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Kenya

U.S. Department of Commerce | International Trade Administration

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Doing Business in Kenya

Market Overview

Kenya has a market-based economy and is generally considered the economic, commercial, financial and logistics hub of East Africa. With the strongest industrial base in East Africa, Kenya has been successful in attracting U.S. exporters and investors. More U.S. companies are investing in Kenya and setting up local and regional operations to take advantage of Kenya's strategic location, diversified economy, entrepreneurial workforce, comprehensive air routes, and status as a regional financial center.

An additional attraction for U.S. companies is the strength of Kenya's human resources. According to UN data, Kenya's population stood at 47.2 million people in 2016. Its urban areas, particularly Nairobi, are noted for their large number of well-educated English-speaking and multi-lingual professionals, and for their strong entrepreneurial tradition. Kenya is also a very "young" country with almost 79% of the population under the age of 35.

At the same time, businesses operating in Kenya face a number of challenges associated with corruption, unemployment, land titles, security, and poverty. The country's per capita GDP was $1,553 in 2016, but unemployment and poverty remain high with an estimated 40% of the population living below the poverty line.

Sustained and significant economic growth is essential if Kenya is to address its development challenges. According to the World Bank, Kenya's economy grew by 5.9% in 2016 anchored primarily on investment in public infrastructure, strong remittance inflows, low oil prices and a recovery in the tourism sector. However, 2017 growth is expected to dip to 5.5% due to an ongoing drought that has led to crop failure, higher energy prices and food insecurity as well as a slowdown in investments ahead of the elections on August 8, 2017. These elections were the second under a new constitution adopted in 2010. One of the most notable changes brought about by the new constitution was a broad devolution of power and responsibilities from the national government in Nairobi to local governments in 47 counties.

The World Bank's 'Ease of Doing Business Index' shows Kenya moved up 21 places in the 2017 report to position 92 globally, making it the third most improved economy in 2017. This jump in ranking came following a similar improvement of 21 slots in 2016. The government has initiated a broad range of business reforms including the areas of starting a business, obtaining access to electricity, registering property, protecting minority investors and streamlining insolvency rules. Kenya is also experiencing the fastest rise in FDI in Africa (47% increase in 2015) with the majority of foreign investment going into renewable energy projects. Kenya accounted for 67% of all private equity funding in East Africa.

Agriculture remains the backbone of Kenya's economy and central to Kenya's development strategy. It accounts for more than 25% of GDP and is the largest employer with more than 70% of Kenyans earning at least part of their income in the sector.

Although Kenya is the most industrially developed country in East Africa, manufacturing accounts for only 10% of GDP. Key exports such as tea, coffee and floriculture require little or no processing. Although Kenya's mineral resources are limited, the country has a potentially important source of high-value mineral commodities such as titanium and gold. The construction and real estate sector is one of the fastest growing sectors in Kenya, growing at 14% in 2015. The growth is generally attributed to government investment in public infrastructure development projects as well as the real estate sector. The government is placing a high priority on implementation of mega infrastructure projects (road, rail, energy, port and airport modernization).

The technology sector is also one of the fastest growing business sectors in Kenya, and internet access rates are some of the highest in sub-Saharan Africa. The rise of 4G and 4G LTE services and the growth in smartphone usage is influencing growth in e-commerce and other e-based services and innovation.

The tourism sector in Kenya is one of the most diverse in East Africa with increased investments in conference, eco and leisure tourism. Tourist arrivals increased 12% in 2016 and sector earnings grew by 17% to approximately $1 billion. This increase, coupled with investments in new hotel space and Kenya Airways' continued dominance in the region, could see tourism continue to grow.

Nairobi is the transportation hub of Eastern and Central Africa and the largest city between Cairo and Johannesburg. The Port of Mombasa is the most important deep-water port in the region, supplying the shipping needs of more than a dozen countries.

Market Challenges

The cost of skilled, educated labor is high by developing world standards, and unemployment and underemployment remain high. Kenya's physical infrastructure remains a key obstacle to economic development, along with government efficiency, corruption, and weak regulatory and judicial system reliability.

Although price sensitivity of consumers and companies is high, price competition in Kenya is weak, which poses an opportunity and a challenge for new entrants.

In 2016, Transparency International ranked Kenya 145 out of 176 countries with a score of 26 out of 100 on its perceptions of corruption index. Claims of corrupt dealings, particularly in land purchases and large government contracts persist. Despite the implementation of some reforms, courts remain subject to significant case backlogs, and cases can take years to resolve. Parties often succeed in delaying cases for long periods through complicated procedural motions. Allegations of serious corruption within the judiciary persist. Outcomes of judicial proceedings to settle commercial disputes are often unpredictable.

Violations of intellectual property rights (IPR) for videos, music, software, and consumer goods continue to cause major problems for some U.S. firms. Title to land is uncertain,

reducing the borrowing capacity of families and businesses and constraining Kenya's ability to broaden its capital base. Land reform is a divisive and emotional issue, complicated by tribal traditions, land sale scams, and perceived historical injustices, which Kenya has so far been unable to resolve.

In August 2016, the Government of Kenya (GOK) enacted the Banking Act, capping the maximum interest rate banks can charge on commercial loans at four percent above Central Bank of Kenya's (CBK) benchmark lending rate. The legislation also provides a floor for the interest rate that banks must pay to depositors. The cap has contracted the market for credit, especially for consumers and small and medium businesses. The IMF has warned that the restrictions will result in a continuing shrinkage in the availability of credit, which was previously growing robustly and was one of the factors behind Kenya's strong economic performance over the last eight years.

Market Opportunities

Chapter 4 in the Country Commercial Guide provides more information on best prospects for U.S. companies looking to do business in Kenya, and by extension East Africa using Kenya as a hub or gateway.

Market Entry Strategy

Kenya is one of the key logistical conduits into the East Africa Community (EAC) regional market consisting of South Sudan, Kenya, Tanzania, Uganda, Rwanda, and Burundi. Many foreign companies establish their regional headquarters in Kenya.

When negotiating an agent or distributor agreement with a potential Kenyan partner, there are many considerations to take into account. See Chapter 3 of the Country Commercial Guide for more information on working with agents and distributors. The Commercial Service in Nairobi provides a variety of services to assist U.S. firms with market entry. Please refer to Chapter 10 of the Country Commercial Guide for further information on our services.

Political and Economic Environment

Political Envrionment

For background information on the political and economic environment of the country, please check the U.S. Department of State Background Notes.

Selling U.S. Products and Services

Using an Agent or Distributor

Kenya has no laws or policies requiring the retention of a local agent or distributor by a U.S. or other foreign company exporting to Kenya. However, it is highly advisable for a U.S. company to retain an agent or distributor who is resident in Kenya. If the product to be exported requires servicing, qualified service personnel and a reasonable supply of spare parts must be provided. To locate an agent, distributor, or partner, U.S. business representatives may contact the nearest U.S. Department of Commerce Export Assistance Center (USEAC) and request an International Partner Search (IPS) or a Gold Key Service (GKS). The Commercial Service charges fees for these services to cover costs. A complete list of USEACs may be found on US Commercial Services. The Commercial Service in Nairobi also provides extensive counseling services for U.S. businesses and their partners and representatives. In addition, American Chamber Of Commerce Kenya (AmCham) helps U.S foreign and local enterprises do business in Kenya.

Establishing an Office

To establish a legal presence in Kenya, U.S. firms may need to register with the Kenyan Registrar of Companies as a foreign company rather than register a business or incorporate in Kenya. Incorporation of a company in Kenya as a subsidiary of a U.S. corporation, as opposed to the registration of a U.S. firm, is a more complicated and expensive process.

The Registrar of Companies issues a "Certificate of Compliance" that certifies that the requirements of the Kenyan Companies Act have been fulfilled. This allows the company to obtain trading licenses from local authorities and the Ministry of Industry, Trade and Cooperatives.

The U.S. Commercial Service Kenya recommends that U.S. firms obtain the services of a local attorney to undertake registration.

Franchising

Franchising is growing in popularity with brands such as KFC, Pizza Hut, Subway, Domino's Pizza, Cold Stone Creamery, and Pretzels present in Kenya. There are no McDonald's, or Wendy's restaurants in Kenya. While franchising is most common in the hospitality industry, other franchising industries in Kenya include the clothing industry and real estate.

Key impediments to franchising include lack of support by the judicial system in terms of intellectual property protection and timely resolution of IPR cases. The lack of available local supply that meet required quality standards, frequent infringement of the franchise agreement and a lack of commitment by the franchisees, a limited customer base, and a lack of understanding of the franchising concept in general also present challenges to introducing more U.S. franchises to Kenya. Despite these challenges, increased local inquiries about U.S. fast food and auto rental franchises clearly indicate that local interest in franchising exists.

Requirements and Legal Framework

There are no specific franchise laws in Kenya; therefore, investors must rely heavily on existing commercial laws and various applicable business laws, which include:

- Common Law
- Law of Contract Act 0f 2002 (revised 2012)
- Copyright Act of 2011
- Competition Act of 2010
- Intellectual Property Law
- Consumer Protection Act 2012

Most franchisors have benefited from the Trademark Act (Cap. 506) which makes specific provisions in section 31 for the "recognition of license user agreements." The registered user (licensee) would be the franchisee while the franchisor is actually the legal owner or proprietor of the trade mark.

There are significant constitutional guarantees against expropriation of private property in Kenya, which requires due process along with full and adequate compensation in the event of expropriation. The 1995 abolition of the Exchange Control Act and the guarantees against expropriation except with due process and compensation have encouraged many local and foreign investors as well as franchisors to invest in the Kenyan market.

Taxes

In the case of franchising, it is the franchisee that is using the property of the franchisor in return for the royalty paid by the franchisee to the franchisor. Under Kenya tax law and practice, the franchisee withholds and remits to the Kenya Revenue Authority the tax on the royalty.

Taxation in the context of franchising might also arise in the context of the payment of any royalties, management or professional fees, commissions, consultancy or agency fees and contractual fees that arise under the franchising agreement.

Basis

Resident and non-resident corporate entities are subject to tax on all income accruing in or derived from Kenya.

Taxation of dividends
Dividends from a Kenyan company are not subject to additional tax other than what is deducted at source (see "Withholding tax", below).

Attributable expenses are not allowed as deductions. Dividends from a foreign company are not taxable in Kenya.

Capital gains
Capital gains are not taxable in Kenya (while there is capital gains legislation, it has been suspended since 1985).

Losses
Business income, investment income (other than for financial institutions, for which investment income is considered business income), rental income, and income from agriculture are assessed separately and losses only may be utilized against taxable income from the same source. As of June 12, 2009, tax losses may be deducted in the year in which they arise and the following four years of income (previously, an indefinite carry-forward was allowed). Losses may not be carried back and capital losses are not deductible.

