

IMPROVING THE INVESTMENT CLIMATE AND PARTICIPATION OF THE PRIVATE SECTOR IN THE ECONOMY

A statement by Hon. Dr. Mukhisa Kituyi M.P, Minister for Trade and Industry during the Consultative Group Meeting held on 11th - 12th April 2005 in Nairobi.

1. INTRODUCTION

The creation of an enabling environment for increased private investment, by both local and foreign investors, is a key Government priority under the Economic Recovery Strategy (ERS) for Wealth and Employment Creation. Improved economic performance is anticipated through policy reforms aimed at increasing investor confidence and thus attracting new investments to create more job opportunities for Kenyans.

Whereas measures to improve the investment climate have been ongoing, several initiatives are currently underway to move the process forward with more urgency and purpose. The objective of this note is (a) to brief on the policy initiatives for the promotion of private sector development; (b) demonstrate the collaborative efforts between the Government and both the private sector and the development partners in this process; and (c) to propose areas of further collaboration on the matter.

2. BUSINESS LICENSING

The Government, with technical assistance and funding from UK Department for International Development (DFID), initiated licensing reforms by introducing the single business permit in 2000, which combined 16 individual business licenses into one. The introduction of SBP was a major step in alleviating the bureaucratic burden for businesses.

However, businesses, particularly in the distribution of goods and services, continue to face difficulties with licensing procedures. For instance, some licensing authorities especially those in local governments require businesses to obtain multiples of SBP which have to be annually renewed for the same business activity. This violates the spirit of SBP, therefore further reforms of SBP are being considered.

It is true that many other inefficient and costly licenses, permits, and certifications of businesses continue to hamper private sector growth and competitiveness in Kenya. Instead of attempting to rationalize each license individually, the Government seeks comprehensive reforms, through the budgetary process to hasten the benefits to business. The “guillotine” strategy is being adopted as a means of rapidly reviewing existing regulations, eliminating those that are no longer needed, and streamlining those that are not business friendly.

The Ministry of Trade and Industry and the Ministry of Finance have constituted a Working Committee on business licensing comprising of officials from:

- Ministry of Finance;
- Ministry of Trade and Industry;
- Kenya Law Reform Commission;
- Ministry of Local Government;
- Attorney –General’s Chambers; and,
- Investment Promotion Centre.

The Working Committee, chaired by a legal expert with experience in regulatory reforms is mandated to take stock of all licenses that impact on businesses with a view to recommending those that can be retained; rationalized or amended; and, those to be abolished.

Phase one of the reform process targets 50 licenses to be guillotined during the 2005/2006 financial year. The Committee is expected to submit its proposals to the government by the end of April 2005. The sectors of focus for this phase are trade, tourism, agriculture, livestock, and local government. The remaining licenses will be reviewed and a phase out program will be agreed by June 2006.

3. MICRO, SMALL AND MEDIUM ENTERPRISES (MSME) COMPETITIVENESS PROJECT

The Ministry of Trade and Industry (MoTI) with the World Bank Group (WBG), is currently implementing the Micro, Small and Medium Enterprises (MSMEs) Competitiveness Project. The objectives of the project are to increase productivity and employment of MSMEs by:

1. strengthening financial and non-financial markets to meet the demand of MSMEs;
 2. strengthening institutional support for skills development and business management;
- and,

3. reducing constraints on investments.

The project supports Government policies to promote the competitiveness of MSMEs through the following components:

1. Access to Finance;
2. Strengthening Enterprise Skills and Market Linkages; and,
3. Improving the Business Environment;

Access to Finance component has two sub-components namely:-

- (i) Financial Sector Deepening
- (ii) Small and Medium Enterprises (SMEs) Risk Capital and Technical Assistance

The financial sector deepening sub-component will co-finance a Financial Sector Deepening Trust whose objective will be to expand the range of financial services and products available to MSMEs. Specifically, the sub-component will support Micro-Finance Institutions (MFIs) to strength their outreach and capabilities to provide financial services. The DfID has agreed to contribute to the Trust and other donors are encouraged to participate in the program.

The SME Risk Capital and Technical Assistance sub-component will help catalyze the growth of new risk capital instruments, in the form of a mix of debt, equity and quasi- equity tailored for SMEs.

Strengthening enterprise skills and market linkages component addresses market failures that limit the ability of MSMEs to obtain the necessary skills and business services to exploit opportunities and overcome barriers to growth. The assistance to the firms include capacity building for business development services, innovation and entrepreneurship.

Improving the Business Environment component will contribute to policy formulation with the aim of reducing the costs of investment and doing business. Specifically, the reforms to be introduced will reduce cost of compliance with business regulations for the formal sector and create incentives for informal MSMEs to graduate to higher levels of formality. Some of the reforms are the introduction of a ***simplified taxation regime*** for micro and small firms and a new business registration system that is important for reducing the cost of starting-up businesses through a ***one-stop shop approach***.

4. PRIVATE SECTOR DEVELOPMENT (PSD) STRATEGY

The Ministry, with financial and technical assistance from Foreign Investment Advisory Services (FIAS) and Department for International Development (DFID) conducted a review of administrative barriers to investment in Kenya in 2004. The study covered the following six areas:-

- (i) Legal Framework for investment.
- (ii) Licensing Procedures and inspection.
- (iii) Access to land for investment.
- (iv) Site development clearances and utility connection.
- (v) Customs procedures and Trade facilitation.
- (v) Tax Administration.

The study found that administrative barriers remain a substantial impediment to investments and can only be removed through aggressive reform measures. The main thrust of the reforms is the streamlining of regulations and procedures to reduce the cost of doing business and strengthening law enforcement for effective protection of property rights. The findings of this study were shared with the public and private sector stakeholders and led to recommendation for the development of a Private Sector Development Strategy.

