favourable legal and policy framework for private sector operations. Therefore, the Government will intervene in the market only when there is a market failure. This will be in support of service delivery by the private sector. Other areas of Government involvement will include, maintenance of essential infrastructure; capital formation and investment in human resource development and basic welfare; and safeguards against human exploitation and environmental degradation.

5.8 Specific areas in which Government will provide support include: research and development; training and education; infrastructure development; and protection of intellectual capital. The Government will build partnerships with the private sector; and will create a legal and regulatory framework in support of these partnerships.

5.9 The DMSED will review and develop MSE specific policies and programmes, oversee their implementation, and undertake monitoring and evaluation of sector specific activities. Specifically, the Department jointly with NCSE will appraise the performance of the MSE sector against the obtaining policy environment; identify constraints to the growth and development of the sector; formulate appropriate policies and strategies, implement and monitor the outcomes of the policies and programmes. In addition, DMSED will

coordinate MSE sector activities and maintain a register of all MSE associations.

MSE Sector Associations

5.10 The MSE associations will play a pivotal role in policy formulation, implementation and monitoring. The associations will increasingly take the initiative, not only in lobbying the Government on what they need but also in supplementing other efforts in training, marketing, technological development and transfer, information collection and dissemination, environmental management and provision of other support services. In addition, they will be avenues for channeling support services to the MSEs, securing property rights and credit for members, safeguarding quality and safety standards of products and premises for members, and entering into subcontracting and supply contracts. Through appropriate incentive mechanisms, the Government will encourage MSE businesses that operate in a socially responsible manner.

Private Sector

5.11 The private sector is the engine of economic growth. This sector will therefore provide the bulk of services to the market; provide investment capital for the sector's growth and wealth creation; and monitor policy implementation.

Civil Society

5.12 The civil society will advocate for appropriate policies for development of MSEs including consumer protection.

Development Partners

5.13 Development partners will support and supplement the Government, the private sector, MSE associations and the civil society, in their respective roles in terms of financial and technical

support within the dictates of this Sessional Paper. They will be guided by policy parameters as set out in this Sessional Paper.

Monitoring and Evaluation

5.14 The Government recognizes the importance of initiating an effective Monitoring and Evaluation (M&E) system for successful implementation of this Sessional Paper and will work closely with the development partners in developing M&E systems. A comprehensive monitoring and evaluation system facilitates identification of deviations from set targets and taking corrective measures.

5.15 In this Sessional Paper, M&E takes place at three levels with clear definition of roles and expected outputs. At the national level, the DMSED in collaboration with the NCSE will develop a comprehensive logical framework to set the implementation process of this Sessional Paper. The logical framework will spell out the broad policy objectives, strategic interventions and expected outputs. In addition, it will contain performance indicators, means of verification and the time frame. The DMSED and NCSE will further develop M&E tools for each of the identified interventions and facilitate the development and institutionalization of an inbuilt mechanism within the systems of other relevant stakeholders. Joint monitoring and evaluation will be undertaken by DMSED, the NCSE, Private sector and the development partners. Progress reports on implementation will be produced at this level and shared amongst all the stakeholders.

5.16 Capacity building will be undertaken at the sectoral level to equip DMSED field officers and MSE associations with the relevant skills to collect and process timely and reliable data necessary for effective M&E exercise. The product of M&E exercise will in turn be utilized within the sector for purposes of performance enhancement and improvement.

5.17 At the beneficiary level, the individual enterprises will be the source of information required for the M&E system. They will be critical in identifying process constraints and suggesting appropriate mitigation measures.

Implementation Matrix

5.18 To achieve the outcomes set out in this renewed Policy Framework for the Development of Micro and Small Enterprises for Employment Creation and Poverty Reduction, it will be necessary to have an effective policy coordination, implementation, monitoring and evaluation framework. This is necessary since failures of past policies and interventions have largely been as a result of lack of effective policy coordination, implementation and feedback mechanisms. This Framework provides for regular consultation and feedback between agencies entrusted with implementation. A Policy Implementation Matrix is attached as Annex.

ANNEX

INDICATIVE POLICY IMPLEMENTATION MATRIX

STRATEGY	ACTION	INSTITUTION (S) RESPONSIBLE FOR IMPLEMENTATION	TIME FRAME
5.19 POLICY COORDINATION AND IMPLEMENTATION Enhance Policy Coordination and effective implementation of the Policy Framework	Develop a Plan of Action for Implementation	DMSED, MLHRD, MOTI, Stakeholders	3 months
	Formulate and legislate MSE Act	MLHRD, National Assembly, Provincial Administration, MSE Associations, Other Stakeholders	6 months
	Undertake capacity building within DMSED	MLHRD, DMSED, Development Partners, MOF, DPM, KIPPRA, IPAR	1 year
	Establish broad-based and independent National Council for Small Enterprises (NCSE)	MLHRD, DMSED, MOTI, MOLG, MSE Associations	6 months