Foreign tax credit
Foreign taxes paid are treated as an allowable expense, except where a tax treaty applies, in which case a tax credit is granted.

Tax Incentives
Kenya provides for a 100% investment deduction on hotels, as well as buildings and machinery used in manufacturing. Enterprises in export Processing Zones enjoy a 10-year tax holiday.

Withholding tax
Dividends: There is no withholding tax imposed if the recipient is a qualifying Kenyan Financial Institution or resident recipient company controls 12.5% or more of the capital payer, and 10% rate for dividends paid for a non-resident company.

For a resident recipient company controlling 12.5% or less, there is a 5% withholding tax imposed and 10% for a non-resident

Interest: Interest rate from financial institutions is subject to a 15% tax for residents and non-residents, and the withholding tax on interest on bearer certificates is 25%. Withholding tax on interest from bearer bonds is 10% for resident and nil for non-resident.

Royalties: There is a subject of 5% withholding tax for royalties paid to residents and 20% for non-residents.

Technical Service Fees: 10% of withholding tax is charged on technical transfer fees paid to residents and 20% for non-residents.

Management or Professional Fees: There is a 5% withholding tax paid from professional fees for residents and 20% for non-residents.

Payment of withholding tax fall with the franchisee operating in Kenya before remittance of the royalties to the international Franchisor.
Branches for non-resident companies are liable to corporate tax of 37.5% for taxable profits derived in Kenya. While companies permanently established in Kenya are liable to a corporate tax of 30%.

Other Issues
The above information should be seen as a general guideline only. U.S. companies should seek professional council from tax experts with in-depth knowledge of Kenya tax law.

Direct Marketing

There is some penetration by direct marketers of personal care, home, and cosmetics products, but sales volumes in these categories by individual importers and trading companies are larger. Some of the major companies that have had a success are GNLD, Tianshi, Forever Living, Tiens, and Oriflame. Direct marketing of U.S. products in Kenya today is mostly limited to major-purchase items. This includes major tender (bid) items and/or single sale items.

Joint-Ventures/Licensing

Kenya allows for the establishment of public and private corporations, as well as joint ventures and branches. Unlike franchising, joint ventures and licensing are common features of the Kenyan business scene. However, such arrangements should only be finalized through a reputable local attorney. Joint ventures and licensing arrangements are generally recognized and protected by Kenyan commercial law. However, U.S. companies operating in Kenya emphasize that in the event of a contract disagreement, a negotiated settlement by the parties is almost always preferable to seeking recourse in the judicial system. There is also a board of arbitration to which commercial disputes can be referred.

With the exception of the insurance and telecommunications sectors, and certain infrastructure and media companies, Kenya does not require that its nationals own a percentage of a company. For insurance companies, citizens of Kenya, whether in terms of paid-up share capital or voting rights, must hold at least one-third of the controlling interest. In the telecommunications sector, Kenyan nationals must own at least 40% equity. In other sectors, joint ventures are encouraged but are not mandatory. The percentage of foreign equity need not be reduced over time.

Selling to the Government

U.S. firms have had limited success bidding on government tenders in Kenya. There are widespread reports that corruption often influences the outcome of public tenders. In 2014, the government inaugurated the Integrated Financial Management Information System

(IFMIS), which the government argues will improve transparency and accountability in government financial management through the automation of budget, accounting, procurement, and revenue management functions. As part of the IFMIS, the government launched an E-Procurement system to automate tenders. In July 2015, the government made use of the E-Procurement system mandatory for national and county government institutions, but subsequently suspended the system due to complaints about lack of connectivity. In December 2016, the National Treasury announced it has allocated approximately $76 million to maintain, upgrade, and address challenges with the IFMIS system.

In January 2016, a new procurement law, the Public Procurement and Asset Disposal Act, came into force, operationalizing Article 227 of the 2010 Constitution and reserving preferences to firms owned by Kenyan citizens and to goods manufactured or mined in Kenya. For tenders funded entirely by the government with a value of less than 50 million Kenyan Shillings (approximately $575,000), the preference for Kenyan firms and goods is exclusive. Where the procuring entity seeks to contract with non-Kenyan firms or procure foreign goods, the Act requires a report detailing evidence of an inability to procure locally. The Act also calls for at least 30 percent of government procurement contracts to go to firms owned by women, youth, and persons with disabilities. The Act further reserves 20 percent of procurement contracts tendered at the county level to residents of that county.

In May 2015, President Kenyatta announced an initiative, dubbed "Buy Kenyan Build Kenya," to require state ministries, departments and agencies to procure at least 40 percent of supplies locally. Policy guidance to implement this initiative was still pending as of the end of 2016.

The Public Procurement Oversight Authority is responsible for facilitating and ensuring the implementation of an effective and efficient public procurement and disposal system. It also ensures that at least 25% of the annual procurement by public entities is allocated to youth in accordance with such conditions that the Cabinet Secretary for the National treasury may prescribe to safeguard this provision against possible abuse. The Cabinet Secretary appoints the Authority's nine-member Oversight Advisory Board. The director of public procurement is a member of the Kenyan National Committee on World Trade Organization (NCWTO).

The Public Procurement and Disposal Act is intended to make procurement more transparent and accountable. It requires procurement agencies to carry out an annual update of pre-qualified firms especially when dealing with restricted procurements such as military tenders. Open tendering is the most preferred method of tendering, as it brings about desirable competition among bidders and ensures value for money is realized. However, because of the tedious procedure requirements for this method, when certain parameters such as value, time, and unforeseen emergencies are taken into account, the open tender method may not be feasible. This leads to the necessity to adopt other methods for prudence and expediency of duty. Hence the Act stipulates six alternatives for procurement:

1) Restricted Tendering
2) Direct Procurement
3) Request for Proposals

4) Request for Quotations
5) Procedure for Low Value Procurements
6) Specially Permitted Procurement Procedure

The Act gives guidelines on when each of the options is applicable. In most cases for large budget items, open tendering is the standard practice as it is seen to be the most transparent and least controversial process; however, it has been prone to abuse in some cases and frivolous law suits in others.

In the event of a grievance or perception by a bidder of unfair practices, the Act also establishes the Public Procurement Complaints, Review and Appeals Board (PPCRAB) that is responsible for receiving, reviewing and acting on complaints. The Act provides for penalties for violations of the law, with fines for individuals of up to 4 million Kenyan Shillings (approximately $43,200), or imprisonment for 10 years, or both. For corporations, the fines are up to 10 million Kenyan Shillings (approximately $108,000).

In addition to these penalties, the Act provides for the disqualification of government officials and debarment of private individuals involved in the transaction.

The procurement legislation gives exclusive preferences to Kenyan citizens where the funding is 100% from the Government of Kenya or a Kenyan body, and the amounts are below $500,000. The law allows for restricted tendering under certain conditions, such as when the complex or specialized nature of the goods or services limits the competition of pre-qualified contractors. Restrictions can also be imposed if the time and costs required to examine and evaluate a large number of tenders would be disproportionate to the value of the tender.

The World Bank, IMF, European Union, and other donors have conditioned some of their official assistance programs, including direct budget support, on reform of public procurement. The donor community is hopeful that the revised public procurement laws will improve Kenya's public procurement performance, which has frequently been marred by flawed contracts, awards to noncompetitive firms, and awards to firms in which government officials have a significant interest. Kenya's relatively meager conflict-of-interest regulations are rarely enforced.

The U.S. Commercial Service Kenya offers advocacy support to U.S. bidders that are competing for government contracts.

Distribution and Sales Channels

Kenya requires both pre-shipment verification of conformity (PVoC) with Kenyan standards in the country of origin prior to shipment, and since March 1, 2009 also requires an import standards mark (ISM)

The requirements for PVoC include:
Every consignment of imported goods which contains regulated products must be accompanied by a Certificate of Conformity (CoC) issued by your local PVoC country office prior to shipment.

The PVoC Certificate is required to ensure smooth customs clearance of shipments in Kenya.

The PVoC Certificate confirms that the products comply with the relevant Kenyan technical regulations and approved standards.

The Kenyan authorities may take random samples from imported consignments to verify compliance.

Additional details on the PVoC procedure and a list of Regulated Products currently requiring PVoC certification are available at the Kenya Bureau of Standards.

Key elements of PVoC

- Physical inspection prior to shipment.
- Sampling, testing and analysis in accredited laboratories.
- Audit of product processes.
- Documentary check of conformity to regulations.
- Assessment of conformity to Kenyan standard.

Audit
On July 1, 2005, the Commissioner of Customs Services announced regulations for the start of the Pre-Shipment Verification of Conformity requirement. Specifically, the Commissioner clarified that:

- Import Declaration Forms (IDFs) will continue to be processed under the same procedures as before.
- IDF applications will continue to be issued by the Customs Services Department at the IDF offices located at the customs houses in Nairobi, Mombasa, and Kisumu.
- Imported goods will be subject to the usual customs clearance procedures.
- Destination inspection, to include scanning, physical verification, and examination will be carried out by Customs at ports of importation before release from customs control.
- Importers are encouraged to declare and submit Form C52 that reflects the true and accurate value of imports.

The Kenya Bureau of Standards (KEBS) is responsible for quality inspection of imports through the Pre-shipment Verification of Conformity (PVoC) assessment program. On arrival in Kenya, imported goods are subjected to the usual Customs clearance procedures. Scanning, physical verification, and examination are carried out by Kenyan customs agents at importation ports before release from customs control. However, goods imported with IDFs issued by approved agencies are cleared using the Clean Report of Findings or a certificate of value.

Custom officers examining import cargo are required to determine the actual quantities and ascertain the truth and accuracy of the declared value for the goods being imported. Where discrepancies are detected, the releasing officers collect extra revenue at the point of examination. It should be noted that in cases of tariff under-valuation of goods, officers are expected to raise Offense Reports and to penalize the importer on the spot before releasing the goods as a deterrent measure.

Where there are serious doubts regarding declared value, officers are required to refer import documents with a clear and lucid examination account of the verified goods for further inquiry to Valuation Regional Offices. On appeal, the regional office can refer the same to Valuation Headquarters. Documents submitted to the Valuation Headquarters are in all cases to be accompanied by details of the findings of facts, the importer's objection, and the officer's opinion or rationale for decision. The Headquarters, based on those referrals, is expected to intercede in the case to settle any disputes and facilitate a quick release of the imported goods.

Once goods have been cleared by Kenyan customs, the clearing and forwarding agent undertakes transportation of the imported goods, usually to the importer's warehouse for storage.

