DRAFT INTERNATIONAL TRADE POLICY

The Ministry of Foreign Affairs and International Trade has finalized the preparation of the draft International Trade Policy. The Policy recognizes the role international trade plays in the country's development agenda through linkages with all sectors of the economy. For trade to be effective, there is need to comprehensively address factors affecting the interrelation in the Manufacturing, Agriculture and the services value chain.

The Trade Policy therefore lays strategies to enhance the role of international trade in Kenya's development agenda. The Policy is linked to the Vision 2030, Kenya's Foreign policy as well other policy documents. It is also guided by the international best practices of trade formulation and the dynamics in global business trends and seeks to maximize on emerging trends such as the South-South trade, global production network and growing trend of trade in services.

As a key stakeholder, we kindly request for you comments and input to enable the finalization of the policy document. Submissions and comments can be sent through the email, economic@mfa.go.ke.

We thank you for continued support and collaboration.

REPUBLIC OF KENYA

MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE

INTERNATIONAL TRADE POLICY

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EXECUTIVE SUMMARY

The Foreign Trade Policy represents the overarching framework for catalysing Kenya's trade with a view to transforming and expanding its international trade flows and generally steer its foreign trade direction. The mandate to formulate a robust Foreign Trade Policy derives from the Kenya Constitution of 2010 which encourages better coordination of foreign trade, foreign policy and international relations. With the implementation of the Constitution, Kenya is now integrating external trade as part of its foreign policy.

Trade Policy in Kenya has evolved through a series of policy orientations spanning from the 1960's – 1980s Import Substitution Policies, the 1980's Structural Adjustment Policies that backed trade liberalization and the export Oriented Policies of the 1990s. The current trade regime is guided by market driven principles of trade liberalization as espoused by the World Trade Organisation (WTO) and similarly pursued through regional trading blocs such as the East African Community (EAC) and the Common Market for Eastern and Southern Africa (COMESA) among others.

The deepening and expansion of regional integration and bilateral trade agreements have widened the scope of trade opportunities for Kenyan businesses. Kenya therefore has the potential to become a more competitive player in the region and global economy if factors affecting competitiveness are addressed.

Progressive liberalization has significantly reduced tariff levels, licensing requirements and eliminated price controls leading to modest growth in export markets. However, despite the open trade policy pursued, Kenya's trade structure remains concentrated in primary products and traditional markets due to limited capacity for value addition in the manufacturing sector and the relatively underdeveloped intermediate and capital goods industries.

The essence of the Trade Policy on foreign trade, therefore, is to lay strategies to enhance export growth through value addition in export oriented manufactures, agri- businesses and in the services as well as pursuing diversification to fully exploit export opportunities in the emerging markets and also expand imports targeted at capital goods and inputs to improve trade. Kenya is also keen to take advantage of opportunities presented by intra- African trade, an aspect that equally occupies a large part of the African Union Development Agenda. This Policy advances Kenya's focus on trade within Africa among its key priorities.

Trade plays a significant role in Kenya's growth and development through its linkage with all the sectors of the economy by creating markets through which goods and services get to the consumer. It also plays a critical role in poverty reduction through employment creation in informal, retail, and wholesale trade. More importantly, it provides MSMEs with opportunities of accessing more favourable prices in international markets thereby ensuring equitable income distribution. The National Trade Policy recognizes the important role of development – oriented trade liberalization, the need to build export value addition; expand international, and in particular, regional trade. Given that Kenya seeks to be the main player in regional trade in Africa, an inclusion of regional trade in the policy is essential.

The current Trade Policy instruments are contained in various policy documents and legislations and are administered by various institutions. The Trade Policy takes cognisance of the existing policies and the need to develop a coherent trade policy, with a view to creating a policy environment that facilitates the development of the private sector. It highlights constraints and challenges in international trade within the context of existing trade policies and identifies strategies and programmes to sustain the economy within the tenets of Vision 2030. Vision 2030 recognizes the important role that trade plays in the mobilization of resources for economic development.

The Trade Policy Vision is to make Kenya an efficient export led globally competitive economy while the Mission is to facilitate Kenya's transformation into a competitive export led economy, enhance regional integration and widen participation in international trade.

The Trade Policy mission will be achieved through the following broad objectives:

(i) Pursuance of carefully articulated more open, competitive and export oriented policies that are compatible with the Country's National development objectives

(ii) Creation of an enabling environment for trade and investment to thrive.

(iii) Development of institutions, human skills and capabilities and capacities for trade development.

The Policy recognizes international trade as a strategic priority in realizing the objectives of raising business productivity; encouraging increasing investment; stimulating and supporting MSMEs to participate more in international trade; enhancing the competitiveness in both the export and domestic markets; addressing market distortions; encouraging value addition and diversification; and improving market access. It has equally identified various programmes for implementation in order to address the constraints and challenges affecting the country's development of international trade.

Some of the main constraints and challenges in international trade include;

(i) Limited capacity for diversification and low value addition in production,

(ii) Increased use of non-tariff barriers in export markets;

(iii) Lack of competitiveness due to inefficient trade facilitation infrastructure,

(iv) Limited availability of affordable trade finance,

(v) Limited negotiation capacity and uncoordinated negotiation processes;

(vi) Preference erosion, among others.

(vii) Limited institutional and human skills for trade development.

In addition to international trade policies, there are also a range of other trade-related policy issues that arise in the implementation of core programmes. These include consumer protection; competition; fair trade; investment issues; intellectual property rights; trade and environment; trade and gender; trade and labour standards; democratization and trade promotion; and dispute settlement mechanisms.

The policy covers e-commerce which is prioritized in Kenya's Vision 2030 which seeks to mainstream e-Trade within the overall economy. In order for this to be achieved, the government will focus on infrastructure development; market improvement; skills and technology upgrading; improved financial transactions; and improved Public Private Partnerships for the sub-sector.

In order to achieve its objectives the Policy prioritises and sequences issues to be addressed as follows: policy and regulatory framework; infrastructure development; institutional and human skills strengthening; market development; and trade finance support.

CHAPTER I: BACKGROUND

1.1 Introduction

Kenya's trade policy development can be traced back to Sessional Paper No. 10 of 1965 on African Socialism and its Application to Planning in Kenya. The Paper centred on ensuring rapid economic development and social progress for all Kenyans and placed emphasis on promotion and protection of domestic industries. The policy was a key influence on the development of the country's trade regime in the first decade of independence.

The second major phase in the evolution of trade policy in Kenya was through the Structural Adjustment Programmes (SAPs) introduced in the mid 1980's by Sessional Paper No.1 of 1986 on Economic Management for Renewed Growth. It emphasized a change from reliance on import substitution and protectionism; towards a policy that led to industries being encouraged to manufacture for export with reform programmes aimed at improving efficiency, stimulating private investment and increasing the sector's foreign exchange earnings. It also ushered in economic liberalization, bringing to an end the central role of public sector institutions which had hitherto managed and coordinated trade distribution networks and related trade facilitation and promotion activities.

The third phase came in 1995 with the entry into force of World Trade Organization which introduced the export led strategy guided by principles of liberalization. This phase has led to lowering of tariffs and reduction of non-tariff barriers in Kenya's export markets thereby improving market access for Kenya's products. The phase also coincided with increased efforts in the regional economic integration initiatives that resulted in the establishment of the East African Community (EAC), Common Market for Eastern and Southern Africa COMESA) and the Inter-governmental Authority on Development (IGAD).

In addition to the global and regional trade initiatives, the trade sector in Kenya is further influenced by commodity Acts and regulations under the administration of several ministries and public institutions.

Trade has also been integrated in Kenya's development plan. In 2007, Government elaborated a development programme – Kenya Vision 2030 covering the period 2008 – 2030 which aims at creating a globally competitive and prosperous nation with a high quality of life by 2030; and is now implementing Vision 2030's Second Medium Term Plan (2013 – 2017). The document recognizes the important role that trade plays in the mobilization of resources for economic development. The Economic Pillar of Vision 2030 seeks to improve the prosperity of all regions of the country and all Kenyans and includes specific Economic Projects in sectors like agriculture, trade, infrastructure, financial services, manufacturing and tourism.

Government policy is robustly focused on developing export-led growth, with Government providing an enabling environment for the private sector to produce and trade competitively. Consequently, more efforts will hitherto be directed towards expanding exports as well as imports of capital goods and inputs to enhance the supply side of trade while maintaining the strong linkage with domestic trade in order to achieve optimal exploitation of the correlation between domestic and international trade. The Foreign Trade Policy, through its Strategic Plan puts in place measures that will create and diversify markets, develop and stabilize productive capacities with a focus on value addition.

This Policy will be guided by international best practices of trade policy formulation and the dynamics in global business trends and will seek to maximize on emerging trends such as the rise in south-south trade, global production networks, growing trade in services and wider use of e-commerce.

The policy also places emphasis on the need to enhance a conducive investment climate, mainstream Micro, Small and Medium Enterprises (MSMEs) in global trade in view of their critical role in job creation, poverty reduction and furtherance of export diversification and economic development.

The Policy will be implemented by the Economic Affairs Division of the Ministry of Foreign Affairs and International Trade, in tandem with other key complementary policies. In this regard, complementary policies are those that are useful to have in place or to implement simultaneously with foreign trade policy reform. The Policy will address the issue of policy inconsistencies and incoherency by providing a Foreign Trade Policy Coordination Mechanism.

The Policy institutionalizes consultation so as to ensure ownership and national consensus of policy outcomes. An effective and efficient Public-Private Partnership arrangement is envisaged for its implementation.

It is recognised that the Policy will be most effective when complemented by effective and efficient institutions, a supportive legal regime, adequate and efficient trade facilitating infrastructure, and appropriate human capital and skills in both the private and public sectors.

Core Functions of the Ministry of Foreign Affairs and International Trade

With regard to the implementation of the Foreign Trade Policy, the core functions of the Ministry of Foreign Affairs and International Trade are;

i. Policy formulation and development of the International Trade Sector Development Plan
ii. Provision of policy guidance and supervision to Affiliated Institutions and decentralized levels of service delivery, particularly the Counties and commercial representatives
iii. Mobilization of resources for implementation of the Policy
iv. Coordination and spearheading of implementation of all the aspects of the Policy
v. Ensuring that the Foreign Trade Policy remains an integral component of national development plans.

Role of the Counties

In regard to the Foreign Trade Policy, the functions of the counties are;

i. Implementation of the Foreign Trade Policy in their respective areas of jurisdiction
ii. Ensuring that the Foreign Trade Policy is reflected in their respective County Development Plans
iii. Operation of the Market Information Service, including collection, analysis, interpretation and dissemination of trade/market information in their respective areas of jurisdiction.

Role of Foreign Service Commercial Officers

Foreign Service Commercial Officers (FSCOs) based in bilateral embassies abroad are key to the realization of the goal and objectives of this Policy. As gateways of Kenya's international trade relations and a key integral part of trade policy, given the stiff competition from other countries based in similar embassies, the country must build among FSCOs a culture of using trade data for (a) planning, (b) results and (c) accountability.

FSCOs must understand basic trade information or statistics such as exports, imports, trade balance and shares which they can use as a basis for planning trade performance. They must be equipped with capacity to understand and use trade information to be able to project future results. With trade information and proper planning accompanied by solid results, they can be accountable to the people whom they serve.

Embassies must understand their contribution to total national trade. This can be done by use of trade indicators and trade performance at embassy level and comparing it to that at national level. FSCOs should be sent with specific and detailed trade information about Kenya in the host country with benchmarked targets.

Their roles shall include the following;

i. Enhancing economic ties and development of trade relations between Kenya and other countries where Kenya has representation.
ii. Conduct research and studies required for the markets' potentiality and the volume of consumption patterns in the countries where the commercial attaches are located, and their markets,
iii. Continuous monitoring of changes that occur in the import and export regulations and preferences by notifying the authorities to inform the exporters, importers and businessmen,
iv. Providing data and information on the business and economic activities and events set up in the countries where the attachés are located, and making the information available for those interested in participating in them in advance,
v. Contributing to the preparation of commercial exhibitions held in Kenya and advertising them in advance in the countries of accreditation as well as contacting interested foreign authorities and sending invitations to them,
vi. Arrange for business delegations in coordination with the relevant authorities and to contribute in the preparation of an appropriate schedule that fits the goal of the visit,
vii. Using statistical information for enhancing planning, results and accountability,
viii. Preparing specialized commercial, economic and financial reports and brochures,
ix. Preparing studies on commodities and services trade in markets where the attachés exist, which can be produced in Kenya and made available to the Kenya producers and exporters,
x. Preparation of studies and providing advice on how to market and promote Kenyan goods and services in the countries where the attachés are, and making it available to Kenyan exporters and producers,
xi. Coordinating with the concerned authorities in Kenya for the marketing of local products in the countries where the attachés are located,

xii. Ensuring compliance and use of bilateral and multilateral trade agreements between Kenya and other countries, and notifying Kenyan businessmen and exporters of the benefits offered by these agreements and the procedures that must be followed in order to take advantage of them.

xiii. Strengthening the private-public partnership. (understanding exporters and importers role in trade)

1.2 Role of International Trade in the Economy

Trade plays a significant role in the country's growth and development through its linkages with all the sectors of the economy. It plays a major role in reducing poverty through employment creation. Trade supports the agriculture, manufacturing and service industries by creating markets through which goods and services get to the consumer and therefore provide the channel through which effects of economic growth are transmitted to various players in the economy. For trade to be effective, therefore, it is imperative that the factors affecting the inter-relationship in the manufacturing, agriculture and service value chain are comprehensively addressed.