STRATEGY	ACTION	INSTITUTION (S) RESPONSIBLE FOR IMPLEMENTATION	TIME FRAME
	Develop mechanisms for effective coordination of MSE activities	MLHRD, DMSED, National Council for Small Enterprises (NCSE), Private Sector, MSE Associations, Development Partners	6 months
	Develop Mechanism for Monitoring and Evaluation	MLHRD, DMSED, NCSE, Development Partners, Private Sector, other stakeholders	6 Months
	Undertake review of Progress of Implementation of the Policy Framework	MLHRD, DMSED, NCSE, MPND, MSE Associations, Development Partners	1 Year
5.20 LEGAL AND REGULATORY ENVIRONMENT			
Consolidate and harmonize trade licensing	Review trade licensing requirements and regulations	MOTI, MOLG, LAs, MLHRD, MOF, Private Sector, Development Partners	6 months
	Review licensing fees	MOTI, MOF, MOLG, LAs, MLHRD, DMSED, Private Sector	6 months
	Decentralize licensing services	MOTI, MOLG, LAs, MLHRD, Private Sector	1 year

STRATEGY	ACTION	INSTITUTION (S) RESPONSIBLE FOR IMPLEMENTATION	TIME FRAME
	Implement the Single Business Permit (SBP) guidelines in all Local Authorities	MOLG, LAs, MSE Associations, Private sector	3 months
Decentralize registration of business names	Decentralize business registration to provisional headquarters	AG, MLHRD, DMSED, MOTI, Development Partners, NCSE, Provincial Administration	1 Year
	Decentralize business registration to District levels	MLHRD, AG, MOTI	2 years
Local Government Reforms	Computerize and Network the Process	AG, MLHRD/DMSED, MOTI	3 years
	Amend the Local Government Act, Cap.265	MOLG, LAs, AG, MLHRD, DMSED, NCSE,	1 year
	Develop guidelines for effective implementation	MOLG, LAs, AG, Provincial Administration, MLHRD, DMSED, MSE Associations, NCSE	6 months

STRATEGY	ACTION	INSTITUTION (S) RESPONSIBLE FOR IMPLEMENTATION	TIME FRAME
	Review, Amend and standardize Local Authority By-Laws.	MOLG, Las, AG, MLHRD, DMSED, Provincial Administration, Development Partners	1 year
Enhance access to workspace and security of tenure	Review, harmonize and simplify land legislations	MOIS, AG, MOLG, MLHRD, DMSED, NCSE, KIE, MSE Associations	1 year
	Implement Physical Planning Act, 1996	MOLG, Las, Provincial Administration, Associations, MOIS, MLHRD	3 months
	Capacity build MSE Associations	MLHRD, DMSED, MOLG, Private Sector, Development Partners	3 months
Promote MSE compliance to Labour Laws	Review labour laws	MLHRD, AG, FKE, COTU, Private Sector, Development Partners	On-going
Promote access to justice	Establish an MSE Court	MLHRD, DMSED, AG, NCSE, MOF, MSE Associations, Private sector	1 year
	Operationalize the arbitration process	AG, MLHRD, MSE Court, private Sector, Development Partners, FKE	3 months
Provide Supportive Legal Framework for MSE growth	Formulate MSE Act	MLHRD, AG, MOLG, MOTI, private Sector MSE Sector Associations,	1 year
	Legislate MSE Act	AG, MLHRD, MOTI, National Assembly, OP	1 year

46

STRATEGY	ACTION	INSTITUTION (S) RESPONSIBLE FOR IMPLEMENTATION	TIME FRAME
Promote access to marketing and development	Implement MSE Act	MLHRD, DMSED, MOTI, MOLG, NCSE, MSE Associations, Private Sector	1 year
5.21 MARKETS AND MARKETING			
Promote access to marketing	Simplify public tendering procedures	MOF, MLHRD, MOTI, Private Sector, MSE Associations	1 year
	Allocate at least 25% procurement quota to MSBs	MOF, Directorate of Public Procurement (DPP), MLHRD, other Ministries, MSBs	1 year
	Promote sub-contracting arrangements	MLHRD, DMSED, MOF, MSBs, KEBS, FKE, KEPSA, KIRDI, KIE, KAM, KNCCI, IPC	3 months
	Facilitate access to marketing information	EPC, NCSE, DMSED, MLHRD, MOTI, MOFA, MOT& Information, ICTDC, IPC, MSE Associations, Media, Development Partners, CBS	3 months
	Development mechanisms to restrict dumping	MOF, Customs, KRA, KEBS, MOFA, MOTI, MLHRD, DMSED, MSE Associations, Private Sector	3 months
	Promote local products through sensitization campaigns	MSE Associations, KEPSA, DMSED, Foreign Missions, KNCCI, KAM, Media, MOT& Information	3 months

47