The distribution system, especially at the retail level, consists of outlets that are small by U.S. standards. Wholesalers can also act as retailers. They purchase goods from manufacturers and then distribute them either directly or through retail outlets to end-users.

End-users can be government agencies or other private local entities. Most importers of perishable consumer goods sell products directly to the large retail stores, such as the Uchumi, Tuskys, Naivas, Nakumatt, and Chandarana/Food Plus supermarket chains.

Selling Factors and Techniques

Catalogs, exhibitions and electronic product brochures serve as convenient starting points for both sellers and end-users. The Kenyan market prefers visual representation for most products, particularly technically detailed goods. Technical details are important in product brochures as they may also serve as references for maintenance. Written materials should supply both end-users and importers with up-to-date product information, including prices and the latest technological developments. U.S. firms should, where practical, use Kiswahili as a second language on flyers, with English as the primary (and official) business language. With mobile phone penetration at 88%, most telemarketing is focused on mobile phone users.

E-Commerce

The use of e-commerce in Kenya has grown significantly over the last few years, especially among small and medium enterprises (SMEs).

The Kenya Communications (Amendment) Act of 2008 is Kenya's adoption of the United Nation's Model Law on Electronic Commerce of 1996. The highlights of the law include:

promotion of e-government and e-commerce by increasing public confidence in electronic transactions; legal recognition of electronic records and electronic (digital) signatures; imposition of new offenses with respect to cybercrimes involving electronic records and transactions and the use of computing and telecommunications equipment; and clarification of legal uncertainties about the admissibility of electronic records as evidence in court proceedings. According to the Communications Authority (CA) quarterly report, the number of broadband subscriptions grew by 6.7 percent in the last quarter of 2016 to reach 12.7 million subscriptions, up from 11.9 million reported during the previous quarter, marking a penetration level of 28.7 percent. Mobile broadband subscriptions account for 99 percent of the total broadband subscriptions.

The uses of mobile applications (apps) in E-commerce have gathered rapid penetration in the market and play a significant role in the promotion of e-commerce. Consumers are now able to use these apps to purchase goods and services such as food, clothing, vehicles, real estate, and transportation services.

Trade Promotion and Advertising

Traditional forms of advertising via print, radio, and television remain the most widely used in the country. Most companies and organizations including the government are now adopting new ways of advertising over the internet and through social media platforms. Product complaints are now easily reported via various social media. Companies are increasingly setting up online pages and opening Facebook accounts to more easily access their customers. Kenya has several daily newspapers, with *Daily Nation* and *The Standard* being the main papers. Most newspaper companies also have online versions of their product.

Many leading international advertising agencies including Ogilvy & Mather, McCann Erickson, Publicis and Omnicom, and Young & Rubicam have local offices or affiliates in Kenya. Although there are no restrictions on importing ready-to-use advertising materials, U.S. firms should consult closely with locally-based advertising firms to obtain leads on accepted advertising norms and adapt material to fit local preferences and values, including translation into target languages such as Kiswahili. Kenya has 42 different ethnic groups, and radio and TV stations have vernacular sub-stations and programs that cater for these groups. Advertising on radio is often translated to fit some of the major tribes.

The U.S. Commercial Service Kenya assists American companies conduct market promotion through organizing workshops or technical seminars.

Pricing

Pricing formulas will vary from one product to another based on supply, demand, landed cost, margin expectations, and competitive alternatives. Typically, gross margin expectations range between 15-30%, though others believe this to be true of expected net margin. Landed product costs are arrived at by applying cost formula and the sum total of: Free on Board (FOB) costs, as per bill of lading; net sea/airfreight charges; insurance; shipping agents fee; port charges;

and clearing and forwarding charges - generally up to 0.5% of FOB and land transport costs. Kenyan importer preference for price quotations is Cost-Insurance-Freight (CIF) in U.S. dollar to Mombasa or Nairobi rather than FOB at a U.S. port.

Whether quotes are made FOB United States or CIF Kenya, the exchange of title may take place in either location. For example, a U.S. exporter may quote CIF Kenya (including the cost of sea freight and insurance in the invoice), but pass title at the U.S. port in exchange for payment at that time. This offers several benefits to the U.S. seller: the transaction takes place in the U.S. and under U.S. law; the U.S. company won't find itself owner of merchandise stranded at the Kenyan port of entry; and the importer of record is the Kenyan counterpart, who is always better positioned to manage local customs formalities.

Sales Service/Customer Support

U.S. firms exporting products to Kenya should fully train local staff and establish a strong liaison with end-users for continuous equipment performance assessment. Manufacturers, in conjunction with a local representative, should provide detailed product information including set-up and operating instructions. Good local availability of spare parts and strong, integrated back-up service is vital.

Kenyan buyers increasingly demand strong after-sale service and customer support, including warranties, especially for electronics items. Buyers increasingly demand guarantees from retailers to ensure that products remain functional. After-sales repair, technical service, and customer support is particularly crucial given Kenya's challenging physical infrastructure environment. Products in Kenya often suffer damage from transit, improper installation, and constant power fluctuations. Training and support remain an integral part of the sales cycle and provide an added advantage to one supplier over another.

IPR Climate in Kenya

Kenya is a member the World Intellectual Property Organization and the World Trade Organization. Kenya is a signatory to the TRIPS Agreement and several other major international and regional intellectual property conventions as noted below. Kenya also is a member of the African Regional Industrial Property Organization (ARIPO) based in Harare, Zimbabwe and is empowered by the Harare protocol on patents and industrial designs to grant patents and to register utility models and industrial designs on behalf of contracting states

However, enforcement of IPR continues to pose a challenge to rights holders. Pirated and counterfeit products in Kenya present a major impediment to U.S. businesses operating in the country. Industry estimates that piracy and counterfeiting of business software, records, music, consumer goods, and electronics such as mobile phones, and pharmaceuticals in Kenya costs firms over US$300 million in lost sales annually.

Patents

The Industrial Property Act (Act No. 3 of 2001, as amended up to Act No. 11 of 2017) ("the Act") promotes inventive and innovative activities, and inter alia, facilitates the acquisition of

technology through the grant and regulation of patents, utility models, technology based innovations and industrial designs.[1] The Industrial Property Act also established powers and functions of the Kenya Industrial Property Institute ("KIPI").[2] KIPI considers applications for and grants industrial property rights, screens technology transfer agreements and licenses, provide industrial property information for technological and economic development to the public, and promotes inventiveness and innovativeness in Kenya.[3]

Patent protection is provided in Part III of the Act, which provides laws on patentability. An invention is patentable under the Act if it is new, involves an inventive step and, is industrially applicable.[4] An application for a patent shall be filed with the Managing Director and shall contain: a request; a description; one or more claims; one or more drawings (where necessary); and an abstract.[5] A patent term shall expire at the end of twenty years from the filing date of the application.[6]

Patents can also be obtained through the African Regional Industrial Property Organization ("ARIPO"), of which Kenya is a designated state. ARIPO patents have the same effect in Kenya as a patent granted by KIPI, unless the Managing Director of KIPI communicates that a particular ARIPO patent application shall have no effect in Kenya, using the process specified by Kenyan law.[7]

Trademarks

Kenya's Trade Marks Act (Chapter 506) [Revised Edition 2009] provides for the protection for marks that are used, or proposed to be used, in relation to the goods or in the provision of services that are distinguishable from those of others. A "mark" includes a distinguishing guise (i.e., shape of the product itself or of the product packaging), slogan, device, brand, heading, label, ticket, name, signature, word, letter or numeral, or any combination thereof whether rendered in two-dimensional or three-dimensional form.

The Industrial Property Act, 2001 (Act No. 3 of 2001, as amended up to Act No. 11 of 2017) authorized the establishment of the Kenya Industrial Property Institute (KIPI) in 2002 to implement the Trade Marks Act. The Trade Marks Rules prescribe the procedure, forms and fees for matters provided for under the Trade Marks Act.

Upon the filing of an application with KIPI and payment of the applicable fees, applications for trade and service mark protection are examined for registration. To be eligible for registration, marks must be distinctive. Marks containing common, generic or non-

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[1] *See* Laws of Kenya, Industrial Property Act (Act No. 3 of 2001, as amended up to Act No. 11 of 2017), Preamble.

[2] *Id.*

[3] Laws of Kenya, Industrial Property Act (Act No. 3 of 2001, as amended up to Act No. 11 of 2017) § 5.

[4] *Id.* at § 22.

[5] *Id.* at § 34 (1).

[6] *Id.* at § 60.

[7] Id. at § 59.

distinctive matter are subject to the requirement to disclaim the right to the exclusive use of such matter.

If an application overcomes all examination hurdles and is accepted for registration, it is advertised or published for opposition by third parties who have 60 days from the date of the advertisement or publication in which to file an objection to registration. Decisions as to whether registrations are or are not permitted are appealed to the High Court of Kenya.

Once a mark is registered, it is protected for ten years and may be renewed for ten years upon the filing of an application for renewal and the payment of the applicable fees.

Kenya is a signatory to, the Trademark Law Treaty, The Madrid Protocol, the Madrid Agreement, and the Paris Convention. The provisions of the Trade Marks Act conform to the provisions of these international agreements, including the international application and registration procedures under the Madrid System enabling foreign trade and service mark owners to obtain registration and protection of marks in Kenya.

Copyrights

The Kenya Copyright Board (KECOBO), is charged with coordinating all licensing and treaty activity, and has the authority to inspect, seize, and detain suspect articles and to prosecute offenses. The Copyright Amendment Bill 2017 has been submitted to the Cabinet, proposing changes to the Copyright Act and Regulations to ensure ratification of the WIPO Internet Treaties and the Beijing Treaty (audio-visual works), and to incorporate the Marrakesh Treaty (visually impaired persons). The Bill also proposes to improve oversight of collective management organizations as well as a resale right for visual artists

Enforcement

Enforcement of IPR including by the Kenyan Government, is a challenge. Pirated and counterfeit products in Kenya, mostly imported from Asia, present a major impediment to U.S. businesses operating in the country. Electronic such as mobile phones, TVs and DVDs, imported drugs, shoes, textile products, office supplies, tubes and tires, batteries, shoe polish, soaps, and detergents are the most commonly counterfeited items.

Kenyan artists have joined to form organizations that raise awareness of intellectual property rights (IPR) and to lobby the government for better enforcement, but merchants still trade in pirated versions of Kenyan and international works as IPR awareness among the general public is limited.