Kenya has undertaken progressive liberalization which has significantly reduced tariff levels and eliminated price controls and licensing requirements. Despite the open trade policy pursued, Kenya's trade structure remains concentrated in primary products and traditional markets. Participation in international trade is also very limited. For instance, exports are composed of a few primary commodities, which include tea, coffee, cut flowers, and vegetable products, accounting for over 50% of total exports. This has been due to limited capacity for value addition in the manufacturing sector and the relatively underdeveloped intermediate and capital goods industries. Trade direction is also limited to a few countries with COMESA and the European Union accounting for over 60% of exports.

The deepening and expansion of regional integration and bilateral trade agreements have however widened the scope of trade opportunities for the Kenyan businesses. Due to these initiatives, there is an emerging trend towards exports of services. Other non-traditional exports which are driving the country's economic growth include horticulture that mainly targets the European Union marke, while new market opportunities have emerged particularly the USA market that offers opportunities for exports of apparels and textiles under the AGOA initiative. The Middle East market has further opened opportunities for trade in livestock products while the "Asian Tigers" have provided opportunities for tourism.

Regional Trade

Kenya has the potential to become a more competitive player in the region and global economy. At 45%, Kenya's intra- Africa exports as a percentage of total is quite high in comparative terms. This indicates that the country is trading more within Africa than outside and could partly explain declining trade relations with the EU. This is an important achievement consistent with Kenya's Vision 2030 relating to its priority to focus on regional trade. But, the country's share in total intra-Africa merchandize trade eroded from 5% in 1995 to 3%in 2013 for exports while Vision 2030 aims to raise market share in the region from 7 to 15%. This statistical information reveals that trade policy has an urgent and significant role to play in regional trade.

Kenya exports more than it imports in COMESA and EAC. While it supplies a large part of total intra-regional exports, it receives only a small proportion of intra-regional imports. This disequilibria trend leads to large and growing trade surplus of Kenya in the region to the disadvantage of smaller partners. Trade policy will to address this imbalance in order to create harmony and balanced trade partnerships to avoid trade conflict and inertia by smaller partners in regional trade negotiations.

The country's global competitiveness therefore remains a major challenge especially due to low levels of productivity, un-conducive business regulatory environment and inadequate infrastructure development. Intervention measures need to be initiated and aimed at further improving the business climate in terms of a providing a conducive regulatory environment and greater access to finance and infrastructure development. In intra-regional trade, it is important to identify dynamic export products on which Kenya can concentrate.

The essence of the Trade policy on international trade is to lay strategies to enhance 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.

1.4 Need for a Foreign Trade Policy

The need to formulate a Foreign Trade Policy derives from the Kenya Constitution of 2010 which encourages better coordination of foreign trade, foreign policy and international relations. With the ongoing implementation of the Constitution, Kenya is now integrating external trade as part of its foreign policy. The Policy analyses constraints and challenges in the development of international trade within the context of existing trade policies and prescribes strategies and programmes to sustain the economy within the tenets of Vision 2030.

The Policy takes cognisance of the Constitution and the country's commitments under the multilateral, regional and bilateral agreements. In particular, the EAC and COMESA regional integration agenda informs the formulation of this Policy. Further, the private sector and civil society concerns for the country to remain competitive and the need to institutionalise accountability respectively also feed into this Policy.

The formulation of this Policy takes into account international best practices and also recognises the needs of micro, small and medium-sized enterprises (MSMEs), which have emerged within the global business environment. It also takes into account new developments and trends in international trade such as expansion of world merchandise trade, a surge in trade between economic blocs, rise in South-South trade, containerization, intra-firm trade, global production networks, growing trade in services, rapid advances in ICT and wider use of e-commerce.

The Policy takes into account the need for effective coordination and shared importance of having institutions and infrastructure which support the development of trade. It also emphasises the need for effective participation of all stakeholders at both national and county levels. The integrated approach encourages information flow and builds confidence among stakeholders. The consultative process will ensure ownership of the Policy.

1.5 Vision, Mission and Objectives

In view of the linkages between trade and economic growth, the Policy aims at enhancing development by facilitating private sector led and globally competitive trade. In particular, trade will contribute towards the national economic growth target of 10% by creating an enabling environment for diversification and expansion of exports and increased domestic trade. This is in line with the Constitution and national economic growth targets set under Kenya Vision 2030.

Foreign Trade Policy Vision

To make Kenya an efficient export led globally competitive economy

Trade policy Mission

To facilitate Kenya's transformation into a competitive export led economy, enhance regional integration and widen participation in international trade.

The Trade Policy objectives:

(i) To pursue more open, competitive and export oriented policies that are compatible with the Country's National development objectives,
(ii) To create an enabling environment for trade and investment to thrive.

The Policy will use a comprehensive, coherent and integrated approach to achieve these objectives by:

(i) Setting and re-defining Government Policy relating to International trade;
(ii) Designing appropriate complementary measures to improve the business regulatory and macro-economic environment;
(iii) Increasing investment in infrastructure to support trade development;
(iv) Improving trade facilitation in order to enhance efficiency and delivery of goods and services in the international market.
(v) Improving co-ordination of institutions responsible for promoting and regulating trade; and
(vi) Ensuring effective participation of key stakeholders (Members of Parliament, Government Ministries, private sector, civil society, and development partners, among others).

Guiding Principles

The Foreign Trade Policy will be guided by the following principles:

(i) A coordinated approach to the implementation of the Foreign Trade Policy with emphasis on policy coherence, synergies and complementarities
(ii) Fostering of a Public-Private Partnership approach in the implementation and monitoring of the Foreign Trade Policy

(iii) Working out favourable trading arrangements with trading partners through the pursuit of bilateral, regional and multilateral trade initiatives
(iv) Strengthening the capacity to prepare and engage in negotiations that promote Kenya's interests through improved logistical support and organized coordination
(v) Defining export targets but remaining aware of the negative social and economic effects that often come with growth in trade, and ensuring that mitigating measures and policies are put in place
(vi) Support the country's Vision 2030 specifically the industrialization leg of the Vision by complementing the Industrialization Policy
(vii) Effective promotion of 'Brand Kenya' for goods and 'Served from Kenya' for services as strong internationally recognised brands.

Priorities of the Foreign Trade Policy

Implementation of the Foreign Trade Policy will focus on the following priority areas:

(i) Developing capacity to take advantage of existing market access opportunities
(ii) Export promotion by way of enhancing the competitiveness of Kenya's products and services in the regional and international markets
(iii) Diversification of the export product basket and strengthening of export related infrastructure.
(iv) Diversification into non traditional markets by securing and maintaining market access through a mix of measures including bilateral trade negotiations.
(v) Meeting specific export targets as outlined in the Foreign Trade Sector Strategic Plan (FTSP).
(vi) Building a brand image for Kenya's goods and services 'Brand Kenya' in relation to goods and 'Served from Kenya' in relation to services
(vii) Coordinating with responsible institutions to ensure the availability of reliable disaggregated and timely data on goods and services trade to aid accurate decision making
(viii) Support the growth of MSMEs by providing an enabling environment for them to access credit by initiating business development services in collaboration with other stakeholders. This is in realization of the fact that developing vibrant and competitive SMEs can be a springboard for effective participation in international trade.

CHAPTER II: INTERNATIONAL TRADE REGIME

This Chapter reveals the prevailing regulatory framework in the foreign trade arena and chronicles Kenya's performance in the key sectors of services, manufacturing (including industry) and agriculture over the years.

2.1 SITUATIONAL ANALYSIS

Kenya is yet to fully exploit its export potential due to supply side constraints occasioned by low productivity, inadequate infrastructure, institutional bottlenecks, lack of information about markets, *interalia*, reflecting the need for legitimate trade facilitation and for Government to provide an enabling policy environment through a mix of measures including fiscal incentives, institutional changes, procedural rationalization, and enhanced market access across the world as well as diversification of export markets. Some of the constraints inhibiting Kenya's effective participation in international trade have been documented by the United Nations Conference on Trade and Investment (UNCTAD) in a report providing an analytical overview of the country's participation in global and regional trade.[1] The report[2] documented a series of factual issues some of which have in the past overshadowed the country's ability to realize gains from trade to boost economic growth and development. Some segments of the key findings are replicated in this Policy.

Government remains concerned about the country's high dependence on exports of primary commodities. Although exports of manufactured goods are increasing mainly at regional level, the size and scope is not adequate enough to contribute sufficiently to the realization of Vision 2030. The limitation is largely due to the structural weaknesses in the supply and productive capacities. At international level, this has also contributed to the country's continued marginalization in trade. Government realizes these limitations and is addressing them through Vision 2030 and the Foreign Trade Policy as well as other development plans. In order to make contribution to national development, the Foreign Trade Policy is designed to address existing structural weakness and is augmented with complementary policy measures such as building quality infrastructure, increasing local and foreign investment, attracting quality technology, building quality human resources and skills and improving trade facilitation in particular, transport.

2.1.1 Sectoral Composition of GDP

1. The major sectors of Kenya's economy are agriculture with a GDP percentage share of 24.2, industry (including manufacture) 14.8 and services, 61. The economy is dependent

[1] Kenya's Participation in International Trade: Patterns, Evolutions and Policy Implications. January 2014.

[2] The report was prepared by UNCTAD at the request of the Ministry of Foreign Affairs and International Trade. It reviews Kenya's participation in merchandise and services trade and examines key structures and salient patterns of Kenya's trade.

on agriculture which has been the key driver to the economy for the last four decades. Agriculture is the main source of livelihood for 80% of Kenya's population living in rural areas. The sector contributes to rural employment, food production, foreign exchange earnings, rural incomes; and directly accounts for about 25% of Kenya's GDP; while 26 is an indirect contribution through linkages with manufacturing, distribution and other services related sectors. It also accounts for 65% of Kenya's total exports, 18% of formal employment and 60% total employment. The principal cash crops are tea, horticultural produce, and coffee. Horticultural produce and tea are the main growth sectors and the two most valuable of all of Kenya's agricultural exports. Coffee has declined in importance with depressed world prices. However, it is noteworthy that while agriculture formed the basis of the economy in the early years of independence, today, this sector accounts for a very small percentage of the country's GDP. The key goals of the sector are in tandem with Vision 2030 and the Agricultural Sector Development Strategy.

2. We must note also that although it accounts for a large share in total exports, agriculture's share in total exports has been eroding over the years. In the international trade context agriculture with a share of over 50% in total exports is important. However, dollar export values are too small at $3billion compared to $26billion for developing countries like Viet Nam.

3. The manufacturing sector constitutes 70% of the industrial sector contribution to GDP; whilst building, construction, mining and quarrying contribute the remaining 30%. The World Bank Kenya Economic Update 2013 report observed that the manufacturing sector was performing below its potential, reflected in trends in contribution to GDP. The sector contribution to GDP slipped from 9.6% in 2011 to 9.2% in 2012 while the growth rate deteriorated from 3.4% in 2011 to 3.1% in 2012. Indeed, in 2000, manufacturing was Kenya's second largest economic sector after agriculture. By 2009, it had fallen to third place. Both sectors have since been overtaken by the services sector. In dollar values, manufacturing value added is only $3.7 billion, again compared to $27billion for developing countries like Viet Nam. To expand trade especially exports in manufactured goods, the trade policy must ensure urgent development of the manufacturing value added in the GDP as a priority.

4. Kenya's share of manufactured exports to the global market is a dismal 0.02% and dollar values of only $2billion. The share of primary commodity exports in total is about 60% compared to only 35% for manufactured goods (Figure 3). The trade deficit in manufactured goods stood at about $8billion in 2013 suggesting that persistent trade deficits are limiting the country's ability to leverage external revenue to finance essential industrialization, export value addition and diversification hence may slow the good intentions of the vision. To achieve the vision of ensuring that manufactured goods surpass those of primary commodities, trade policy must ensure the lessening of exports of the latter while improving on the former and moving from deficits to surpluses.

5. Low value addition, high costs of production, limited diversification, a high influx of counterfeits have impeded the competitiveness of Kenya's manufactured products in the global market. There is an immediate need to shift from traditional food industries to high technology based manufacture, coupled with strategic diversification into high value added manufacture.