In recognition that the private sector is key for creation of employment and wealth necessary to put Kenya on a firm sustainable development path, public policy is being re-orientated in favour of private sector development. The Ministry of Trade and Industry (MoTI) in collaboration with the Private Sector (KEPSA, KAM), Development Partners (DFID, World Bank Group), and other Government Ministries and Departments is preparing a PSD Strategy to address the concerns of the private sector in the medium and long- term. The objective of the strategy is to re-orient public sector policies to facilitate a conducive investment climate for the private sector.

The institutional framework for preparing the PSD strategy has been established, comprising a Technical Committee (TC) chaired by PS/MoTI with membership from the private sector (KEPSA and KAM), Development Partners (Represented by the World Bank), Ministry of Finance, Ministry of Planning and National Development, Ministry of Labour and Human Resource Development, Attorney-Generals Chambers and the Kenya Revenue Authority. The TC reports to a Coordinating Committee of PSs of the above-named Ministries.

The PSD strategy is anticipated to be ready by June 2005. However, it has been necessary to prepare an Investment Climate Action Plan (ICAP) which focuses on the short term and medium term activities that are immediately beneficial to private enterprises. The Action Plan is to be implemented during the next 12-24 months and therefore will be incorporated in the budgetary process for the fiscal year 2005/6. Activities included in the action plan have been discussed and agreed with the private sector stakeholders. The activities will have high impact on private sector development at minimum cost to the Government. These activities have been clustered into *nine* problem areas as follows:

- (i) escalating insecurity;
- (ii) poor state of roads;
- (iii) lengthy construction approvals;
- (iv) inefficient and cumbersome licensing;
- (v) protracted and costly business registration;
- (vi) poor land administration;
- (vii) inefficient and costly power hook-ups;
- (viii) an outdated company law; and,
- (ix) time consuming customs and tax administration procedures.

As an example, to address crime and infrastructure related concerns the following short-term activities will be carried out.

I. Rampant and escalating *insecurity*

- Increase in foot patrols, especially at night and in crime prone areas.
- Retraining of police officers.
- Regular surveillance in trouble spots.
- Procurement of motor- bikes and vehicles for highway patrols.
- Establishment of a regulatory framework for security coordination.

II. Poor state of *roads*

- Development of an investment charter on urban roads.

III. Inefficient and costly *power hook-ups*

- Connection costs to be standardized within given radius.
- Group applications to be encouraged.

- Payment for connection costs to be spread over time.
- Construction of service lines to be outsourced.

The ICAP activities involve various Ministries and parastatals. The MoTI will coordinate the implementation of the Action Plan with key public and private stakeholders.

5. NATIONAL EXPORT DEVELOPMENT STRATEGY

The Government is committed to expand and diversify exports and export markets as one of the means of generating economic growth and eradication of poverty. The Ministry in collaboration with the private sector and International Trade Centre (ITC) prepared the National Export Development Strategy (NEDS), which was approved by the Cabinet in 2004.

The strategy identified and earmarked ten sectors and six cross cutting issues for attention to maximize the growth of exports. The Strategy will be implemented in two phases, with phase one concentrating on the following five sectors:

- Livestock and Livestock Products;
- Fish and Fish Products;
- Textiles and Clothing;
- Horticulture; and,
- Food and Beverages.

The Ministry, in collaboration with World Bank and GTZ has finalized the Action Plan for phase one. The Plan outlines activities to be implemented by the Government and the stakeholders in the short and medium term to develop and promote exports.

For each of the five sectors, products and product groups with the highest potential for export expansion in the short and the medium-term were identified. The binding constraints and threats holding back export expansion were also identified, including the necessary actions and actors required to address the impediments.

The Action Plan for the remaining 6 sectors earmarked for implementation in phase II will be prepared in the next 6 months. The sectors to be considered are tea, commercial crafts, ICT, tourism, transport services and coffee together with the following cross cutting issues: trade

information, trade facilitation, packaging for export, quality management, trade finance and competency development.

The rapid changes in regional and international trading arrangements call for a comprehensive trade policy to guide Kenya's international trade relations and in negotiating the trade agreements. As this is one of the commitments under the ERS, the Ministry in collaboration with the World Bank is preparing a Trade Policy Paper whose objective is to provide key elements of Kenya's trade policy regime. The policy, while seeking to promote and protect Kenya's interests in world trading system will be in line with international best practices. In particular, the policy will be guided by our current commitments in regional trading arrangements and the ongoing international trade negotiations.

6. INVESTMENT PROMOTION ACT, 2004

The Investment Promotion Act 2004, which establishes a one-stop-shop facility for local and foreign investors, was enacted to create a conducive regulatory environment for the private sector to thrive. The Act seeks, among other things, to harmonize the investment environment in Kenya will be operationalized shortly.

7. WAY FORWARD

Private sector development is an integral component of the Economic Recovery Strategy (ERS). Consequently some of the reforms under consideration to improve investment climate have been identified for support under the proposed Economic Recovery Strategy Support Credit (ERSSC) now under preparation by the Government of Kenya and World Bank Group.

We therefore invite the development partners to identify areas of interest they could collaborate with us on. Some of the areas of interest to us are the promotion of public-private sector partnership; capacity building for the public and private sectors to formulate and implement policy reforms; and improved capabilities for the public sector to monitor and evaluate the implementation of reform measures. Investment in key areas, namely:- infrastructure, utilities and public administration is important.

In conclusion, it is important to restate that the Government is committed to reforms that support the private sector. The measures we have initiated will go a long way in meeting this goal.