Contacts

Copyright Office

Office of the Attorney General
Department of the Registrar-General
Address P.O. Box 40112 – 00100
Nairobi, Kenya
Tel: +254 20 222 7461/2/3/4/5/9/2251355
Fax: +254 20 315105

Email: info@ag.go.ke

Industrial Property Office
Ministry Industry, Trade and Cooperatives
Kenya Industrial Property Institute (KIPI) Kapiti Road; Nairobi South C
P.O. Box 51648 Nairobi
Tel: (254 20) 600-2210/11
Fax: 600-6312
Email: info@kipi.go.ke

Enfoncement
Kenya Anti-Counterfeit Agency: a local government resource for right-holders seeking to enforce their intellectual property rights in Kenya.

Due Diligence

The U.S. Commercial Service Kenya can assist U.S. companies or their partners with researching the bona fides, credit worthiness, and business history of companies based in Eastern Africa. From a simple email verification request on the existence or reputation of locally based companies to the more comprehensive and detailed International Company Profile (ICP) service, U.S. CS Nairobi can provide U.S. firms with information from a variety of sources as they decide whether a proposed agent, distributor, buyer, or joint venture partner is a good business counterparty.

The ICP due diligence process involves an assessment of a local company's registration, analysis of corporate history, corporate structure, company background, executive information, financial profiles, banking and auditing information, operating situation, staff size, range of products, facilities, profiles of subsidiaries and affiliates, current challenges, market capabilities, and more.

For more information on this service, email: Office.Nairobi@trade.gov.

Local Professional Services

The Kenyan legal system is based on British law and Kenyan legal practices and procedures often require the services of either a Kenya-based attorney or an attorney licensed to practice in Kenya. It is advisable that U.S. firms seek the services of such attorneys whenever legal services are required. Though not common, a minor contravention of Kenyan legal practices and procedures (including using the services of a non-Commonwealth attorney), can result in serious repercussions such as company de-registration and nullification of legal agreements, contracts, charges, etc.

Particular attention should be made to visa and immigrant issues, as expatriates can be legally liable for administrative mistakes made by their Kenyan staff.

U.S. firms are also advised to seek clarification of all legal terminology, as legal terms in Kenyan English may mean something different in American English.

Web Resources

Office of the US Trade Representative
Kenya Bureau of Standards
Communications Authority of Kenya
Kenya Industrial Property Institute

Leading Sectors for U.S. Export and Investment

Agricultural Machinery and Chemicals

Overview

Kenya imports virtually all of its agricultural chemicals because there is no significant local production. Unlike many sub-Saharan African countries, Kenya's fertilizer use has almost doubled since the liberalization of the market in the 1990s and removal of government price controls and import licensing quotas. The growth in use has been noted especially among the smallholder farmers for food crops (maize, domestic horticulture) and export crops (tea, coffee). Growth in the industry is largely due to huge private investment to import and sell fertilizers on the local market. The fertilizer industry is dominated by Russia, United States, Ukraine, China and Romania. After blending, a small percentage of these fertilizers are exported within the region.

The rise in use of fertilizer can also be attributed to a stable fertilizer marketing policy, increased private sector participation which imports on behalf of government agencies and for private users; increased competition, availability of fertilizer closer to the rural areas (the private sector has invested in a wide and intense distribution network); the reduction of distance to nearest fertilizer seller and better access to markets for farmers' produce.

The Government of Kenya continues to provide fertilizer subsidies under the National Accelerated Agricultural Input Access Program (NAAIAP) which provides farm input subsidies and distributes subsidized fertilizer to small scale farmers to reduce poverty and "kick- start" agricultural productivity that was greatly affected by the 2007 post-election violence and as well as inadequate rainfall. The bulk purchase of fertilizer also looks to cut out the middlemen and thus bring down the price of fertilizers, and thereby bring down food prices.

Sub-Sector Best Prospects

Best sales prospects for U.S exporters include fertilizers and pesticides. Half of all pesticides imported by Kenya are fungicides, 20% crop insecticides, 20% herbicides, acaricides, rodenticides, and nematicides, and 10% other. Kenya's consumption of fertilizers in 2012 was more than 500,000 tons valued at $236 million. The most widely used fertilizer is di-ammonium phosphate (DAP). Other fertilizers used in Kenya include nitrate potassium phosphate (NPK), single super phosphate (SSP), and calcium ammonium nitrate (CAN) and Urea.

Note: Fertilizers are the number two product counterfeited in Kenya. U.S. exporters should expect some competition from these lower priced, inferior goods. Consider marketing the effectiveness of a genuine product in your marketing campaigns.

Opportunities

Great opportunities exist in the maize, wheat, tea and coffee growing seasons. There has been a continued growth in the use of fertilizers to produce these commodities. Kenya's horticulture industry is a major export success in Africa. The industry is entirely dominated by the private sector and provides many opportunities for increased importation of fertilizers and pesticides as well as equipment.

Agriculture remains the backbone of Kenya's economy and brings the challenges of growing

enough quality food to feed the growing population while adverse climate changes. Kenya will need to rely on methods adopted by other Asian and Latin American countries that are able to meet their food security needs. This will definitely include an increased use of fertilizers.

Recent soil analysis of secondary and micronutrient deficiencies in Kenya shows widespread deficiencies of various secondary and micronutrients – particularly S, Zn and B. Kenya was also found to have considerable areas of high soil acidity, which can affect yield response of acid-sensitive crops. The GoK will be educating farmers and providing information on the best fertilizers for specific regions to improve nutrients and thus yields. Consultancies in this area are welcome.

Note: USAID is responsible for implementing the President's Feed the Future (FTF) initiative, which seeks to help farmers improve food production and weather regular cycles of drought and famine.

New investment in manufacturing is encouraged by the Government of Kenya, and U.S. industrial chemical manufacturers/suppliers may consider utilizing Kenya as a base for penetrating the Eastern African market. The government is keen to set up a fertilizer manufacturing facility in Kenya as part of the Vision 2030 to promote food security and lower food prices.

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Web Resources

Tegemeo Institute, Egerton University
Agrochemicals Association of Kenya (AAK)
Fresh Produce Exporters of Kenya (FPEAK)
Kenya Flower Council (KFC)K
Ministry of Agriculture
Kenya National Bureau of Statistics

Aircraft and Aircraft Parts

Overview

Unit: US Millions

	2014	2015	2016	2017 (estimated)
Total Market Size	1519.02	891.48	151.41	200
Total Local Production	0	0	0	
Total Exports	0	0	0	
Total Imports	1519.02	891.48	151.41	200
Imports from the U.S.	1359.7	789.9	73.3	150
Exchange Rate: 1 USD	87.92	92.84	100.0	103.0

NB: All figures in millions of USD with exception of exchange rate in Kenya shillings (Kshs)
Applicable HS Codes: 401130; 840710; 840910; 840991; 840999; 8411; 8802; 8803; 880510; 940110
Total Market Size = (Total Local Production + Total Imports) – (Total Exports).

Data Sources:
Total Market Size: *Global Trade Atlas*
Total Local Production: N/A
Total Exports: N/A
Total Imports: *Global Trade Atlas*
Imports from U.S: *Global Trade Atlas*
Exchange Rate: Central Bank of Kenya

Kenya is the largest and most developed transport and logistics hub in East & Central Africa with JKIA being East Africa's largest aviation hub and host to various airlines, both local and international, that use Nairobi as the primary entry point into Africa. Kenya has 8 airports, 4 of which are international and anther 468 aerodromes and airstrips. The Ministry of Transport & Infrastructure has the policy oversight and the Kenya Civil Aviation Authority (KCAA) is the industry regulator. Kenya Airports Authority (KAA) operates all airports and aerodromes and manages the assets including overseeing the security.

Aircraft and aircraft parts sales have continued to register significant decline in market size over the last three years owing to the multi-year massive losses incurred by national carrier Kenya Airways, which has resulted in reduction in investments in aircraft and parts. Under a new restructuring plan, the carrier is instead leasing and selling off some of its planes in a cost-cutting and cash raising plan that has seen an end to the ambitious fleet expansion plan that saw the carrier increase its fleet size by double digits, and with it falls imports of planes and spare parts. However, private operators, both corporate and individuals, continue to invest in new and used imported aircrafts. Kenya has no domestic production of aircraft or aircraft parts.

According to KCAA, the industry regulator, there were 1388 registered aircraft in Kenya in 2016, a 20% growth from 2012. The key drivers for the aircraft and aircraft parts industry in Kenya over the last several years have been tourism and a growing cargo business resulting from increased exports in horticultural produce and imports of high value goods. However, Kenya's tourism sector has in the recent past suffered a decline in visitor arrivals due to the security

concerns and impact of terrorism. The major commercial airlines in Kenya including Kenya Airways have suffered significantly from the decline in tourists coming to Kenya, thus slowing down the fleet modernization programs envisioned earlier. Rising costs owing to the strengthening of the dollar and competition from Middle Eastern carriers has also eaten into the market share of local carriers. However, due to government efforts to combat terrorism, the lifting of several travel advisories from western nations and investment in marketing initiatives globally, visitor arrivals rose by 16% in 2016 totaling 900,000. Overall, Kenya's airports recorded an 11% growth in passenger traffic in 2016 to stand at a record 9m passengers. This growth is expected to continue into 2017.

With respect to air cargo, according to *Business Monitor International* (BMI), Kenya's air freight sector has enjoyed a fantastic level of growth over recent years, a trend that is expected to continue in 2017. Kenya's horticultural exports, together with surging imports, are ensuring full cargo loads for airlines on both outbound and inbound flights respectively.

Further, Kenya's low cost carrier segment is on course to record improved performance owing to the growing middle class in Kenya. KQ currently flies to close to 60 destinations, with the vast majority being routes in Africa, and is a full member of the Sky Team Alliance comprised of Delta, Air France, and KLM among others since June 2010. KQ's low cost carrier, Jambo Jet, flies domestically and recently added routes to several African countries.

In June 2014, Illinois-based firm, AAR, a global aerospace, government and defense contractor, became the first aviation company to land a multi-year deal after it won a five-year multi-million dollar agreement with Kenya Airways to provide power-by-the-hour component support for its fleet of 737NG aircraft. Through this contract, AAR has placed inventory on site in Nairobi while offering additional routable pool support from its supply chain hub in Europe. U.S. aircraft part suppliers are encouraged to maintain their marketing presence, since it can take many years before a purchase contract is signed for big-ticket items.

In February 2017, the Federal Aviation Administration (FAA) granted JKIA Category 1 status paving way for future direct flights between Kenya and the United States. This rating gives Kenya additional opportunity for growth in both passenger and cargo especially exports of cut flowers and apparel under the AGOA duty free status.