6. Kenya occupies a dominant position in services exports in sub-Saharan Africa. The services sector is currently the main contributor to GDP. Services have come to represent as high as 61 per cent of GDP. The share can be even greater if one takes into account the fact that a large segment of the economy is estimated to be informal where most activities consist of services. The share of services in Kenya's total exports of goods and services is much higher than that of the world's total trade of 20 percent or in developing countries' of 14 per cent (and even that in developed countries' of 24 per cent). Thus, services play a very significant role in Kenya's exports from international standards, and Kenya has indeed persistently registered a services trade surplus since 2000.

7. The sector has emerged as an important foreign exchange earner for Kenya. In 2012, services accounted for 44 per cent of Kenya's total exports and 13 per cent of its total imports. The export value of $5 billion was just twice as large as imports of $2.5 billion, registering a surplus of around $2.6 billion in 2012. This amount marginally offset merchandise trade deficit of $7.2 billion. Transport is the largest services sector representing 44 per cent of total services exports and drove the rapid expansion of Kenya's services exports. "Other services" have also expanded at a faster pace over the period 2000-2012 while that of travel (tourism) diminished.

2.1.2 **Openness and Balance**

Kenya's participation in international trade has progressed over the years to reach a relatively high degree of trade openness. However, such openness is also marked by a strong imbalance in the trade structure. Imports have been growing faster than exports, resulting into a wider trade imbalance. The country has registered a persistent trade deficit in virtually all years since 1970 with the gap becoming increasingly wider since the mid-1990s. In 2012, total exports (of goods and services) were $12 billion compared to $19 billion of imports. As a share of GDP, exports stood at 29 percent while imports reached as high as 45 per cent in 2011, resulting in a total deficit equivalent to 17 per cent of GDP. In dollar value terms, the gap between imports and exports indeed widened from just $22 million in 1970 to $7 billion in 2012. This has overshadowed the country's ability to realize trade surplus (net exports) to boost economic growth and to finance essential development projects, thereby limiting the contribution of trade to GDP and growth. Increasing negative net exports imply negative contribution to growth. The unilateral reforms of the 1990s do not seem to have influenced the trade dynamics of the country.[3]

2.1.3 **Merchandise imports and trade deficit**

[3] WTO, Trade policy Review of Kenya, 2012.

1. Persistent trade deficits are likely to limit Kenya's ability to leverage external revenue to finance essential industrialization and development needs, and could have an adverse effect on its balance of payments through accumulation of external debt unless offset by private financial inflows such as FDI and remittances. Kenya's external long-term debt indeed increased from $408 million in 1970 to almost $7 billion in 2010. Addressing the vicious circle of persistent and growing trade deficit leading to a large quantity of external debt with negative implications for macroeconomic stability and financial sustainability appears to lie at the center core of Kenya's trade and development nexus.

2. Since 2000, merchandize trade deficit started to increase at a particularly rapid pace to reach nearly $10 billion in 2012. Despite high oil prices that inflated import bills, the overall increase in the Kenyan import demand in volume terms appears to have played a more important role in the overall growth of deficit as faster growth of the Kenyan economy in the 2000s may have stimulated domestic demand and increased the propensity to import in all sectors. In 2012, three-fourths of total deficit was attributable to manufactured goods and fuels were responsible for 37 per cent. Developing Asia alone, particularly India and China, accounted for 80 per cent of Kenya's merchandise trade deficit.

3. Kenya's imports are dominated by manufactured goods representing 60 per cent of total imports while one-fourth of imports are fuels. These are mainly sourced from developing Asia (55 per cent), developed countries (28 per cent), particularly EU, and Africa (14 per cent). There has been a major shift towards Asia and Africa, as the latter became competitive in manufactured goods.

4. The value of Kenya's merchandise exports increased 20-fold between 1970 and 2012 to $6.1 billion but the share of Kenya in world merchandise exports has declined steeply from 0.13 per cent in 1964 to 0.03 per cent in 1964 to 0.03 per cent by the mid-1980's and stayed at that level until 2012, suggesting that Kenya's exports kept pace with world total exports that saw a dynamic growth since the 1990's.

5. Kenya's exports continue to be dominated by primary commodities accounting two-thirds (64 per cent) of total merchandise exports in 2012. Tea and cut flowers are the two major export commodities, making up 18 per cent and 12 per cent of the country's total merchandise exports respectively. Once important, coffee's share decreased to just 5 per cent by the early 2000s. Tea and coffee exports have been vulnerable to falling commodity prices. Exports of cut flowers have been dynamic since mid-1990s.

6. An important evolution in product composition of exports has been the gradual shift from primary commodities to manufactured goods. The share of manufactured goods climbed to 36 per cent from less than 30% between 1995 and 2012. The faster expansion of apparels and chemical products among manufactured goods are particularly notable, suggesting the important contribution of apparel exports to the US markets and intra-African trade.

7. The lack of dynamism in the merchandise export sector appears to lie at the source of its persistent merchandise trade deficits. While primary commodities represent the bulk of its exports, tea and coffee remain vulnerable to commodity prices as markets become saturated.

Diversification into exports of manufactured goods constitutes a major policy challenge, and in this regard, intra-African trade would appear particularly important and promising in promoting manufactured exports, particularly high-skill and technology intensive products, as a means to foster diversification and industrial development. Services are emerging areas of comparative advantage for Kenya and can usefully be exploited to harness its potential to generate spill over benefits for the overall economy.

2.1.4 Major Export Markets

1. Kenya is signatory to a number of trade and trade related agreements. These include multilateral trading arrangements under the World Trade Organisation (WTO), the East African Community (EAC), and the Common Market for Eastern and Southern Africa (COMESA), as well as several bilateral agreements. Kenya is also a beneficiary of unilateral non-reciprocal preferences such as the WTO Generalised system of Preferences (GSP) and the African Growth Opportunity Act (AGOA) of the United States. The country has performed well in intra-African trade and trade with the EU. Africa and EU are the two principal export markets, together absorbing over 70 per cent of Kenya's exports. With its market share of 47 per cent in 2012, Africa is Kenya's largest export market. This market has grown from 40 per cent in 1995. It is followed by the EU which attracted 25 per cent of Kenya's exports, but its share has seen steady erosion from some 40 per cent in 1995. The rapid erosion of the EU market is the result of the rising importance of African, US and other growing markets. The United States is far smaller but the third largest market, accounting for 6 per cent, along with Pakistan and the Russian Federation.

2. Uganda and Tanzania are Kenya's leading export destinations followed by external regional partners to two EU member States (United Kingdom and Netherlands), as well as the United States. The fact that two EAC member states are leading destinations of Kenyan goods highlights the importance of regional integration to Kenya. Kenya exports manufactured goods to Uganda and Tanzania, tea to the UK, horticultural produce to Netherlands and clothing and apparel to the United States. Cut flowers are a dynamic export product for Kenya. In the EU markets where nearly 80 per cent of Kenyan total exports of cut flowers are directed, Kenya is the largest non-EU exporter when intra-EU trade is excluded (which is estimated to account for 80 per cent of the world exports to EU). As regards its most important export commodity, tea, Kenya is the world's largest exporter only after Sri Lanka with a market share of 13 per cent. This share however slightly decreased since 1995 reflecting faster growth in export capacities in other competing exporters in global markets such as China, UAE, the United States and Viet Nam. Over 90 per cent Kenyan exports of apparel products are destined to the US markets.

3. The concentration of Kenya's intra-African trade in Eastern Africa also implies that COMESA is at the heart of its intra-African trade. Kenya's intra-COMESA exports as a share of its total exports rose from 25 per cent in 1995 to 33 per cent in 2012, and this COMESA role is the main factor contributing to increased importance of African markets for Kenya's exports. At over $2 billion, Kenya's exports were the highest in intra-COMESA exports. However, countries like Egypt, Libya, Uganda and Zambia have become main competitors in the markets. Kenya has performed relatively well having recorded a persistent trade surplus of $1.2 billion

in 2012. Manufactures account for over 50 per cent its exports to COMESA while food items represented 53 per cent of intra-COMESA imports.

4. Furthermore, Kenyan intra-Africa exports of manufactured goods have seen a gradual shift towards higher-skill and technology intensity in the factors used for production. The proportion of "high-skill and technology intensive manufactures" and "medium-skill and technology intensive manufactures" increased from 43 per cent to 52 per cent between 1995 and 2012, with corresponding decrease in that of "low-skill and technology intensive" and "labour and resource-intensive" manufactured goods. This suggests Kenya's gradual upgrading of its production and export base.

5. It is significant that Kenya's intra-African trade is strongly associated with manufactured goods. Diversification into exports of manufactured goods especially at regional level constitutes a major policy alignment for Kenya. The share of manufactured goods in all products is higher in intra-African exports than in total exports to the world. As high as 55 per cent of Kenya's intra-African exports are in manufactures as compared to only 36 per cent in its exports to the world. As nearly half the value of total Kenyan exports are destined to Africa, intra-African countries can be clearly seen as instrumental for diversification, industrialization and greater value added for Kenya.

6. It remains important however that Kenya upgrades its technological base so that it can act as a useful conduit to expand trade in higher-skill and technology intensive products. Industry, as percentage of GDP plummeted from 24 per cent in 1980 to 17 per cent in 2011. The ability to create, acquire and adapt new technologies is a critical requirement for successful competition in the global market place.

CURRENT INTERNATIONAL TRADE POLICY AND REGULATORY FRAMEWORK

2.2 International trade policy Orientation

Kenya's Trade policy is anchored on the principles and objectives of the WTO[4] and is committed to the gradual reduction of Tariff and Non-Tariff barriers and the progressive liberalization of trade in services. The country is also a member of Regional Trade Economic blocs (COMESA and EAC, among others) and has also signed several bilateral and preferential trade agreements.

2.2.1 Regional Trade Agreements

Kenya is a member of the East African Community (EAC), Common Market for Eastern and Southern Africa (COMESA), Intergovernmental Authority on Development (IGAD), Indian Ocean Rim-Association of Regional Cooperation (IOR-ARC) and is also negotiating a Tripartite Agreement between the EAC, COMESA and the Southern African Development Community (SADC).

(a) East African Community (EAC)

4 The WTO fundamental principles of the Most Favoured Nation (MFN) , National Treatment , Prohibition of Quantitative Restrictions (QRs) ,Tariff Bindings/Commitments and Transparency

Kenya, Tanzania, Uganda, Rwanda and Burundi form the East African Community. The EAC trading bloc brings the five countries together on issues of economic, social and political cooperation. The EAC integration has expanded the market for goods through adoption of a Common External Tariff (CET). However, markets for some business segments previously operating under Export Processing Zones (EPZ) programmes have been impacted negatively as the markets which were previously available for export have been transformed into domestic markets. As such, exports into these markets do not qualify for duty exemptions privileges on raw materials imported for export processing purposes.

The EAC has created an expanded market for Kenyan goods and services with Tanzania being the leading export market for Kenya and Uganda and Rwanda also being major export destinations for Kenyan exports.[5] The leading exports from Kenya to EAC countries include manufactured goods, fuel, lubricants, machinery and other equipments.

A three-band Common External Tariff (CET) on EAC imports originating in third countries was agreed upon in the context of the EAC Customs Union (CU) Protocol including the sensitive list comprising of goods that are charged tariffs higher than the maximum CET of 25%. The EAC Customs Protocol also provides for elimination of non-tariff barriers, deals with rules of origin, dumping, subsidies and countervailing duties, settlement of disputes, securities and other restrictions to trade, competition, duty draw backs and remission of taxes, customs co-operations re-exportation of goods and harmonization of trade documentation and procedures among others.

The adoption of the CET by Partner States ending the practice of charging different national tariffs by observing the provisions of the EAC customs protocol has contributed significantly towards enhanced simplicity, rationalization, and transparency of EAC Partner States' tariffs. These initiatives inform the direction of this trade policy.

The EAC Common Market Protocol was concluded and signed in November 2009 and came into effect on 1st July 2010. The Common Market is expected to be fully implemented by 2015. The Common Market provides for free movement of goods, capital, services, labour and person. It also provides for the right of residence and establishment among others.

As mentioned, Kenya is a member of COMESA a regional economic bloc that brings together nineteen (19) countries. Fourteen of the COMESA Member States have joined the COMESA Free Trade Area (FTA) to which Kenya belongs. As such, it exchanges free-trade preferences with 14 COMESA FTA on reciprocal basis with member countries, as compared to tariff preferences exchanged with non-FTA COMESA members.

The COMESA Customs Union was launched in June 2009. Member states adopted COMESA CET structure of a three–band category of 0% on raw materials and capital goods, 10% for intermediate goods and 25% for finished goods, with a provision for flexibility on policy space. The COMESA CET is to be implemented in a three year transition period. The COMESA Customs Union is a deeper form of regional integration whose underlying benefits include; the creation of a larger market of over 420

[5] Tanzania displaced Uganda as the leading export destination for Kenyan goods in 2013

million people, attraction of more investors and induced economies of scale and enhanced welfare for the population arising from reduced consumer prices.

COMESA is currently the leading destination for Kenyan export products. The main exports to COMESA include manufactured goods, fuel and lubricants, machinery and other equipment. The expanded market has enabled Kenya to diversify exports particularly in the area of manufactured goods and trade in services. Kenya has become a leading financial and transport hub in the region. In the air transport sector, the national carrier has widely expanded its services to the region.

Kenya is a key player in trade in services in COMESA. COMESA member states have undertaken measures to progressively liberalize trade in services in the region and have identified four initial sectors to start liberalization. These sectors are tourism, communication, financial services and transport. Additional sectors will be identified to achieve higher levels of liberalization. The region therefore offers opportunities for strong growth in this sector.

(b) Intergovernmental Authority on Development (IGAD)

IGAD has more or less been transformed into a Regional Economic Cooperation (REC) body and its mandate expanded from drought and desertification to include an economic and trade agenda. Its division of Economic Cooperation and Social Development is responsible for the overall co-ordination of regional development co-operation in the areas of trade, industry, tourism, transport and infrastructure among others.

In accordance with the Agreement Establishing IGAD, the IGAD Secretariat is mandated to promote programmes aimed at realizing the objectives of COMESA and the African Union. Hence, the World Trade Organisation (WTO) and the Economic Partnership Agreement (EPA) negotiations are carried out under these processes and framework arrangements.

(c) EAC/COMESA/SADC Tripartite Free Trade Area

The COMESA-EAC-SADC Tripartite was established in 2005 with the main objective of strengthening and deepening economic integration of the southern and eastern Africa region. This is being achieved through various initiatives aimed at harmonising policies and programmes of the three regional economic communities (RECs) in the areas of trade, customs and infrastructure development, and implementing these in a coordinated manner, and wherever possible jointly.

The Tripartite agenda is focused and underpinned by a robust Vision and Strategy which is operationalised through a wide-ranging work programme whose main pillars include:

(i) Harmonisation and improvement of functionality of regional trading arrangements and programmes, including establishing a Tripartite Free Trade Area encompassing its 26 member countries, which is a major step towards the realisation of the African Economic Community;

(ii) Enhancement of trade facilitation to improve the flow of goods along transport corridors by lowering transit times and the cost of trading. Significant progress is already being achieved on the North South Corridor which has been implemented as a pilot since 2007;

(iii) Joint planning and implementation of infrastructure programmes which mainly comprise of surface (road, rail, border posts, and seaports) and air transport, ICT and energy. Enhancing physical interconnectivity through infrastructure development and improving operational efficiencies of border crossings and seaports are important factors in speeding up economic development and facilitating and expanding inter-regional trade, as well as trade with the rest of the world; and

(iv) Free movement of business persons within the tripartite region to facilitate the conduct of business.

The Tripartite is also addressing challenges of overlapping membership through harmonising programmes across the three RECs. Although the Tripartite was established in 2005, real work started ffollowing the directive of the EAC/COMESA/SADC Heads of State Summit of 22nd October 2008 in Kampala, When the Heads of State and Government of COMESA, EAC and SADC conveyed in their communiqué a palpable sense of urgency in calling for the establishment of a single Free Trade Area covering the 26 countries of COMESA, EAC and SADC. These are 26 out of the 54 countries that make up the continent of Africa.

2.2.2 Preferential Trade Agreements

(a) African Growth and Opportunity Act (AGOA) 2000

Kenya, along with other beneficiary Sub-Saharan African countries, has gained from a preferential trade arrangement provided by USA through the African Growth and Opportunity Act. The beneficiary countries have to meet eligibility criteria set out in the Act which include good governance issues and establishment of a market based economy. This programme was initially expected to expire in 2015.However, during the 10th AGOA forum held in Lusaka, June 2011, the parties agreed to the extension of the trading program to 2025. The forum also agreed to extend Third Country Fabric provision to 2015. The program gives beneficiaries opportunity to export over 6000 product lines to the United States duty free and quota free. However, Kenya has only been able to export a few products specifically textiles and handicraft due to supply side constraints. Merchandise exports to the US as a percentage of total to world eroded significantly between 2005 and 2010 and has not made remarkable recovery. In dollar values, merchandize exports are only $383.9million which is quite low.

UNCTAD statistics indicate that exports of manufactured goods to the US as a percentage of total exceeds by far that of primary commodities which is a plus for the country. But this share eroded steeply from 25% in 2005 to 13% in 2013. In terms products, Kenya's exports of textile fibres, yarn, fabrics and clothing in aggregate to the US as a percentage of total was 70% in 2013, suggesting it is the single most important export product to the US although the share rests on a small dollar value of only $260.5million compared to $5.0 billion for Bangladesh an LDC.

The challenge for trade policy is to ensure a rising share back to 25% and expanding further. If the 25% share had been maintained, the country would have benefitted more from AGOA, A more important challenge for trade policy is to ensure increasing exports of manufactured goods in dollar values by at least threefold. Another challenge is to address the paradox of trade preferences. In other

words, there should be positive correlation between AGOA and trade flows especially increased exports.

Exports of this small magnitude to the biggest market in the world are not helping Kenya to achieve its vision objectives particularly the export value addition one.

(b) Economic Partnership Agreements (EPAs)

Kenya together with the other EAC Partner States has negotiated and initialled a new trading arrangement with the EU[6], the Economic Partnership Agreement (EPA) as a successor to the Cotonou Partnership Agreement (successor to the Lome convention). In conformity with WTO provisions, the new trading arrangement will replace the non-reciprocal trade preference arrangement offered to Kenya and other ACP countries under the Cotonou Partnership Agreement. The primary objectives of the EPAs are to foster sustainable development, integrate the ACP states into the world economy and fully comply with the prevailing WTO rules. Negotiations for the EAC – EU EPA were concluded in 2014.

(c) Generalized System of Preference (GSP)

Under the GSP[7], a wide range of Kenya's agricultural and manufactured products are entitled to preferential duty treatment in the developed markets of the United States of America, Japan, Canada, New Zealand, Australia, Switzerland, Norway, Sweden, Finland, Austria, and other European countries. The scheme not only affords the beneficiaries preferential tariffs, but also gives them a non-quantitative restrictions market.

2.2.3 Bilateral Trade and Investment Agreements

Kenya has signed bilateral trade and investment agreements with both developed and developing countries[8] that fulfil the following objectives:

(i) Exchange of market intelligence, missions/surveys for market information;
(ii) Encouragement of institutional cooperation such as the Standards Institutions; Chambers of Commerce and Industry, Customs Organizations, Research Institutions among others;
(iii) Prompt and focused follow up of issues raised during bilateral meetings;

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[6] The EU offers trade preferences to Kenya. However, the paradox of trade preferences here also apply. The country's exports of manufactured goods as a percentage of total at 3% is simply too low. In addition, this is an erosion from 10% in 1995 when Bangladesh, an LDC's share in total exports is 55% and an increase from 43% in 1995. In dollar values Bangladesh's exports of manufactured goods are $14.8 billion compared to $66.5million for Kenya in 2013

7 The Generalized System of Preferences, or GSP, is a formal system of exemption from the more general rules of the World Trade Organization (WTO). Through the GSP developed WTO member countries are exempted from MFN for the purpose of lowering tariffs for the developing countries (without also doing so for developed countries).

[8] Bangladesh, Canada, China, Comoros, Congo, DRC, Djibouti, Egypt, Ethiopia, Hungary, India, Iran, Iraq, Lesotho, Liberia, Mauritius, Mozambique, Netherlands, Nigeria, Pakistan, Russia, Rwanda, Somali, South Africa, South Korea, Sudan, Swaziland, Tanzania, Thailand, Turkey, Ukraine, Zambia, Zimbabwe and Libya

(iv) Exchange of general and product specific trade and investment missions; and
(v) Promotion of Trade and Investment.
(vi) Reciprocal participation in exhibitions and trade fairs as well as respective country week promotional events;

Export/ Import (EXIM) Policies

Export/ import policies refer to measures adopted by Kenya with reference to its exports and imports. The policies aim at liberalising foreign trade through a continuous process of removing restrictions on imports, providing an export friendly environment and simplifying trade procedures. Over the years, measures have been taken to facilitate input availability and technological upgradation as well as promoting exports through multilateral, regional and bilateral initiatives and identification of thrust and focus areas.

2.3 Import Policies, Procedures and Institutions

2.3.1 Goods Trade

a) Applied Tariff Structure on:

i) Trade with rest of the world

Since the coming into force of the Protocol establishing the EAC Customs Union on January 1, 2005, the Common External Tariff (CET) has been the main instrument of import policy for Kenya.

The EAC Custom Union Protocol establishes a three band common external tariff with 0% on raw material imports; 10% on intermediate goods imports and 25% on finished imports CIF in respect of all goods imported into the Community. Goods imported from EAC partners states are zero rated while some of Kenya's exports to Uganda and Tanzania are charged duties under a transitional arrangement ending in 2009. The Partner States also undertake to review the maximum rate of the Common External Tariff after a period of 5 years from the coming into force of the Custom Union. EAC Partner States charge CET tariffs on sensitive products[9] originating in third countries lower than the WTO tariff bindings.

ii) Intra regional trade

1) EAC

Since the launch of the EAC Customs Union on 1st January 2005, Kenya's imports from Uganda and Tanzania do not attract any tariff. This duty free market access is also extended to Rwanda and Burundi by virtue of joining the EAC Customs Union in 2007.

2) COMESA

[9] Maize and maize products, dairy products, wheat + meslin flour, rice, sugar, cigars, cigarettes, cement, matches, batteries, khanga fabrics, bed linen, sacks, bags, used clothes, crown corks, jaggery.

Kenya's imports from COMESA FTA countries do not attract any import duties. At the moment, there are 14 COMESA countries (including Kenya) that are implementing the FTA. These are – Burundi, Comoros, Djibouti, Egypt, Libya, Madagascar, Mauritius, Malawi, Rwanda, Seychelles, Sudan, Zambia and Zimbabwe.

b) Tariff Bindings under WTO

Kenya's tariff bindings cover 14.9% of its total tariff lines. Her tariffs are bound at a ceiling rate of 100% for all agricultural products. For non-agricultural products, Kenya has bound six tariff lines (at the HS four-digit level), equivalent to 1.6% of non-agricultural tariff lines; at 62% on fresh, chilled, or frozen fish (HS 03.02 and 03.03), excluding fish fillets and other minced fish meat; 35% on medicaments (HS 30.03); 18% on pharmaceutical goods (HS 30.06); 62% on mineral or chemical fertilizers (HS 31.05) containing two or three of the fertilizing elements, potassium, phosphorus, and nitrogen; and 31% on polymers of ethylene in primary form (HS 39.01). The tariff on 'other tractors' (HS 87.01.90) is bound at 62%. Currently Kenya is engaged in negotiations aimed at increasing tariff binding coverage of non-agricultural products.

c) Duty Exemptions and Waivers

Duty exemptions and waivers are governed by the EAC Customs Management Act 2004. Under the Act, Kenya grants specific and general tariff exemptions on goods. These goods include: goods used by charitable bodies, churches, and approved educational institutions; the military and police; official aid-funded projects; in emergency situations; and by diplomatic and international organizations. In addition, samples and exhibits/displays for trade fairs may be imported into Kenya duty free. However, after use, the items should be re-exported or destroyed. In the event that relevant customs certification that the goods have been re-exported or destroyed is not produced, the relevant duties are imposed on the presumed value of the items.

d) Internal Duties

(i) Value Added Tax (VAT)

VAT is a consumption tax charged on both local sales and importation of taxable goods and taxable services. The law on VAT is contained in the Value Added Tax Act Chapter 476 laws of Kenya and the regulations made there under. VAT is currently levied at a standard rate of 16% on the sale price of locally produced goods and services, or on the customs value (plus border charges) of imports. A reduced rate of 14% is applied on certain services, in particular hotels and restaurants.

(ii) Excise Taxes

Excise taxes apply to both imports and locally produced goods including alcoholic beverages, tobacco products, petroleum products, motor vehicles, carbonated drinks and mineral water, cosmetics, jewellery and cell phone airtime. These duties are charged on the ex-factory price of the domestic

goods and the imports value (inclusive of custom duties) of the imported items. Excise duties on imports are collected at the time of imports along with import duties and VAT.

e) Quantitative Restrictions and Import Prohibition

The EAC Customs Management Act provides for WTO compliant quantitative restrictions and controls on some imports on grounds of security, health, morals and environment. These restrictions and controls are implemented through import quotas, licensing requirements and imposition of import bans. The Import prohibition and licensing regime has goods categorized into three groups: prohibited goods, restricted goods and those that must meet technical, phytosanitary, health and environmental standards. Imports of animals and animal products are undertaken through permits issued by the Department of Veterinary Services.

f) Trade Remedies

Kenya's national legal basis for the imposition of anti-dumping and countervailing measures is in the Customs and Excise Act. A duty may be imposed on dumped[10] or subsidized[11] goods if their importation causes or threatens to cause material injury to an established industry or is such as to retard materially the establishment of an industry in Kenya. To address the limitations of the customs and exercise Act, Kenya is in the process of domesticating the WTO trade remedies law.

g) Standards and Technical Regulations

Standards play an important role in ensuring the safety and quality of products in the market. Kenyan standards are formulated through consensus by the relevant stakeholders. The government has ensured that competent authorities are in place to undertake standardization, testing and certification.