Sub-Sector Best Prospects

Direct investments and joint ventures in aircraft parts, repair and maintenance, and equipment for the domestic and regional markets include medium and heavy aircraft assembly, fabrication of components, parts and sub-assemblies for aircraft communications, navigation and surveillance equipment. Aircraft, aircraft spare parts, and jet fuel imports are duty free. Nairobi's Wilson Airport is the busiest general aviation airport in Africa and also serves as the regional small aircraft maintenance center.

Opportunities

Of the 1388 Kenyan aircraft officially registered with the KCAA, only 51% have valid airworthiness certificates. Out of these, over 80 percent were classified as small aircraft (those

with a certified maximum take-off weight of less than 10,000 kilograms). The remainder is large aircraft (with a certified maximum take-off weight exceeding 9,000 kilograms). In the small aircraft category, popular aircraft types such as Cessna, Piper, and Beechcraft dominate the category with over a 70 percent market share. Large aircraft are dominated by Boeing, Embraer, de Havilland Canada (DHC 5- Dash 8 series) and Fokkers. Kenya presents a major replacement market for general aviation aircraft: over 400 aircraft have expired certificates of airworthiness and an additional, significant group have valid certificates for aircraft that are more than 25 years old. The oldest registered aircraft with a valid airworthiness certificate is between 56 and 60 years old. Additionally, the 2008 implementation of regulations by the KCAA banning the use of Russian-made Antonov and Illushin aircraft, often used by cargo freighting operators, presents an ongoing opportunity for replacement aircraft sales. There is also an opportunity for refurbishment and replacement of outdated cabin spaces in line with current passenger demands for comfort.

Many airports that Kenya Airways services among other military and civil aviation airports have already been upgraded by the government of Kenya through the Kenya Aviation Authority (KAA) in an ambitious plan in line with the Country's economic development Vision 2030 blueprint. The Kenya Airports Authority (KAA) estimates that by 2030 roughly 38 million passengers will pass through JKIA annually. Strong demand is expected in general and recreational aviation, service, and parts – particularly in the face of strong marketing by South African firms.

With the ongoing expansion of the Jomo Kenyatta International Airport in Nairobi to accommodate increased flight movements, it is reasonable to expect that as tourist and business visitor numbers increase, so will the demand for additional aircraft and aircraft spare parts.

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Web Resources
Business Monitor International
Ministry of Transport and Infrastructure
Kenya Airports Authority
Kenya Civil Aviation Authority
Kenya Airways
Aero Club of East Africa

Construction & Infrastructure

Overview

Unit: US$ billions

	Indicator	2016	2017f	2018f
Kenya	Construction industry value, USD bn, Kenya National Bureau of Statistics	3.5	3.9	4.4

Sources: Kenya National Bureau of Statistics, *Business Monitor International*

The construction industry in Kenya is driven primarily by two key infrastructure sectors: transportation and building/housing. The Ministry of Transport and Infrastructure is responsible for policy initiatives and actions with respect to roads, aviation, maritime, rail, housing and urban development. Key government agencies within the Ministry include Kenya National Highways Authority, Kenya Roads Board, Kenya Rural Roads Authority, Kenya Urban Roads Authority, Kenya Ports Authority, Kenya Railways Corporation, Kenya Airports Authority, Kenya Civil Aviation Authority, National Transport Safety Agency and the National Construction Authority.

According to *Business Monitor International*, the Kenyan construction market is to record 8.5% growth in 2017 and remain a growth outperformer in Sub-Saharan Africa (SSA) until 2024. Underpinning our positive outlook is the diversity of opportunities in the market, particularly in transport and power infrastructure and commercial construction.

Substantial spending by the Government of Kenya on infrastructure alongside foreign investment flows are sustaining this high level of growth, though the government's high debt burden could threaten the pace of infrastructure development and dent investor confidence in the market.

Kenya's growing consumer class and improved domestic economic conditions aimed at bringing inflation down, thanks to tighter monetary policy by the Central Bank of Kenya, continue to provide the impetus for growth in the construction industry. However, the high cost of building materials and bank credit is, to an extent, still constraining demand for new development.

Transport Infrastructure

Kenya enjoys an extensive, but uneven, infrastructure that is still superior in many cases to that of its neighbors. Nairobi is the transportation hub of Eastern and Central Africa and the largest city between Cairo and Johannesburg. The Port of Mombasa is the most important deep-water port in the region, supplying the shipping needs of more than a dozen countries despite persistent deficiencies in equipment, inefficiency and corruption. As a result of these deficiencies, the Port of Mombasa has been earmarked for major expansion and re-habilitation.

According to the East African Community's (EAC's) Corridor Diagnostic Study, the Northern Corridor, which is anchored by the Port of Mombasa, is estimated to need $ 2.1billion in

investment, while the Central Corridor served through the Port of Dar es Salaam will need $ 2 billion. The overall the region needs $20 billion to bring the region's transport infrastructure up to standard, which includes road and rail upgrades and expansion, airport and ports, as well as an overhaul of the bureaucracy at border posts, which can delay trade.

In 2016, the Government of Kenya continued to invest heavily in transport infrastructure with the sector recording 10% growth. This was heavily driven by ongoing construction of the Mombasa-Nairobi 500km Standard Gauge Railway (SGR) as well as continued expansion in airport, port and road networks coming from the governments focus on sectoral improvements to help increase Kenya's attractiveness as an investment destination, transforming the economy and attaining middle income status as envisioned in its Vision 2030 economic blueprint. However, inadequate funding continues to be an impediment to the speedy implementation of the vision.

According to the World Bank, Kenya requires an annual spend of $ 4 billion over the next decade to close the existing infrastructure deficit. The sector however requires additional private sector participation through Public Private Partnerships (PPP) to ease the debt burden on the government. To encourage investors, the National Treasury, through the PPP unit, has strengthened the legal framework governing PPPs and has identified 69 infrastructure projects for implementation as PPPs.

Regional integration is a key driving force behind growth in the sector. Various regional initiatives include the $ 23 billion multi-modal transport corridor dubbed Lamu Port-South Sudan-Ethiopia Transport (LAPSSET) corridor, which aims to better integrate Kenya, Ethiopia and South Sudan, with links to a new port at Lamu in northern Kenya. LAPSSET will include a new standard gauge railway, highways, and an oil pipeline and will provide landlocked South Sudan and Ethiopia with a new export pathway and reduce Kenya's dependence on the heavily congested port of Mombasa. Other regional projects include Kenya, Uganda and Rwanda considering building a six-lane superhighway from Mombasa to Kigali, parallel to a planned railway. Similarly, the ongoing construction of the 158 kilometers Arusha-Voi road is scheduled for completion in 2018 and has been funded by the African Development Bank and the Governments of Kenya and Tanzania for a total of $ 174 million.

Road Infrastructure

Kenya's existing road network is comprised of 63,575 kilometers of classified roads and 114,225 kilometers of unclassified roads. Out of the total 177,800 kilometers of road networks, both classified and unclassified, only about 16,902 kilometers is paved with the rest unpaved. A total of 5,681 kilometers of this road network has been identified under Vision 2030 for various interventions including rehabilitating, dividing, resealing and tarmacking. Additionally, in October 2014, the Ministry of Transport and Infrastructure launched an ambitious infrastructure project that targets to construct 10,000km of medium-grade urban and rural roads through EPCs and funded by the Government.

In October 2015, the Governments of Kenyan and Tanzanian received $ 232.5m funding from the African Development Bank (AfDB) for the proposed Arusha-Holili-Taveta-Mwatate road construction project. Kenya is contributing $ 15.6m while Tanzania is contributing $ 12.3m. The road will link East Africa to the northern corridor and help to reduce the time for goods transported, especially from the Port of Mombasa to Bujumbura in Burundi. It will also make it more cost effective for Tanzania, Burundi, Rwanda and eastern parts of the DRC to import and export goods, which typically use the Dar es Salaam port. Construction is ongoing and the road will be completed by end of 2018. The African Development Bank (AfDB) is also funding the upgrade of the 172 km Ahero-Isebania highway, to facilitate trade flows with Tanzania. The project will be carried out in two lots: one covering the Ahero-Kisii section; and another covering the Kisii-Isebania section. The Government of Kenya received $500 m credit line from the World Bank for the upgrade of Lesseru-Nadapal road.

Construction of the $4 m, 176km Mass Rapid Transit System will be funded by Treasury and involve the development of new roads and railway lines linking Nairobi to other towns. It is part of a larger plan launched in 2015, which includes construction of a commuter railway along Outer Ring, Jogoo, Mombasa road, Limuru, Langata, Ngong roads and Waiyaki Way corridors. The aim is to reduce congestion in the city.

Additional opportunities exist under the LAPSSET Highway component where 1730km of inter-regional highways from Lamu to Isiolo, Isiolo to Juba (South Sudan), Isiolo to Addis Ababa (Ethiopia), and Lamu to Garsen (Kenya) are to be constructed at a cost of $ 1.4bn financed by a combination of both public and private funds. So far, 505km from Isiolo to Moyale is complete and World Bank has approved a $500m loan for the construction of the 298km section between Lokichar and Nakodok.

Kenya is planning to re-introduce toll roads with private sector participation. Currently, five major roads have been earmarked for tolling under a PPP plan including the Nairobi-Nakuru-Mau Summit highway, Thika Road, Nairobi's Southern Bypass and a second Nyali bridge in Mombasa city. The move is expected to help raise funds for infrastructural development of roads and help maintain existing roads. Another upcoming PPP toll road is the long awaited construction of the 77km elevated double decker JKIA to Nairobi-Nakuru highway at a cost of $380m which will include a dedicated lane for large-capacity buses under the bus rapid transit (BRT) plan that is aimed at improving public commuter service and easing congestion. The project is currently undergoing detailed design studies and construction expected to begin in 2018.

Airport Infrastructure

Kenya has international airports in Nairobi, Mombasa, Eldoret and Kisumu, domestic airports in Nairobi, Malindi, Lamu and Lokichogio(Turkana) in addition to another 463 aerodromes and airstrips. All public airport facilities are managed by the Kenya Airports Authority (KAA), the government agency mandated to administer, control and manage aerodromes in the country. The aviation industry has been on an upward trend and is projected to grow at 4% per annum through 2030 with passenger traffic growing at 5% annually owing to

urbanization, a growing middle class as well as an increase in low cost carriers.

A number of Kenya's airports have been earmarked for expansion following a $285m airport modernization and rehabilitation loan from the World Bank in 2016. A sizeable portion of the funds will be applied to the modernization program at JKIA including construction of modern terminals, a national airport masterplan, installation of integrated security systems at all major airports, installation of communication equipment and institutional capacity building. JKIA is the busiest airport in East and Central Africa and is the 7th busiest on the continent. Originally built to serve 2.5m passengers annually in the 70s, the ongoing modernization and expansion program at the airport has seen capacity increased to 7.5m. In addition, JKIA will begin in 2018 construction of a second runway at a cost of $365 m that is expected to nearly double aircraft movements, offer redundancy and minimize delays occasioned by mishaps. The category 2 runway, measuring 4.8km long and 75m wide will now be able to accommodate new generation, wide-body aircraft such as the Airbus A380 and the Boeing 747-800.