(i) **The Kenya Bureau of Standards (KEBS)**

The Kenya Bureau of Standards (KEBS) is a statutory body established by the Standards Act (Cap 496. Its mandate includes the preparation of standards relating to products, measurements, materials, and processes; the certification of industrial products; assistance in quality controls; and dissemination of information relating to standards.

The standards are formulated through consensus with the public by technical committees comprising experts representing various interests including producers, consumers, technologists, research organizations, and testing organizations. Kenya has over 4,000 standards. In principle, products covered by technical regulations must be inspected in their country of origin prior to their import. Locally produced goods are monitored regularly through visits to factories according to annual, quarterly, and monthly plans based on product risk and previous records of inspections and tests.

[10] Dumped goods as those with an export price lower than their fair market price in their country of origin or in the country from which they were exported to Kenya; or sold in Kenya at a price below the "cost of importing", i.e. the cost of the goods in the country from which they were exported inclusive of insurance, freight, duties, taxes and any other charges.

[11] Subsidies are defined as any support (e.g. grant, loan, tax relief) given, directly or indirectly, on production or export.

(ii) **The Kenya Accreditation Service (KENAS)**

The Kenya Accreditation Service (KENAS) was established under the Standards Act (Cap 496) in March 2005, to take over the functions of the Quality Systems Assessment Committee for registering assessors and the National Calibration Scheme for accrediting calibration laboratories. KENAS has around 100 laboratories to carry out tests in various fields in Kenya.

(iii) **Kenya Plant Health Inspectorate Services (KEPHIS)**

The Kenya Plant Health Inspectorate Service (KEPHIS) coordinates all matters relating to plant health and quality control of agricultural inputs and produce under the Plant Protection Act, Chapter 324, the Suppression of Noxious Weeds Act, Chapter 325, and the Agricultural Produce (Export) Act, Chapter 319. KEPHIS issues a phytosanitary certificate after verifying that a shipment of plants, seeds, and fruit other than canned or bottled fruit meets the entry requirements.

(iv) **Public Health**

The Public Health Department is responsible for ensuring food, drugs, and chemical substances comply with health and safety standards, under the Public Health Act, Chapter 242, and the Food, Drugs and Chemical Substances Act, Chapter 254.

(v) **Veterinary services**

The Department of Veterinary Services is responsible for permits for imports of live animals, animal products, and 'biologicals'. The department issues health clearance certificates where inspection shows the animals are healthy and all accompanying health certificates are in order. The Meat Control Act Cap 356 provides standards for the storage and transport of meat and of animals for slaughter and for the manufacture of meat products

h) Customs Valuation, Classification and Implementation Procedures

Kenya has notified its legislation on customs valuation to the WTO. Since January 2000, customs valuation in Kenya has been based on the Agreement on Implementation of Article VII of GATT 1994, which provides the rules for the customs value for imported goods.

The Kenya Revenue Authority (KRA), Kenya Ports Authority (KPA), Kenya Airports Authority (KAA), KEBS, KEPHIS, Police and clearing and forwarding agents participate extensively in customs administration including charging fees for their services. A number of reforms have been undertaken to simplify customs administration which include automated online operations, harmonised EAC customs duties, reduction of road blocks, simplification and harmonisation of documentation between EAC and COMESA. Each member of the EAC Customs Union administers its own customs collection.

i) Rules of Origin (RoO) and Domestic Content Requirement

Rules of Origin are one of the common trade policy instruments. The numerous trade agreements Kenya participates in call for different Rules of Origin and content requirements. Rules of origin currently applicable are those under the AGOA, EAC, COMESA trade regimes as well as those under the EAC-EC.

Policy on Import measures

The country is committed to gradual reduction of Tariffs and elimination of Non-Tariff barriers and other restrictions in line with regional and multilateral trade initiatives.

2.4 Export Policies and Measures Affecting Exports

2.4.1 Goods Trade

The trade policy instruments available for exports include: export taxes and charges, export prohibitions, restrictions, and licensing; export incentives; export promotion and marketing assistance, and export finance, insurance, and guarantees.

a) Export Taxes and Charges

The registration formalities for imports of goods for commercial purposes under the Customs and Excise Act also apply to exports. Specifically, all exports must be carried out on the basis of a certificate.

The EAC Customs Management Act provides flexibility for member countries to impose export taxes and charges on a selected range of products for the development of sectors which are critical in addressing key national issues of industrial development, income inequality and unemployment. Kenya maintains an export tax of 25%, on hides and skins and scrap metal to encourage local processing.

b) Export Prohibitions, Restrictions, and Licensing

Kenya prohibits the exportation of certain products such as firearms and ammunition. A permit is required for exports of most agricultural products, food, minerals, and mineral products. Exports of certain agricultural and food products are subject to special licences to ensure that the country remains self-sufficient in these products.

Products considered as having aesthetic value or security importance, and products covered by international conventions to which Kenya is a signatory e.g. Convention on International Trade on Endangered Species (CITES) require prior authorization by the Government before exportation.

Plant exports are subject to a phytosanitary certificate from Kenya Plant Health Inspectorate Service (KEPHIS), while export of animals and animal products require a health and sanitary certificate from the Department of Veterinary Services.

c) Export Subsidies and Incentives

Kenya does not grant any export subsidies, nonetheless, three incentives schemes are available to Kenyan companies to encourage export-oriented activities. These are the Export Processing Zones (EPZ) Scheme, the Manufacturing Under Bond Scheme (MUB), and the Duty Remission Scheme.

(i) Export Processing Zones Scheme

The Export Processing Zones Scheme, established in 1990, allows for duty and VAT exemption on imported machinery (except motor vehicles) and raw materials. Besides high-quality infrastructure, companies located in EPZs benefit from a ten-year corporate tax, income, and withholding tax holiday; exemption from stamp duties; and a 100% investment allowance (applicable over 20 years).The Export Processing Zones Authority (EPZA) acts as the primary licensing and regulatory agency on behalf of the Government with the objective of rapid project approval and facilitating licensing.

(ii) Manufacturing under Bond (MUB)

The Manufacturing Under Bond (MUB) Scheme was introduced in 1989. Under the scheme, firms exporting their total output are exempted from payment of import duties and VAT on inputs, including plant, equipment, and raw materials. The exemption is subject to the posting of a customs bond.

Eligible firms also enjoy an investment allowance of 100% on immovable fixed assets. To be eligible, investors must provide documentary evidence showing financial ability, technical know-how, and market availability as well as significant employment generation. MUB companies may sell their products on the domestic market, subject to the approval of the Commissioner of Customs and Excise, and upon payment of normal duties and taxes plus a 2.5% surcharge on the dutiable value.

(iii) Duty Remission Scheme

Duty Remission Scheme has been operational since 1990. Through the scheme, the government grants remission of duties and VAT on goods imported for use in the production of manufactured goods for export or for the production of raw materials for use in manufactured products for export, or for the production of ‘duty-free items’ for sale domestically. The Trade Remission Exports Office (TREO) administers the scheme. The remission is subject to the posting of a bond to cover the amount of unpaid duty. In order to recover the bond, exporters must demonstrate, within six months, which imports have been incorporated into the production of final goods that have been exported.

d) Export Finance, Insurance, and Guarantees

Kenya does not have any public export finance, insurance or guarantee schemes. However, the African Trade Insurance Agency (ATIA) and the Multilateral Investment Guarantee Agency (MIGA) provide multilateral import and export credit and political risk insurance guarantee. Export finance and insurance must be taken with private companies whose prices are often market-driven.

e) Export Promotion and Marketing Assistance

The Export Promotion Council (EPC) is mandated to promote and develop Kenya's export activities. The EPC's activities revolve around export market development, product development and adaptation,

trade information and delivery of services and trade policy facilitation and development of exporting skills. The EPC also maintains a Centre for Business Information in Kenya (CBIK) which provides business information and support services and houses a WTO reference centre for the business community. In addition, the National Export Strategy (NES) currently under review has been Kenya's main policy paper on export promotion.

Other agencies involved in export promotion and marketing include; the Export Processing Zones Authority (EPZA) which is to be transformed into a Special Economic Zone Authority, the Horticultural Crops Development Authority, Tea Board of Kenya, Coffee Board of Kenya ,Kenya Meat Commission Board, Kenya Pyrethrum Board, the Kenya National Chamber of Commerce and Industry (KNCCI), and sectoral producer and exporter associations such as the Kenya Association of Manufacturers (KAM), the Fresh Produce Exporters Association of Kenya (FPEAK) and Kenya Flower Council.

f) Research, Development and Extension Services

Kenya Agricultural Research Institutes (KARI), the Kenya Industrial Research and Development Institute (KIRDI) Kenya Institute of Public Policy Research Analysis (KIPPRA), Institute of Policy Analysis Research (IPAR), Institute of Economic Affairs (IEA) and Tegemeo Institute of Egerton University, among others provide important research, development and extension services to the productive sectors and trade.

Overall Policy on International Trade

To pursue more open, competitive and export oriented policies that are compatible with multilateral, regional and bilateral trade commitments.

2.5 Trade in Services

Services constitute the most important sector of the Kenyan economy today, with its share of GDP and employment larger than the combined share of agriculture and industry. The services sector has been the most important sector in Kenya's economy in terms of employment creation, contribution to GDP and foreign earnings. The contribution of the services sector to real GDP was about 61% in 2013. The most important sub-sectors include tourism, transport and communication, financial services and business services. The services sector, including government services, absorbs about 68% of the labour force.

The general principles applying to trade in goods like MFN, National Treatment and transparency also apply to trade in services. However unlike trade in goods where the market access restriction is through tariffs, for services, the market access restriction is through regulations that include foreign equity restrictions, educational qualifications, economic needs tests and licensing among others.

The WTO General Agreement on Trade in Services (GATS) however does not compel countries to open up their services sector. The agreement recognises the special needs of the developing and least developed countries to liberalise services according to their level of development.

2.5.1 Imports

Kenya has made a number of commitments at the WTO to open up in its service sectors for imports. Kenya's specific commitments under GATS cover the following areas: financial services (insurance and insurance related activities, re-insurance and retrocession, services auxiliary to insurance, banking and other financial services; communication services; tourism and travel related services (hotel and restaurants, including catering, travel agencies and tour operators, and tourist guides); transport services; and other services (meteorological and data/information).

The basic list of the service sector considered for progressive liberalization includes business services, communication services, construction and engineering related services, distribution services, educational services, environmental services, financial services, health -related social services, recreational, cultural and sporting services, transport services, tourism and travel among others.

2.5.2 Exports

Kenya's exports of trade in services are quite competitive in the African region but limited in the developed countries. The services sector in the developed countries is both highly competitive and highly regulated in effect affecting Kenya's export potential.

Factors limiting exports to developed countries particularly the EU include the economic needs test which has often been used as a market access barrier, high financial requirements, recognition of educational qualifications and Visas and work permits. There are also other restrictions that relate to E-Commerce such as lack of universal legal recognition of electronic based transactions.

The structure of Kenya's services export shows that cross-border trade (mode 1), Consumption abroad (mode 2) are the most dominant modes of supply while the country's export of services of the other two modes, commercial presence (mode 3) and movement of natural persons (mode 4) though important are not yet fully exploited due to restrictions in these modes of supply.

Overall Policy for Trade in Services

Government will pursue progressive liberalization of trade in services while undertaking negotiations at bilateral, regional and multilateral levels to enhance market access for export in services.

CHAPTER III: STRATEGIES AND PROGRAMMES FOR PROMOTION OF INTERNATIONAL TRADE

3.1 Introduction

Globalisation and liberalization coupled with emerging trends in international trade offer opportunities for Kenyan exporters to penetrate new markets. These changes, however, have come with constraints and challenges to businesses in coping with them. While the preceding chapter revealed the extent of regulations/ liberalization of foreign trade and chronicled the performance of key sectors, this chapter draws attention to measures being proposed to improve the country's export potential as well as those measures that are currently in place.

Kenya's international trade strategies, aim at ensuring that Kenyan businesses especially the Micro, Small and Medium Enterprises (MSMEs) get the necessary support to be competitive and reach their full potential. Greater emphasis is placed on export-driven growth in line with Vision 2030.

The International Trade policy recognises international trade as a strategic priority in raising business productivity; encouraging increased international trade and investment; stimulating and supporting MSMEs to participate more in international trade; enhancing the competitiveness in both the export and domestic markets; addressing market distortions; encouraging value additions and diversification; and improving market access.

With a view to continually increase Kenya's percentage share of global trade and expand employment opportunities, certain special focus initiatives have been singled out. These *interalia* include market diversification, technological upgradation, support to services, agriculture and manufacturing industries. Government shall make concerted effort to promote exports in these sectors by specific sectoral strategies that shall be notified from time to time. This shall be done in tandem with the National Export Strategy currently under revision.

Hence, the Policy has identified various strategies and programmes for implementation at both national and county levels in order to address the constraints and challenges affecting the development of international trade in the country. The constraints and challenges as well as intervention measures on the promotion of international trade have been categorised into five (5) broad areas namely: market access, trade facilitation, institutional capacity and coordination mechanisms, supply capacity and information flow.

3.2 Market Access

Diversifying into new markets, products and service lines can provide an effective path to fast growth. However, the ability of Kenyan business enterprises to penetrate foreign markets has been inhibited by a number of constraints and challenges. The policy has identified strategies and programmes to address them with a view to enhancing market access in foreign markets.

3.2.1 Constraints and Challenges

(a) The Increased Use of Non-Tariff Barriers (NTBs)

Tariffs have substantially come down as a result of multilateral trade agreements and regional integration. Some countries have in fact felt that their domestic industries face stiff competition. In an effort to promote these industries, countries have turned to imposing non-tariff barriers (NTBs) and these continue to increase.

The NTBs take the form of business registration and licensing procedures; cumbersome and numerous customs documentation and administrative procedures; immigration procedures at the border crossing; cumbersome inspection requirements; road blocks, weighbridges, police checks varying standards requirements, stringent application of Sanitary and Phyto-sanitary (SPS) measures; and transit procedures. The application of NTBs restricts the flow of goods and services among countries. The main challenge confronting the country is to ensure that negotiations at bilateral, regional and multilateral levels lead to a reduction or elimination of all NTBs.

(b) Tariff Peaks and Escalations

While average customs duties have come down after successive rounds of negotiations, application of high tariffs and tariff escalations by developed countries for value added products originating from developing countries has continued to restrict exports of developing countries. This practice protects domestic industries of the importing country while discouraging value addition.

(c) Subsidies and Trade Distorting Domestic Support

A number of developed countries provide support to their producers which affect Kenyan products making them uncompetitive in both domestic and export markets. The trade distorting subsidies are provided in sectors of strategic importance to least developed and developing countries such as agriculture. The challenge is for Kenya to develop effective negotiation mechanisms that will lead to substantial reduction and perhaps the eventual elimination of trade distorting subsidies.

(d) Safeguarding Sensitive Sectors and Industries

The sensitive products are strategic for the purpose of safeguarding national interest such as employment, livelihood, rural development revenue losses and protection of some strategic industries. In pursuit of trade liberalisation under the framework of EAC, COMESA, EPAs and WTO, government will ensure that all sensitive products are exempted from liberalisation commitments in order to safeguard Kenya's policy space for development. Hence, this calls for the government to develop mechanisms for safeguarding sensitive sectors and industries against unfair competition.

(e) Expiry of Multi-Fibre Agreement and the US (AGOA) Market

The expiry of the Multi-Fibre Agreement in December 2005 exposed Kenya's exporters to stiff competition as major exporters of textiles from countries like China, India, and the Far East countries are now key players in the USA market. It is very important for the least and developing countries to negotiate for re-classification of the emerging economies such as China, India and Brazil.

(f) Preference Erosion and Complexity of Rules of Origin

Negotiations in agriculture and non-agriculture market access in the WTO's Doha Round may lead to erosion of preferences in the EU and USA market where Kenya exports under preferential schemes. Emerging economies which have lower preferences than Kenya may benefit most from lowering MFN tariffs in the US and EU and this may lead to lowering of preference margins which may have been a major basis of Kenya's participation in international trade.

In terms of reductions or elimination of export subsidies in agriculture, although Kenya's exporters may benefit from high global prices, this could also be a double edged sword in that the high prices may adversely affect consumers given that Kenya is a net food importer,

Trade policy will need to ensure a good balance between benefits of negotiations and the negative impact. In any event, the country must be ready to establish adequate policy and development measures to address the impact of these reforms.

(g) Complexity of Rules of Origin

As a result of the erosion of preferences arising from the continued liberalization under the WTO, Kenya faces the problem of declining exports in EU and US markets caused by stiff competition.

The EU Rules of origin under the Lome (I-IV) and Cotonou trade regimes have been a key impediment to Kenya's access to the EU market. The business community will therefore face even a bigger challenge in ensuring that it overcomes the resultant competition once the new trading regime of EPAs comes into effect. This challenge is being addressed through the current negotiations under WTO and EPA.

(h) High and Multiple Internal Duties and Taxes

A wide range of taxes, levies, cesses, and fees charged on production inputs and services distort prices and make products/services uncompetitive in domestic and world markets. In addition, the multiple taxes are burdensome and cumbersome to the business community. The challenge for the Government is to review and rationalize all taxation laws and regulations to enhance competitiveness in production.

(i) Limited Trade in Services

Policies for trade in services are currently not well developed. This has led to a lack of human resource development strategies and inadequate investment in infrastructure for transport and ICT services and inadequate promotion of trade in e-enabled services. The country also lacks effective domestic regulatory framework for many of the service sub-sectors. In particular, the absence of an enabling legislation for e-commerce and back office operations limits Kenya's potential to diversify into high value service sectors. The challenge is for the Government to develop a regulatory and institutional framework and improve data collection for trade in services.

(j) Vulnerable Groups in Society

This policy recognises the market access hurdles experienced by some special groups in society and seeks to reconcile trade-based economic objectives with broader public policy objectives such as the social welfare of vulnerable and disadvantaged groups in society including women. The bulk of crossborder trade within the region is performed by women and it features prominently among women's individual strategies for self-employment, poverty reduction and wealth creation. Women informal cross border traders make an important contribution to economic growth and government revenues.

However, they suffer from undue taxation and poor working conditions, and have limited access to credit facilities, transport services, information on market opportunities, trade rules and regulations, and storage facilities. This policy will put in place support measures for women informal cross-border traders; this is an area where gender and aid for trade initiatives can play a key role. Indeed, initiatives shall focus on the facilitation of women and girls in the trade and services sector by providing training, as well as building capacity to access skills, information, network and credit for improved delivery and higher level of competitiveness. Such factors can enhance women's economic potential while promoting a formalisation component in their trading activities.

International Trade Policy on Market Access

Government will improve market access for Kenya exports through improved negotiations at regional, bilateral and multilateral levels although problems at the supply side outweigh those at the market side given that the country benefits considerably from existing market access in the US and EU.

3.2.2 Market Access Strategies and Programmes

The strategies below have been identified to address the market access constraints:

(a) Enhance participation in International Trade negotiations

The country's participation in multilateral, regional and bilateral trading arrangements is constrained by several challenges that have affected the ability of businesses to fully exploit the opportunities created by these trading arrangements. This calls for more enhanced and harmonised negotiation strategies and effective participation in Multilateral, Regional and Bilateral Trade Agreements.

Programmes

(i) Develop mechanism to enhance Public-Private Sector Partnerships in trade negotiations, in particular in identifying economic needs of the private sector and how trade negotiations can help them increase trade.
(ii) Undertaking research and policy analysis to enhance negotiating and implementation capacities;
(iii) Negotiating for elimination of Tariff and non-tariff barriers in export markets , taking into account the impact of such measures ;
(iv) Undertake research and analysis on restrictive import regimes;
(v) Negotiate for the elimination of subsidies in export markets taking into account the impact of such measures in agriculture on the consumer

(vi) Negotiate enabling Rules of Origin
(vii) Negotiate to ensure favourable outcome in WTO negotiations that benefit the private sector
(viii) Review the legal and regulatory framework to take on board commitments made in various trade agreements.

(b) Formulate effective trade remedy regime

To protect the domestic market from unfair trade practices, the following programmes will be pursued.

Programmes

(i) Development of mechanism for handling unfair trade practices;
(ii) Establish an inter-ministerial committee to study and formulate effective trade remedy regime.

(c) Safeguarding Sensitive Sectors from full liberalization

Sensitive products are strategic for the purpose of safeguarding national interest such as employment, livelihoods, rural development revenue losses, and protection of some key strategic industries. This calls for the government to develop mechanisms for safeguarding sensitive sectors and industries against unfair competition.

Programmes

(i) Develop mechanisms for safeguarding sensitive sectors and industries against unfair competition.
(ii) Negotiate for exemption of the sensitive products from tariff bindings and reduction commitments.

3.3 Market Penetration

3.3.1 Constraints and Challenges

a) Narrow Export Basket

Kenya's export basket has remained relatively narrow comprising mainly of primary products such as tea, coffee, horticulture, fish and tourism. Primary products fetch low export earnings and are also vulnerable to price fluctuations in the world market.

The manufacturing sector is engaged in the production of low value-added and a limited range of products due to limited use of modern cost-effective and efficient production technologies and limited information on international trade opportunities. This has contributed to limited scope for product diversification and expansion of export base.

The challenge to the government is to create an enabling environment for the manufacturing sector to undertake value addition of the primary production through agro-processing and other manufactured goods to generate greater access in international markets. This is expected to be a key output of the National Export Strategy currently under review.

International Trade Policy on Export Promotion and Development

Government will enhance export promotion and development programmes in order to facilitate diversification and consolidation of the export base. The promotion of value added exports will require the government to strengthen measures aimed at ensuring availability of raw materials for value addition. In order to promote Kenyan export the government will establish trade promotion offices in foreign countries through the ministry responsible for trade.

3.3.2. Market Penetration Strategies and Programmes

The Policy has identified the following strategies and programmes to address the market penetration constraint.

(a) Diversification of Export Base and Promotion of Value-Addition

The country has not fully exploited opportunities in the international market due to low productivity and limited capacity to add value and diversify the export base. To usher in the next phase of export growth, Kenya needs to move up in the value chain. This objective is sought to be achieved by encouraging technological upgradation of the export sector. A number of initiatives have been under taken to focus on technological upgradation including the Export Processing Zones Scheme which allows for duty and VAT exemption on imported machinery (except motor vehicles) and raw materials. In addition, companies located in EPZs benefit from a ten-year corporate tax, income and withholding tax holiday; exemption from stamp duties; and a 100% investment allowance (applicable over 20 years). They also benefit from high-quality infrastructure. The Export Processing Zones Authority (EPZA) acts as the primary licensing and regulatory agency on behalf of the Government with the objective of rapid project approval and facilitating licensing.

To exploit the existing potential in export markets[12], there is need to develop new export products, increase value-addition and provide sector specific incentives. The National and County Governments will facilitate diversification of the export base and value-addition through a series of initiatives as highlighted below.

Programmes

(i) Establish product development and adaptation centres to facilitate graduation to higher value-added activities;
(ii) Establish an Export Development Fund to promote export diversification and value addition;
(iii) Establish trade promotion offices abroad;
(iv) Establish centres of excellence on standards;
(v) Increase resources on research and development;
(vi) Establish an Export Endowment Fund (EEF);
(vii) Establish an Export Award Scheme;

[12] For example, statistics show that exports of value added products to both the US and EU are very limited.

(viii) Review and implement the National Export Strategy (NES);
(ix) Establish a framework for service sector negotiations to remove market access and national treatment barriers;
(x) Develop programmes for promotion of export of services including Business Process Outsourcing (BPO);
(xi) Improve efficiency of service enablers such as telecommunication, transport and financial services to enhance competitiveness and export opportunities;
(xii) Establishment of Special Economic Zones (SEZ) including free trade zones, tax incentives for trading activities and export performance awards;
(xiii) Establish centres for product development and adaptation to facilitate graduation to higher value added activities through branding, adoption, packaging and new designs;
(xiv) Undertake Research and Development in trade, product design, marketing, distribution, and use of ICT and E-commerce;
(xv) Facilitate accreditation of standards certifying bodies to international bodies to address SPS/TBT issues;
(xvi) Develop programmes geared towards inculcating an export culture among MSMEs;
(xvii) Establish industrial parks;

(d) Increasing Export Penetration in Priority Markets

Kenya's export market share has been declining over the years. In order to achieve desirable export targets envisaged in this Trade Policy, there is need to explore new markets and sustain the current markets.

Programmes

(i) Establish and strengthen trade offices and trade representation in the identified strategic markets**;**
(ii) Establish exhibition centres and warehouses in priority markets such as COMESA and Asian Markets to increase visibility of Kenya's products;
(iii) Undertake market intelligence, market surveys in the target markets and research to identify new products/services to trade in at regional and global level;
(iv) Establish a network of Kenya's Diaspora to assist in marketing Kenya's products; and
(v) Review the role and operations of the State Trading Enterprises (STEs);
(vi) Establish incentive programmes such as export performance awards to facilitate penetration into new markets;
(vii) Establish a framework for provision and administration of export finance and guarantee schemes to cover risks faced by exporters;
(viii) Negotiate for the provision of credit lines in respect of foreign purchases of domestic services;
(ix) Establish direct flights to strategic markets.
(x) Facilitating the improvement of packaging and development of brands;
(xi) Strengthen e-business capacity for enterprises; and
(xii) Establish marketing and distribution channels in foreign markets.
(xiii) Undertake studies in order to prioritize on export activities and markets;
(xiv) Establishing an Export Credit Insurance and Guarantee Scheme;

3.4 Trade Facilitation

Trade facilitation is a wide concept that encompasses issues of reducing the complexity and cost of the trade transactions process, streamlining trade procedures in order to reduce the risk and transaction cost and enhancing the efficiency, transparency and predictability of international trade as measured in time and money. The policy identifies strategies and programmes to address constraints and challenges associated with trade facilitation.