Other airport expansion projects include the ongoing expansion or construction of Malindi, Isiolo and Lokichogio airports and the Suneka airstrip and rehabilitation of airstrips in all 47 counties. The Malindi Airport expansion at $54m will enable the facility to handle international flights and includes extension of the existing runway and apron, modern terminal building, control tower, fire & meteorological stations and enhanced security features. Moi International Airport in Mombasa received $66m from the French Development Agency (AFD) for rehabilitation and construction of air side pavements, airfield ground lighting and up-grading of power and water supply.

Under the LAPSSET Airports component, the Government of Kenya has embarked on improving facilities at the three airports to provide for air travel services in the interim to enhance accessibility to the corridor. Improvement works at Lokichogio, Lamu, Manda Island and Isiolo Airports have been ongoing over the recent past years with some of these airports already operational with scheduled flights. Provision of airport facilities will strengthen air transport and logistics services along the corridor in readiness for the construction of the three international airports at the three locations in the future.

Maritime Infrastructure

Kenya's sole seaport in Mombasa is the largest port in East Africa and the second largest in Africa, serving both Kenya and neighboring countries including Uganda, Rwanda South Sudan, Tanzania, Burundi, and the Democratic Republic of Congo. The Kenya Ports Authority (KPA) is the government agency mandated to maintain, operate, improve and regulate scheduled seaports along Kenya's coastline. The Port of Mombasa recently completed Phase 1 of the Mombasa Port Development Project (MDPD) which included construction of a second container terminal, three additional berths, two ship-to-shore cranes and four rubber-tire gantry cranes. The project was funded by the Japanese to the tune of $217m. Phase 2 and 3 are set for completion in 2017 and 2020 respectively and once complete will make the port the largest in the region with 2.5m TEUs in capacity annually. Japan has allocated an additional $500m for implementation of the two phases.

A large port development project in Kenya is the construction of the Port of Lamu in northern Kenya under the LAPSSET corridor. Upon completion, the $5b Port of Lamu project will consist of 32 berths. The first phase which includes dredging and reclamation, construction of three berths and yards, a causeway and road, buildings and utilities is expected to be operational by 2019 and is financed by China at a cost of $700m.

Rail Infrastructure

Kenya's total rail network has 2,778 kilometers of narrow (meter) gauge, and is managed by the Kenya Railways Corporation, a state corporation mandated to provide rail and inland waterways transport. Kenya just completed construction of a 500km standard gauge railway line between Mombasa and Nairobi financed by the Government of China at a cost of $3.8bn and a repayment period of 40years. Passenger services began in June 2017 while regular cargo services are scheduled to begin in January 2018.

The second phase of 120km standard-gauge railway line from Nairobi to Naivasha should begin construction in late 2017 after the government allocated $500m in the FY2016/2017 budget for commencement of the project. The Government is now seeking additional funding for completion of this phase.

Nairobi is planning construction of light commuter rail linking Nairobi suburbs with the central business district and will involve construction of nine railway transport corridors with the goal of decongesting the city. The project will be implemented as a PPP and is estimated to cost $300 million and will involve the rehabilitation of 60km of existing rail networks in Nairobi, construction of 5-7km of new tracks to JKIA, new signaling systems and rolling stock. Feasibility studies for the project are already complete.

In May 2017, Kenya Railways Corporation invited bids for consultancy services for feasibility study and design of the Mombasa Metropolitan Commuter Rail. The project involves upgrading 280km of railway and construction of two lines each of 80km long linking Mombasa City with Ramisi and Kilifi. There is also a proposed line linking Mombasa to Moi International Airport. In addition, Kisumu city commuter rail project is also in the offing with four lines totaling 320km linking Kisumu with four neighboring towns. World Bank is providing $300m in financing for the development of the 3 commuter rail projects.

Under the LAPSSET Railway component, a high-speed standard gauge railway to be built on the LAPSSET Corridor will move at an average speed of 150 kilometers/hr. At this speed it will particularly increase the efficiency of trade in bulky and perishable goods in the region.

Commercial Construction

The Kenyan construction sector will continue to be supported by the growing real estate sector, particularly hotel and retail developments as investors continue to enter the East African region through Nairobi and seek to capitalize on the opportunities offered by the country's growing middle class. Prominent hotel brands operating in the market or planning to enter in the near term include New York-based hotel group Carlson Rezidor, global chain Starwood

Hotels and Resorts Worldwide and Swiss-based Movenpick Hotels & Resorts. B*usiness Monitor International* forecasts the number of hotels and establishments to rise to 1,060 at the end of 2016 from 1,040 in 2015. The number of hotel bed-nights occupancy also rose by 9.7 per cent from 5,878.6 thousand in 2015 to 6,448.5 thousand in 2016. Developments are focused on increasing bed capacity as well as providing conference facilities in order to adequately cater to business needs. Nairobi currently has the largest mall development hotspot with around 470,000sq m of shopping center space in the pipeline, though smaller cities including Kisumu and Eldoret are also seeing significant development as retail space in the capital city becomes saturated.

However, growth in the broader economy is encouraging the Government to invest in diversifying the country's economic base, thereby opening up the market for investment into industrial and commercial construction. The African Development Bank announced that it is to provide the Government of Kenya with a $100 million loan funding for its $9.53 billion Konza Technology Park. The park, which is located on a 5,000-acre site, is intended to provide 80,000 new jobs in its first four years of operations and is part of the Kenyan government's Vision 2030 development program.

Sub-Sector Best Prospects

Best prospects for U.S. exporters include the supply of new and used construction equipment (light and heavy earth-moving equipment, loaders, crawlers, tippers, excavators, compactors, graders, and quarry mining equipment), low-cost road maintenance options, and low cost housing construction technology and know-how. It is important to note that Kenya uses right-hand drive vehicles, so machines with controls in the center are better sellers. Additionally, waste water management treatment units will also be required as more residential units are constructed in areas where sewer and piped water services are not yet provided. Additional opportunities include:

- A myriad of roads, bridges and dams' construction and rehabilitation projects
- Development of the $23 billion Lamu Port-Southern Sudan-Ethiopia Transport (LAPSSET) Corridor Projects including roads, rail, port, airport and pipeline
- Construction of a $370m second runway at Jomo Kenyatta International Airport and expansion and modernization of several other airports
- Construction of the $7 billion Konza ICT Park
- Development of commuter rail services for the cities of Nairobi, Mombasa and Kisumu at a cost of $125 million
- Development of phase 2 of the 1300km high capacity SGR from Nairobi to Kampala at a cost of $5.8 billion

Opportunities

Kenya's Vision 2030 identifies the private sector as key towards developing much needed flagship infrastructure projects. However, the Government of Kenya estimates a funding gap of approximately $2 -3 billion per year is required to address Kenya's infrastructure requirements over the next ten years. To help overcome this financing gap, Kenya is banking on PPPs.

The scope of PPPs will cover economic infrastructure including power generation, ports, airports, railway, roads, water supply, irrigation, among others; as well as social infrastructure which includes housing, medical facilities, prisons, education facilities, solid waste management facilities among others. However, several issues will pontentially hinder some of the government's ambitious plans. Despite the push for international companies to utilize local skills, the National Construction Authority confirmed in October 2015 that 83% of construction workers have no formal training. It is working with the National Construction Institute to act as a benchmark for the industry. Although, it will take three to five years before any impact is seen.

Another issue is resettlement, which is a factor in many of the major infrastructure projects, including Lamu Port and the Standard Gauge Railway. The Government of Kenya is working to improve on feasibility studies in order to avoid interruptions to construction caused by land compensation cases. While these interruptions do not usually result in project cancellations, it causes lengthy delays. Moreover, the cost of land compensation is almost equal in expenditure to the amount required to build roads, particularly in Mombasa and Nairobi.

A variety of public and private sector projects are available for private investment. Various types of PPPs are available and include management contracts, leases, concessions, BOT (Build, Operate, and Transfer) or BOOT (Build, Own, Operate, and Transfer), ROT (Rehabilitate-Operate-Transfer) among other arrangements approved by the government.

For the most current list the Kenyan government's approved National Priority List of PPP projects and their implementation status please visit PPP Downloads.

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Web Resources
Business Monitor international
Ministry of Transport & Infrastructure
Ministry of Lands, Housing and Urban Development
Kenya National Highways Authority
Kenya Roads Board

Kenya Rural Roads Authority
Kenya Urban Roads Authority
Kenya Airports Authority
Kenya Ports Authority
Kenya Railways Corporation
National Housing Corporation
Vision 2030
Public Private Partnership Unit
Konza City
Kenya Institute of Public Policy and Research Analysis
Bloomberg Business
The Nation Business Review
Foam Facts
Afri Biz
Habitat for Humanity

Electrical Power Systems

Overview

Unit: $ millions

	2014	2015	2016	2017 (estimated)
Total Market Size	767.1	663.3	895.9	970
Total Local Production	N/A	N/A	N/A	N/A
Total Exports	7.2	10	55	60
Total Imports	767.1	663.3	895.9	970
Imports from the U.S.	31.6	25.5	43.3	55
Exchange Rate: 1 USD	90.6	96	101	103

Total Market Size = (Total Local Production + Total Imports) – (Total Exports) Data Sources: Global Trade Atlas, Tradestats Express, and BMI

Kenya is the fourth largest economy in sub-Saharan Africa, with an estimated nominal GDP of $70 billion in 2016. The story of Kenya's power sector is one of solid performance with a steady growth trajectory. For its population and per-capita GDP, Kenya is performing well in terms of power generated. Kenya's per-capita power consumption is 171 kWh (2014) compared to 126 kWh in Nigeria, which has a per-capita GDP nearly 3 times higher. Moreover, Kenya has remarkable renewable resources, as evidenced by its track record as one of the lowest cost developers of geothermal power in the world. Kenya has also aggressively pursued connections, having nearly doubled electricity access from 25% to 46% of households in 4 years. The sector recorded 9% growth in 2016.