3.4.1 Constraints and Challenges

(a) Poor Infrastructure

The current state of infrastructure has led to an increase in the cost of doing business and failed to create and support an enabling business environment that will facilitate private sector investment in the key productive sectors.

It is estimated that power disruptions account for 7% loss of sales compared to competitors like China and South Africa with less than 2%. Similarly poor transport systems accounts for losses of up to 2.6% of sales. In addition, Kenya is poorly ranked with regard to connectivity into the global supply chain.

The business community is therefore unable to take up opportunities created by globalization due to these impediments. In pursuit of efficient and reliable infrastructure, the challenge facing the government is to ensure adequate resources are available for infrastructure development.

(b) Cumbersome Customs Procedures and Documentation

Currently, customs procedures are cumbersome due to documentation requirements, customs processing delays and non-transparent importation rules, among others. The challenge facing the government is to reduce the cumbersome customs procedures and documentation and enhance cooperation among various government agencies to support efforts of the business community to effectively deal with increased trade flows.

(c) Inadequate Compliance with International Standards and Requirements

The domestic institutions charged with the responsibility of ensuring compliance with international standards requirements/recommendations lack adequate capacity. Government has the challenge to upgrade the capacities of these institutions and also to harmonize local standards with regional standards.

International Trade Policy on Trade Facilitation

Government in collaboration with private sector will ensure the improvement and development of infrastructure, customs procedures and documentation and enhance capacity for compliance with international standards requirements.

3.4.2 Strategies and Programmes

(a) Adoption of international best practices as the basis for import, export and transit procedures and administration.

In order for Kenya's exports to be competitive in potential markets, there must be efficient customs procedures and documentation mechanisms.

This entails harmonizing and streamlining customs procedures by removing duplicative documentation requirements, customs processing delays, and any non-transparent importation rules and requirements, among others. It involves identifying and removing procedural barriers to trade and standardizing information requirements by simplifying procedures, encouraging use of best practices as well as applying relevant information technology.

Programmes

(i) Establish a national enquiry point which is responsible for providing and/or facilitating access to trade-related information and documents to interested parties;
(ii) Establish a single window/one-time submission system that allows traders to submit import, export and transit documentation and data (including electronic versions;
(iii) Establish one stop border post and develop mechanisms to ensure that all authorities and agencies involved in border and other import and export control points cooperate and coordinate in order to facilitate trade;
(iv) Undertake reforms for institutionalizing legally backed online customs administration, procedures and valuations; and
(v) Develop mechanisms to make provision for the lodging and processing of clearance data and documentation prior to the arrival of the goods.

(b) Expansion of transport and communication infrastructure to facilitate regional and international interconnectivity.

Programmes

(i) Establish a regional infrastructure development fund in collaboration with other partner states;
(ii) Dredge Mombasa port to enable access to the larger vessels to allow for greater trade utilisation of the port; and
(iii) Expansion and Modernisation of all ports of entry and exit.
(iv) Expand and maintain roads and railway networks.

(c) Enhance compliance with international standards requirements

Programmes

(i) Develop institutional capacities to improve compliance with standards and Technical Regulations, customs administration;
(ii) Establish collaboration between standards bodies and institutions of higher learning;

(iii) Upgrade the capacities of institutions dealing with standards and also harmonize local standards with regional standards; and
(iv) Benchmark trade facilitation institutions and implement best practice programs.
(v) Enforce conformity and compliance with standards and technical regulations; and
(vi) Harmonize internationally benchmarked standards within the framework of regional and international agreements including establishing centres of excellence;

(d) Undertaking reforms in institutions dealing with trade facilitation.

Programmes

(i) Establish mechanisms of publishing promptly all laws, regulations, judicial decisions and administrative rulings of general application relating to or affecting trade in goods and services to enable stakeholders to become acquainted with them.
(ii) Enhance the capacity of regulatory authorities and eliminate conflict of interest by separating regulatory functions from service providers.
(iii) Develop an incentive package that is suited to the needs of service providers;

3.5 Institutional Capacity and Coordination Mechanisms

The provision of adequate human, financial and institutional capacity as well as effective co-ordination between support institutions involved in trade negotiations and promotion are critical for businesses to exploit opportunities in the export markets. These have however, faced a number of constraints and challenges which are hereby addressed by the ensuing strategies and programmes.

3.5.1 Constraints and Challenges

(a) Capacity to Negotiate

Multilateral trade negotiations involve complex and diverse trade issues, which require substantial resources, specialised knowledge and analytical skills. Currently there are inadequate financial resources available for negotiations as well as limited specialised knowledge for effective negotiations. The challenge for the government is to provide adequate resources for negotiations and skills upgrading.

(b) Uncoordinated Negotiating Process

The processes of multilateral, regional and bilateral trade negotiations have been undertaken by different groups. However there has been no mechanism to coordinate the negotiation process in the different trade arrangements which often leads to inconsistent commitments and obligations. This complicates the trading environment for the business community. The challenge is for the government to ensure that there is a well structured and coordinated negotiating process that will ensure that the country's interests are harmonized.

(c) Inadequate Capacity to Comply and Domesticate International Obligations

Kenya is a signatory to various international trade agreements which she is expected to domesticate and implement. However, due to lack of human, financial and institutional capacities, the country has not domesticated or implemented some of these agreements for instance: the safeguard, subsidy, countervailing and anti-dumping agreements among others thus denying the business enterprises the benefits arising from these agreements. The challenge for the government is to provide adequate human, financial and institutional capacities to domesticate the agreements.

(d) Un-harmonized regional trade regimes

Kenya is a member of the EAC Custom Union, EAC-EU-EPA and COMESA Free Trade Area, among others. The CET, Rules of Origin (RoO) and border measures such as axle and transport insurance requirements in these blocks are not uniform. This poses a challenge to the business community in complying with different RoO and border measures. The other adverse effect of the multiple memberships to the business community is the unfair competition brought by trade deflation and diversion.

(e) Ineffective Coordination among Export Support Institutions

Greater co-ordination between export support organizations is critical for exporters to exploit opportunities in the export markets. The Trade support networks are characterized by scattered and uncoordinated trade related institutions thus making access to business information cumbersome. Inadequate funding for export support institutions has also contributed to the ineffective coordination

The challenge is for the government to develop effective coordination mechanisms of export support institutions to ensure smooth flow of business information and marketing. There shall also be need to provide adequate financial resources to the export support institutions to enhance their coordination mechanisms.

(f) Ineffective Administration of Duty Exemptions/Waivers and Multiple Internal Taxes

Goods currently granted tariff exemptions and waivers may find their way into the market and distort the domestic market. This subjects domestic goods to unfair competition from goods receiving duty exemptions and waivers. The existence of numerous internal taxes reduces the competitiveness of Kenyan goods.

The challenge for the Government is to strengthen the monitoring mechanisms to ensure that goods under exemptions and waivers attract the relevant duties if traded in the domestic market. There is a need to undertake a review of internal tax structure to make more efficient and competitive.

International Trade Policy on Institutional Capacity

The government will develop and strengthen institutional capacities for trade negotiations and promotion, compliance with international obligations and develop coordination mechanisms to streamline interventions in trade development. Government is further committed to harmonization of regional trade regimes among other initiatives.

3.5.2 Strategies and Programmes

(a) Enhance Capacity for Trade Negotiation

Government in collaboration with key stakeholders will provide adequate resources for negotiations and skills upgrading,

Programmes

(i) Lobby for increased funding
(ii) Enhance stakeholder participation in trade negotiations;
(iii) Build synergies from national capacities to strengthen and institutionalize regional negotiating capacities;
(iv) Develop mechanisms to partner with regional research and capacity building institutions;
(v) Strengthen capacity of the institutions involved in trade development and negotiations;
(vi) Expand the mandate of the foreign service institute to cover international trade
(vii) Institutionalize research and training programmes within research and academic institutions.

(b) Coordinated Negotiation Process

To ensure that there is a well structured and coordinated negotiating process the International Trade policy will undertake to Intensify and expand the capacity of institutions involved in trade negotiations and facilitation.

(c) Strengthen Capacity to Comply with and Domesticate International Obligations

Government in collaboration with key stakeholders will undertake measures to provide adequate human, financial and institutional capacities to comply with international obligations

(d) Harmonize Regional Trade Regimes

The Government will continue to participate in negotiations to enhance harmonization of the regional trade regimes to address the problems arising from overlapping memberships.

(e) Strengthen Coordination among Export Support Institutions

The Government in collaboration with key stakeholders will facilitate the development of effective coordination mechanisms of export support institutions to ensure smooth flow of business information and marketing.

Programmes

(i) Provide adequate financial resources to the export support institutions;

(ii) Strengthen export support organizations to enhance their efficiency and effectiveness in their coordination mechanisms; and

(iii) Establish a coordination mechanism for deepening the network of Kenya's Diaspora.

3.6 Information Flow

Ease of access to up-to-date information by the business community is critical for enhanced trade expansion, market diversification and consolidation. However, various constraints and challenges with regard to information flow continue to face the business community which are hereby addressed by strategies and programmes.

3.6.1 Constraints and Challenges

(a) Inadequate Sensitization of the Business Community

The country has entered into commitments in the various trading arrangements that are meant to benefit the business community. However, the business community, civil society and the public sector are inadequately sensitized on these commitments. As a result, the business community is unable to exploit the arising trade opportunities.

The challenge is for the Government to ensure the availability of adequate resources for wide stakeholder sensitization.

(b) Inadequate Trade Statistics and Skills

Inadequate trade statistics makes it difficult for the business community to access relevant information necessary to make appropriate business decisions such as available business opportunities and markets. This is even more critical for statistics on trade in services. The statistics available at the Kenya National Bureau of Statistics are not sufficient in addressing the needs of the business community, negotiators and policy makers.

The challenge for the Government is to develop mechanisms for collection of trade data especially on trade in services. Government will partner with regional and international organisations including training institutions to build capacity in trade.

International Trade Policy on Trade Information

The government will enhance sensitization of the business community on various trading arrangements and opportunities; and strengthen data collection and management.

3.6.2 Strategies and Programmes

Strategies

(a) Enhance the capacity to undertake stakeholder information dissemination on trade matters.

(b) Provide adequate financial and human resources for dissemination of trade information.

(c) Strengthen trade data collection methods and management; and information on MSMEs.

Programmes

(i) Development of IT-facilitated information dissemination, human and institutional capacities development;
(ii) Develop mechanisms for collection of trade data based on international standards; and
(iii) Mainstream e-commerce in tertiary and learning institutions.

CHAPTER IV: COMPLEMENTARY SUPPORT POLICIES AND MEASURES

4.1 Introduction

Trade policy reforms play an important role in improving export performance in the face of constraints that have affected the development of the export sector in the past.

To make export ventures more competitive and export activities more visible, there's need to target specific aspects of the development process that are principally trade enabling. The trade policy will provide mechanisms to ensure that the following complementary support policies and measures *viz* trade facilitation; infrastructure needs and development; capacity building and human capital development; trade finance support; support to the competitiveness of business services; telecommunications and web-access are addressed by relevant ministries and institutions at both the national and county levels. This chapter reviews complementary policies that are useful to have in place or to implement simultaneously with foreign trade policy reform.

4.2 Trade Facilitation Measures

Trade facilitation involves measures aimed at easing, speeding and reducing the cost of movement of goods in the domestic market and across borders.

Kenya's trade competitiveness based on export and import facilitation has been affected by number of export and import documents time for processing export and import procedures; multiple approval requirements; and the cost of shipment of goods across borders. These numerous import and export procedures and high costs of cross border shipment of goods has placed Kenya's business community at a disadvantage relative to their competitors from other countries.

Government has so far undertaken a number of trade facilitation measures. Kenya Revenue Authority (KRA) introduced the Taxpayer Charter which stipulates the time and procedures for export documentations. Similarly Customs Services Department has introduced reforms and modernisation programmes including introduction of customs procedures based on risk analysis; introduced a Trade-X system; a community-based system for electronic exchange of information and documents among relevant authorities; an internet reference system for accessing statutory information and simulating transaction costs; and an electronic payment system.

4.3 Infrastructure Needs and Development

Adequate infrastructure including transportation, water, electric power, waste disposal, security and telephones as well as secure, affordable storage and warehousing facilities at ports enhance production of goods for exports. Inadequacies in infrastructure development increase the cost of production since most firms result to having their own back services to avoid interruptions in production.

Government has embarked on a number of infrastructural programmes including roads, energy, rail transport and Nairobi Metropolitan development programmes among others. In order to meet the country's infrastructure needs the government seeks to prioritise resource allocation towards infrastructure development.

In view of the foregoing, the following measures will be undertaken in infrastructure development to enhance the country's domestic and international competiveness.

(i) Provision of cost-effective world-class infrastructure facilities and services is a critical pre-requisite for Kenya's competitiveness in domestic and international trade;
(ii) Considerable shift in the deployment of resources to acquire the necessary capacity and access infrastructure services (transport, telecommunications, energy, water, sewerage and sanitation and meteorological services) by firms and citizens in their wealth-creation efforts; and
(iii) Enhance Public Private Partnership in infrastructure development through concessioning and operationalization of the infrastructure bonds.

4.4 Human Capital Development

Human capital development in the form of skill upgrading for production of exports and complementary support capacities elaborated hereunder are central to achieving the objectives of the Trade Policy.

This policy emphasizes the need to build material infrastructure to support trade and recognises that attention should be paid to the need to build non-material productive capabilities. In countries where export diversification and value addition is taking place, there has been deliberate policies to build non-material productive capabilities and this trade policy recommends this orientation. Non material productive capabilities is important for catching up. It is an important pre-condition for structural transformation. Among other things, it involves learning in schools, in production systems, social systems, cultural systems, organizational networks, enterprises, technological learning, diversification, product differentiation, technological upgrading, building competences for structural change.

4.4.1 Skill Requirements for Export Production

Export oriented businesses face the challenge of getting workforce with relevant skills for export. The education system in Kenya should become more responsive to the skill needs of the economy. Some specific skills needed to support export oriented enterprises include: ICT and international management training.

In designing and implementing an efficient and effective approach to the delivery of the new training needs of an export-oriented economy, the appropriate balance between individual, business and government intervention programmes will be maintained. Government will work in collaboration with the private sector in assessing capacity and training needs with a view to identifying training gaps for the export oriented enterprises and establishing/upgrading technical training institutions to respond to market needs.

4.4.2 Trade Policy and Support Capacity

The increased complexity of bilateral, regional and multilateral trade relations calls for the Government to build and strengthen the public sector's capacity to negotiate and implement trade agreements; enhance capacity to implement trade remedy mechanisms, identify and analyse export market needs; and effectively provide trade promotion programmes in the marketing of export products and foster international commercial relations. In this regard, government will undertake in-post and in-house organization training, and enhance international trade-oriented education and training in secondary and tertiary sectors.

4.5 Trade Finance Support Measures

Access to affordable trade finance, is a major challenge to trade development. This situation is even more critical for MSMEs than large enterprises that have relatively adequate internal and external sources of financing. In spite of high liquidity in the financial sector, there are no innovative credit products to support economic growth, such as lending for long term investment and working capital. Where such lending exists, collateral requirements are forbidding, interest rates and bank charges are high, and repayment terms are unfriendly. There are also concerns about availability of suitable financial products to cover risks associated with exchange rate fluctuations. The premium charged by commercial banks where such products exist is often prohibitive.

Export financing and credit schemes remain one of the problems experienced by the exporters. Banks do not provide back-to-back letters of credit while the knowledge available on trade finance services is limited particularly among the MSMEs. The government through the National Export Strategy will formulate and implement export financing strategies that will ensure adequate and affordable access to export financing.

These measures will complement recently introduced financial reforms in the financial sector through the Micro-finance Act and Savings and Credit Cooperative Societies. The programmes will deepen and expand the reach of financial services to the MSMEs and improve performance and transparency in the cooperative sector.

4.6 Supporting the Competitiveness of Business Services

The International Trade Policy (NTP) is explicitly concerned with the development and competitiveness of all the trade and services sectors in Kenya. The interaction and interdependence between domestic and international competitiveness central to NTP overall strategy and approach. In this connection, the efficiency of support business services in the areas of ICT, accountancy, audits, market intelligence and risk and credit management, among others, is critical to making both large and small firms competitive.

In addition, there are essential linkages between infrastructure and human capital development discussed above, and the issue of competitiveness of business services. In particular, infrastructure improvements, skills upgrading and human capital development as well as active pro-competition policies within a liberalised domestic market make business services more competitive in Kenya.

Business support services will also benefit from their competiveness in that they will now be able to export their services to other countries particularly with regard to Business Process Outsourcing (BPO) espoused in Vision 2030.

4.7 Telecommunications and Web Access

Low cost telecommunications and Information Technology Enabled Services (ITES) are critical in supporting Kenya's enterprises to get integrated into the global value chain. For instance, the fragmentation of production globally has opened new opportunities for businesses to participate in the production chains located in different countries. However effective participation in the production chain requires rapid and low cost access to information, reliable and low cost means of communicating globally. The government will undertake projects aimed at increasing broadband to reduce the cost of telecommunication services and installing undersea fibre optic system to enhance global connectivity.

Effective linkages between telecommunication and web access and information technology development are essential in the policy programmes for services export development as well as E-Commerce development which is a key feature of the domestic trade development strategy offering opportunities for export growth and diversification in both Kenya's goods and services.

CHAPTER IV: E-COMMERCE

5.1 Introduction

Since the rise of the Internet in the mid to late 1990s, companies have listed their products and services for sale online. As competition in global trade becomes stiffer, having online presence has become more important than ever before. This is particularly true if businesses wish to grow, extend their sales, and reach customers they might not otherwise have reached. In effect, E-commerce marketing has turned out to be critically imperative for businesses to stay afloat.Government has recognized the potential of Information Communication and Technology (ICT) in economic development and has therefore initiated major steps to promote its use. This Chapter addresses the E-commerce policy regime and highlights the prevailing constraints and challenges while at the same time forges strategies to overcome the challenges.

E-Commerce is the use of electronic communications and digital information processing technologies in business transactions. E-commerce involves the use of applications that run on the Internet and these applications influence the commercial relationships between firms and clients.

E-Commerce mainly occurs in three modes, namely: B2B (Business to Business), B2C (Business to Consumer) and C2B (Consumer to Business). B2B involve services such as call centres, back office operations, internet marketing, enterprise resource planning (ERP), information security service, internet advertisement and offshore development. B2C includes service for mobile phone and car-tracking service; send movie, music, game, e-mail, shopping mall and internet banking.

In 2000, Kenya's internet usage penetration was 0.7 per cent of the population, which increased to 19.5 per cent in 2010. The Government had projected to increase the ICT penetration and usage to 20 per cent by the year 2012. This target was premised on the basis of the World's internet penetration and usage of 17.6% and if achieved, would provide Kenya with an opportunity to compete favourably with other countries trading under E-commerce. This would in effect contribute to the e-commerce goal of enhancing the Digital opportunity Index from low access of (0.17) to medium access of (0.5).

5.2 Current Policy Regime

Currently, ICT issues are covered under various legislation including the *Science and Technology Act, Cap. 250 of 1977, the Kenya Broadcasting Corporation Act of 1988* and the *Kenya Communications Act of 1998*. The National Information & Communications Technology (ICT) Policy of Kenya which is a product of the Economic Recovery Strategy for Wealth and Employment Creation (2003-2007) was developed by the Ministry of Information & Communications in January 2006 to stimulate investment and innovation in ICT; achieve universal access as provided by the Digital Access Index; and Digital Opportunity Index among other goals.

The Economic Recovery Strategy (2003-2007) identified key ICT-related goals such as investing in adequate ICT education and training; and reviewing the legal framework to remove impediments that have discouraged the adoption and use of e-commerce. The ERS also identified the implementation of

tax reductions and tax incentives on both computer software and hardware to make them affordable to micro-enterprises and low-income earners; establishing an inter-ministerial committee to incorporate ICT into government operations; and developing a master plan for e-government.

Government is committed to the ongoing liberalization of the various market segments of the telecommunications sector. Towards this end, Government will *inter alia*, put in place an appropriate regulatory framework to promote competition. Licenses in the ICT segment include those of Internet service providers; Internet gateway and backbone services; and Internet exchange point services.

Government has recognized the potential of ICT in economic development and has therefore initiated major steps to promote its use. One of the major initiatives that the government is pursuing is to improve ICT infrastructure to bridge the digital divide and lower the cost of communications. Government is also leveling the ground through development and implementation of policy and regulations aimed at attracting investments in the sector. In light of the above, Vision 2030 has identified Information and Communication Technology (ICT) as one of the sectors which will contribute significantly to the economic pillar where the target is to attain 10% GDP growth rate as envisioned in the Medium-Term Plan (2008-2012). Business Process Outsourcing (BPO), for instance, was identified as the flagship project for the sector.

There is however continued need for a comprehensive policy, legal and regulatory framework to support ICT development, investment and application; promote competition in the industry where appropriate; ensure affordability and access to ICT nationally; address issues of privacy, e-security, ICT legislation, cyber crimes, ethical and moral conduct, intellectual property rights and piracy; and support research and development in ICT.

The telecommunications policy framework focuses on establishing a market structure that attracts investment in the sector and allows the creation of telecommunications infrastructure for leveraging national development. The market structure will be reviewed from time to time in line with changing market needs and technological trends.

5.3 Constraints and Challenges

The development of E-commerce in Kenya has been hampered by the following key constraints:

(i) Low levels of Access as given by the Digital Access Index;
(ii) Low levels of ICT usage as given by Digital Opportunity Index;
(iii) Relatively high Internet access costs including connection service fees, communication fees, and hosting charges for websites with sufficient bandwidth;
(iv) Limited availability of credit cards and a nationwide credit card system;
(v) Lack of legal and regulatory framework for E-commerce;
(vi) High dependence on off-shore hosted content;
(vii) Network security problems and insufficient security safeguards discourage the use and growth of e-commerce;
(viii) Inadequate skilled human resources and key technologies;

(ix) Cross-border issues, such as the recognition of transactions under laws of other EAC / COMESA and other regional trading blocs member-countries, certification services, improvement of delivery methods and customs facilitation;
(x) Lack of ICT consumer Network to facilitate and stimulate demand for modern quality e-services;
(xi) Insufficient telecommunication infrastructure and internet connectivity;

Some of the main challenges in the development of E-commerce in the country are as follows:

(i) The formulation and implementation of national ICT strategy given the complexity and cross cutting nature of ICT and the need for a holistic approach It is difficult to create awareness at the political level or to adopt a state-of-the-art regulatory framework;
(ii) Promotion of use of e-commerce by business community taking into consideration their low levels of awareness, low level of access and usage of ICT; and relatively high Internet access costs; and
(iii) Promoting the use of credit cards considering the level of sophistication of the telecommunication system, security of card transaction and literacy of the population.
(iv) Content restriction on national security and other public policy grounds greatly affects business in the field of information services, such as the media and entertainment sectors;

Policy for E-Commerce

Integrate e-commerce within the overall economy.

5.4 Sub-Sector Strategies and Programmes

Kenya's 2030 vision for e-Trade is to "*Mainstream e-trade within the overall economy*". In order for this to be achieved, the government will focus on infrastructure development; market improvement; skills and technology upgrading; improved financial transactions; and improved Public Private Partnerships for the sub-sector.

5.4.1 Infrastructure Development

In order to promote infrastructure development the following measures will be undertaken:
(i) Finalize the installation of the fibre optic cable in all urban centres in Kenya to increase access and connectivity to the international telecommunication network;
(ii) Liberalize network infrastructure, promotion of broadband competition and liberalization in network services and applications.;
(iii) Assemble computer hardware and software locally to ensure availability of quality computer goods and services.; and
(iv) Integrate rollout of affordable quality broadband networks in the development of industrial clusters and special economic zones to promote B2B e-commerce.
(v) Development of strategy for promotion of e-commerce

5.4.2 Skills and Technology Upgrading

In skills and technology upgrading the following will be undertaken:

(i) Establishing frameworks to learn new technology and encourage higher level e-business skill formation in conjunction with education institutions, businesses and individuals; and

(ii) Integrating e-commerce in all public and private sector institutions of higher learning and tertiary colleges.

(iii) Capacity building for e-commerce

(iv) Promote business re-engineering

5.4.3 Public Private Partnership Improvement Strategy

As part of the Public Sector reforms and to improve the PPP strategy, the government shall commercialize non-core functions and develop Business Process Outsourcing mechanisms to provide benefits for use of professional human resource, cutting edge technology and cost savings.

With the financial support of UNCTAD, two sector studies in (i) manufacturing and (ii) services will be undertaken by a national consultant to determine which products could be suitable for export value addition and diversification. The outcome of this study shall form an integral part of trade policy under sectors which will specify specific policy recommendations.

South - South trade and cooperation can help Kenya to improve its trade performance. But Kenya underperforms in trade with China and India, two key emerging economies. Merchandize exports to China and India as a percentage of total is rising but the shares and values are too small. Exports of goods to China are only $44million compared with $607 million from Tanzania and to India only $102million compared with $ 1billion for Tanzania. The challenge for the trade policy is to see how for example China and South Africa can help Kenya to upgrade its exports and expand trade.

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