Generation: The installed capacity as of March 2017 stands at 2341MW, a significant growth from 1800MW in 2014 but still low for a country with a population of 43 million. In addition, Kenya has also doubled electricity access over the last four years from a low of 25% in 2011 to 46% or 3.6million households in 2015, thus meeting best in class benchmarks globally. GOK initiatives to increase power supply and lower the cost of electricity by injecting cheaper renewable energy

sources such as geothermal seem to be paying dividends with costs dropping marginally thus improving the business environment. Falling oil prices have also contributed to the lowering of electricity prices. GOK plans to connect an additional 5000MW to the grid and lower tariffs by 40% by 2017 have yet to be met but projects show that generation may reach 5000MW in the year 2020. The bulk of this will come from geothermal, coal, wind and solar. The sector presents numerous opportunities for trade & investment, especially in renewable sources like geothermal, solar and wind, where Kenya has excellent potential.

Around 30% of Kenya's installed capacity is owned and operated by Independent Power Producers (IPPs) across 15 plants, including 3 small-scale hydro plants, 1 geothermal plant, 1 Biomass plant and 10 fuel oil plants. The remaining 70% capacity is owned and operated by KenGen, which is 70% government owned.

Renewable Sources: Over 70% of Kenya's electricity is generated from renewable / clean energy sources. Of these, geothermal remains the most significant source as the country focuses on increasing geothermal capacity and weaning off thermal sources. Unlike other renewable sources, geothermal is baseload stable power and is reliable and widely available. Today, Kenya's vast geothermal potential, estimated at 10,000MW, remains relatively unexploited with current installed capacity at 652MW. This notwithstanding, Kenya today is the 8th largest geothermal producer in the world and is home to the single largest geothermal power plant, the 280MW Olkaria IV plant. Most generation is being carried out by government with only 1 IPP operation in the sector, US firm Ormat producing 140MW and the rest being produced by state owned KenGen. Government efforts in geothermal production seem to be paying off with various projects currently underway by both the public and private sector. It is estimated that Kenya will continue to add approximately 200MW of geothermal power to the grid annually until 2020.

Wind is another key growth area. Kenya is estimated to have a wind power potential of 3000MW but generation stands at 25MW. The Lake Turkana Wind Power plant, a 310MW project will be the single largest wind plant in Africa once completed in 2017 and is the single largest private investment in Kenya's history valued at $690m. The construction of the 400km transmission line by KETRACO to evacuate the power has experienced delays owing to challenges in gaining wayleave access from land owners. However, it is envisaged that the project should be ready to inject power to the grid by end of 2017. Additionally, GE Energy is the technology supplier on two separate wind projects of 100MW in Kipeto and 60MW Kinangop. Both projects are currently embroiled in issues with the communities in these areas. KenGen's 80MW wind project in Meru has also been put on hold owing to permitting and land rights issues. The project had already received funding commitment of $69m from the French Development Agency (AFD). It will be important for future investors to engage early with communities to ensure acceptance and ownership at community level.

Although Kenya has yet to have grid connected solar, the country has a high potential for solar power given the high irradiation levels available throughout the year. Currently, the Rural Electrification Authority (REA) is constructing East Africa's largest solar plant at 50MW funded

by the Chinese and scheduled for completion in 2017. The government of Kenya has signed contracts for construction of an additional 325MW in new solar capacity that should begin coming online from 2020. There is also a huge untapped demand for off-grid solar connecting communicates located far from existing transmission infrastructure. Plans are also underway to connect off-grid diesel stations to solar-hybrids so as to lower costs.

Kenya signed a nuclear power deal with China in 2015 which will enable Kenya to obtain expertise and technical support. In addition, Kenya signed a partnership agreement with 3 top South Korean nuclear power firms as well as cooperation agreements with Russia and Slovakia. All this is in readiness for Kenya's plans to become a nuclear power producer by 2027 with a 1000MW plant. Kenya is working together with IAEA as it builds capacity towards this end. Other developments include construction of the first ever coal fired power plant. A consortium of firms, including the Chinese, has received approval to set up a 1000MW coal plant, a project that has raised numerous concerns as it is located near a UNESCO World Heritage site. The Amu Coal Plant received a $2bn financing commitment from the Chinese in 2017 and will soon commence unless civil society initiatives to stop the project are successful.
Transmission: As of 2015, Kenya had 4,149 km of transmission lines, all of them 200 kV or 132 kV. The aging transmission and distribution networks largely contribute to approximately 13% system loss of the power generated. To address this, KETRACO is in the process of constructing ~4,500 km new lines at a cost of $1.3 billion, more than doubling the transmission network and introducing Kenya's first high-voltage 400 kV and 500 kV DC lines as well as 3 major regional interconnectors to Ethiopia, Uganda, and Tanzania. Beyond these lines that are under construction, KETRACO is planning a further ~4,200 km of lines to expand and strengthen the grid. In addition, Kenya Power is building in redundancies, reducing losses and adding in smart technologies to help strengthen the grid.

Kenya is also keen to begin selling surplus power to her neighboring countries and has jointly embarked on an interconnection program to connect Kenya to Uganda and Rwanda on one side, and Ethiopia and Tanzania. Kenya signed an agreement to sell 30MW to Rwanda beginning fall 2015 and plans to increase this as more power is added to the grid. Kenya has also signed an agreement with Zambia to sell power in 2017.

Distribution: Kenya Power (KP) is currently the sole distribution company in Kenya. It operates Kenya's interconnected grid, as well as several off-grid stations in the northern regions of the country. As the single off-taker in the country, KP negotiates Power Purchase Agreements (PPAs) with generation providers and distributes to consumers. Most impressively, KP has nearly doubled access in Kenya over the last 4 years, from 26% of households in 2011 to 46% in 2015, meeting best-in-class benchmarks globally. KP has been assisted in this effort by the Rural Electrification Authority (REA). Founded in 2006, REA's mandate has been to accelerate the pace of rural electrification across all 47 counties. Since its inception, REA has helped move rural electrification from 4% to 32% of rural households, largely through its efforts to connect ~60,000 public facilities (mostly primary schools) around the country and all household consumers within 600 meters of those facilities.

Together, KP and REA have 4 major objectives to develop distribution and access in Kenya:

- Reach near-universal access by 2020 by adding 1 million new customers to the grid each year. The plan is to achieve this largely through the Last Mile Connectivity Program (connecting all consumers within 600 meters of an existing transformer with a subsidized connection price) and through further subsidized connections for consumers in informal settlements. The World Bank has partnered with Kenya in providing financing for this program.
- Build a stronger and more flexible grid by building in redundancies, reducing losses, and adding in smart technologies. Current transmission losses are 4.5%, distribution losses are 13.5%.
- Increase the number of PPAs signed with power generators. KP currently has 22 PPAs signed and expects to sign ~60 more over the next 5 years
- Increase renewable off-grid access. Currently, there are 19 off-grid diesel-powered stations, but there are plans to convert these to solar-diesel hybrids as well as add 43 greenfield solar "mini-grids" through the Scaling Up Renewable Energy Program (SREP)

Oil and Gas: Kenya is an increasingly promising player in the booming East Africa oil and gas market. The multiple onshore discoveries announced by Tullow Oil since 2012 have led exploration and production companies to sound optimistic notes about the country's potential. A total of 63 oil exploration blocks have been gazette, of which 37 are licensed to International Oil Companies (IOCs) and one to the National Oil Corporation of Kenya (NOCK). Twenty five blocks are open for licensing. A total of 78 wells have so far been drilled, with 10 showing oil discoveries and 2 with natural gas shows. Tullow estimates current crude oil recoverable reserves at approximately 750 million barrels. The company has allocated $100 million for pre-development spending in Kenya in 2017, in addition to $125m for exploration and appraisal spending with a potential for another $75 million if required.

While the exploration and appraisal work is ongoing in 2017, Tullow also plans to start small scale production to start recovering some cash flow for the project. Initial production is planned for mid-2017 and will export around 2,000bbl per day via truck to Mombasa. Cash earned from the Early Oil Pilot Scheme will help fund ongoing exploration and development work, in addition to the ultimate aim of building an export pipeline from the Lokichar Basin to the port of Lamu. The planned pipeline is estimated to cost $2.1bn and will be 890km in length with the partners aiming to reach a final investment decision for the project by late 2018, followed by first production in 2022.

Current Energy Mix: Kenya principally relies on hydropower, whose supply is impacted by drought; and thermal power, which is sensitive to global fuel prices. However, Kenya has in recent years put was a change in the energy mix shows hydro remained below 50% and a steady increase in geothermal power generation with the commissioning of additional geothermal plants.

Type	Percentage
Geothermal	45%
Hydro	39%
Thermal Oil	15%
Cogeneration	0.33%
Wind	0.18%
Others	0.48%

In FY2016, it is estimated that 70% of electrical energy was supplied using renewable energy sources, while 25% was generated using fossil fuels.

Electricity Sector Institutions

The key public sector institutions involved in managing and regulating the Kenyan electricity sector are:

Ministry of Energy & Petroleum (MOEP) - The MOEP is responsible for national energy policy formulation – including determining the policy on Feed-in-Tariffs (FIT) -- and for creating a framework to allow growth, investment and efficient operations in the sector. The MOEP also grants and revokes generation and distribution licenses upon the recommendation of ERC.

Energy Regulatory Commission (ERC) -The ERC is responsible for regulation of the energy sector. The Energy Act of 2006 established ERC as an independent energy regulatory authority with responsibility for economic and technical regulation of electric power, renewable energy, and downstream petroleum sub-sectors, including tariff setting and review, licensing, enforcement, dispute settlement and approval of power purchase and network service contracts.

Kenya Power, formerly Kenya Power and Lighting Company (KPLC) – KPLC is the wholesale buyer of electricity, and is obligated to purchase electricity from all power generators – including KenGen and IPPs -- on the basis of negotiated Power Purchase Agreements. KPLC is responsible for onward transmission of purchased electricity and is the sole distributor of electricity from the national grid to consumers in Kenya. KPLC is listed on the Nairobi Stock Exchange, is 49.9% owned by private shareholders, with the remainder owned by the Government of Kenya.

Kenya Electricity Generating Company (KenGen) – KenGen manages all public power generation facilities and is the main generator of electricity in Kenya which it sells on a wholesale basis to KPLC. KenGen, which produces approximately 80% of the Kenya's electricity, has a current installed capacity of 1,632MW, which accounts for 75% of total installed capacity. KenGen is responsible for developing new public sector generation facilities to meet increased demand. KenGen is listed on the Nairobi Stock Exchange, is 30% owned by private sector shareholders and 70% owned by the Government of Kenya.

Geothermal Development Company (GDC) – GDC is 100% owned by the Government of Kenya. GDC has the mandate to undertake the high-risk exploration and development of

geothermal fields, including exploration, appraisal and production drilling, and the management of proven steam fields. GDC is also responsible for entering into Steam Sales Agreements with investors in the electricity sector, including KenGen and IPPs, in order that these entities can develop electricity generation capacity, with energy sourced from geothermal wells.

Kenya Electricity Transmission Company (KETRACO) – In 2008, the Kenyan government created KETRACO to develop new, high-voltage electricity transmission infrastructure to facilitate grid access, allow for grid interconnection with new generating plants, and enable regional power trade with neighboring countries. KETRACO is 100% owned by the Government of Kenya and is responsible for planning, designing, constructing, owning, operating and maintaining new high voltage (132kV and above) electricity transmission infrastructure. KETRACO will construct over 4,000 km. of high voltage transmission infrastructure comprising of lines, switch gears and sub-stations across the country over the next 3-4 years, at an estimated cost of $ 1,300 Million. The transmission line projects will include: 1500 kilometers of 132kV lines; 700 kilometers of 220kV lines; 1,000 km 400kV lines; and 700 kilometers of 500kV lines.

Rural Electrification Authority (REA) – In 2007, the government established REA to spearhead electrification projects in rural areas. Currently, rural connectivity stands at 32%, up from 4% at REA's inception. The REA coordinates the implementation of rural electrification projects with the help of KPLC, which acts as a contractor on their behalf. The program aims to connect load centers such as schools, trading centers, health centers and public institutions to the grid. The goal is to provide electricity to 40% of the rural population by 2020

Sub-Sector Best Prospects

Although installed capacity is relatively small (compared to 50,000 MW in the U.K. and 31,000 MW in South Africa, for example), Kenya is the leading generator in Eastern Africa. REA is focused on connecting major town centers, schools and hospitals to the grid as well as looking at off-grid solutions such as diesel fired plants. However, REA is now issuing tenders to convert these plants to hybrid solar PV plants. Opportunities also exist for mini-grids to solve power needs in county development plans. Currently, there are 19 off-grid diesel-powered stations, but there are plans to convert these to solar-diesel hybrids as well as add 43 Greenfield solar "mini-grids" through the Scaling-Up Renewable Energy Program (SREP).

In addition, a government directive in 2010 that all new home developments must include solar energy panels has seen an increase in the demand for solar panels. This directive is meant to ease the burden on the grid. Solar is also in use in rural Kenya where there is no access to the grid. This creates a great opportunity for solar panels; however, there is a great onslaught of Chinese cheap imports that have flooded the market. However, some establishments such as hotels are turning to solar lighting and water heating to reduce their power bills. Here lies an opportunity for high end products from U.S. firms.

There is also opportunity to supply wind turbines to various licensed wind generation sites spread out over the country. There are at least 500MW of privately funded wind generation

projects in the pipeline slated to come online within the 2012-2017 timeframe. A private Kenyan firm plans to break ground this year on Kenya's first commercial biomass power plant from the Proposis Juliflora tree that will produce 11MW at a cost of $21m providing opportunity for this new technology in Kenya.

KenGen and GDC have adopted the wellhead technology to tap power from productive wells prior to the power plant construction. Thus, wellhead technology and related equipment is a growth area for US firms. Already, one U.S. firm has supplied a wellhead generator to KenGen and additional projects are in the pipeline.

Best prospects for U.S. exporters include drilling rigs and associated equipment, generation, substation, transmission and related equipment, electric and electrical cables, transformers, electric meters, electric poles, and switchgear, wind turbines, solar thermal and solar PV equipment, smart grid systems and consultancy services.

Opportunities

The government is focused on developing the geothermal potential in the country with a 10-year US$2.6 billion geothermal exploration plan that will involve sinking 566 wells in the Rift Valley. KenGen plans to add 500MW of geothermal power to the grid through joint ventures in addition to 80MW of wind and various solar installations at their existing hydro sites. US Trade & Development Agency (USTDA) is funding a feasibility study for the development of a 10MW solar plant at the KenGen Gitaru hydro site. GDC plans to develop 2000MW from the Baringo-Silali geothermal block and has received an $89 million concessional loan from the German Development Bank for this development, part of which will be applied to drilling of exploration wells. Numerous other exploration activities are underway in 10 other blocks.

In 2014, the African Development Bank Group (AfDB) approved a loan of $133 million to Kenya to increase electricity access for low-income populations, especially those in rural areas. Specifically, the funds will finance the Last Mile Connectivity Project that aims to maximize the use of the Kenya Power's 35,000 existing distribution transformers spread across the country by extending low voltage networks to households located in the vicinity of the transformers. The total project cost is estimated at $147 million, with the Government of Kenya contributing the remaining $14 million. At least 314,200 customers, which would translate into approximately 1.5 million people, will have access to electricity thus contributing to improved standards of education, health and access to information.

Other opportunities include concessions, the privatization of isolated power stations to improve efficiency and lower power costs, the financing of power expansion projects with private funding instruments, as well as the manufacture and fabrication of electrical equipment such as transformers, cables and switchgear.

Under the VAT Act 2013, Kenya offers exemption from value added tax and import duties for imports for construction of power generating plants, geothermal exploration as well as certain plant and machinery applied to power projects.

One key challenge in the sector is the delay by ERC in approving PPAs and Government of Kenya reluctance to issue Letters of Support which are a key component in projects getting to financial close. The delays may be due to the fact that Kenya now has surplus power and may need to stagger new connections to the grid so as to manage electricity costs.

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Web Resources
Kenya Ministry of Energy
Kenya Electricity Generating Company (KenGen)
Kenya Power & Lighting Company Ltd. (KPLC)
Geothermal Development Company
World Bank
Business Monitor International
Global Trade Atlas
Kenya National Bureau of Statistics

Medical Equipment

Overview

Unit: US Millions

	2014	2015	2016	2017(F)
Total Market Size	145.97	250.60	300.97	340.00
Total Local Production*	0	0	0	0
Total Exports*	0	0	0	0
Total Imports	145.97	250.60	300.97	N/A
Imports from the U.S.	7.76	221.81	245.06	N/A
Exchange Rate: 1 USD	87.92	92.84	101.0	101.0

All figures in millions of USD with exception of exchange rate in Kenya shillings (Kshs)
Applicable HS Codes: 901811, 901812, 901813, 901814, 901819, 901820, 901831, 901832, 901839, 901841,901849, 901850, 901890, 901920, 902000, 902110, 902129, 902140, 902150, 902212, 902219, 902230,
Total Market Size = (Total Local Production + Total Imports) – (Total Exports).

Data Sources:
Total Market Size: Global Trade Atlas
Total Local Production: N/A
Total Exports: N/A
Total Imports: Global Trade Atlas

Imports from U.S: Global Trade Atlas
Exchange Rate: Central Bank of Kenya
*Data unavailable

The Kenyan medical equipment market relies almost entirely on imports. The total market demand in 2016 for imported equipment was $ 300.97 million. Major suppliers include China, Germany, India, Netherlands, and the United States.

The Ministry of Health (MoH) is the lead healthcare policy-setting government institution in Kenya. The Pharmacy and Poisons Board (PPB), an agency under the Ministry of Medical Services, regulates the registration of medical devices. Medical equipment public procurements are done by the Kenya Medical Supplies Agency (KEMSA), a state corporation and a specialized medical logistics provider for the MoH. Established in 2000, KEMSA works to support the National Health Strategic Plan and the Kenya Health Package for Health in providing public health facilities with the "right quantity and quality of drugs and medical supplies at the best market value."

Over half of Kenya's healthcare services are provided by the public sector, through the MoH, other government organizations, and donor partners, including the United States. These services are supplemented by those offered in hospitals and clinics that are operated by private companies, NGOs and various faith-based organizations such as the Kenyan Episcopal Conference, Christian Health Association of Kenya, and the Kenyan Red Cross.

There are regional differences in the quality and distribution of care, with the best facilities located in Nairobi and the Central Province, and the most underdeveloped facilities in the North-Eastern Province and on some areas of the coast. Primary care facilities in rural areas often suffer from shortages of staff and medical equipment. Some patients choose not to seek care due to the distance that they would have to travel to reach the nearest health facility. Only 30% of the rural population has access to health facilities within 4km of their home, compared with 70% of the urban population.

However, some problems related to healthcare access have been addressed through the Managed Equipment Services project which was launched by the government in February 2015. The first phase of the project has resulted in two public hospitals in each of the 47 counties being fully equipped with state-of-the-art medical equipment. The Ksh38billion ($404.3million) project was fully financed by the MoH as the plan is part of the government's vision to transform the health sector and address inequalities in access to quality healthcare with the president's pledge as an "irrevocable commitment to deliver equal access to high quality treatment to all Kenyans wherever they live, and regardless of their economic status".

Sub-Sector Best Prospects

Best prospects include CT scanners, ultrasound units, X-ray equipment, MRI equipment, angiography, endoscopy, biochemistry, hematology, and immunology systems, and radiotherapy machines.

Opportunities
U.S. medical equipment suppliers are in an excellent position to increase their market share in Kenya due to U.S. technical competitiveness. Kenyan users appreciate the quality and reliability of U.S. medical equipment although price is an issue. Leading private sector hospitals are very active in modernizing their medical equipment inventories, while public sector hospitals are expected to engage in a re-equipping strategy following improved budgetary allocations. At present, most public health institutions lack basic medical equipment. Recently issued government tenders for medical equipment indicated requirements for basic equipment such as anesthetic machines, anesthetic trolleys, hydraulic operating tables, delivery beds, infant incubators, mortuary trolleys, hydraulic operating tables, mercurial sphygmomanometers, and oxygen flow meters among others. Electro-medical devices (X-ray machines, ultrasound scanners, mammography units, and ECG machines) are also in demand.

Under the country's Vision 2030, the government is pursuing the nationwide rehabilitation of 53 hospitals and 210 community health centers with plans to establish at least one model health center in every constituency. The construction of these new facilities will increase the demand for medical devices.

At least Ksh 21 billion ($223.4 million) will be spent on medical equipment for the diagnosis and treatment of cancer, a disease that is killing at least 27,000 Kenyans annually. Cancer-related deaths have been exacerbated by the shortage of medical equipment used in the diagnosis and treatment of the disease. Patients have had to wait for up to two years to access the available equipment, which allows the disease to markedly progress and become terminal. A further Ksh 2.2 billion ($23.4 million) is to be spent on renal dialysis equipment, Ksh 3.3 billion ($35.1 million) on ICU equipment, Ksh 12 billion ($127.7 million) on theatre equipment and Ksh 2.7 billion ($28.7million) on laboratory equipment. Nine centers of excellence manned by specialists will be set up as there are very few oncologists in Kenya. The internet interface on the equipment would link the hospitals with the specialists who would view images sent by hospital employees and prescribe treatment for the patients.

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Web Resources
Business Monitor International
Ministry of Health
Kenya Medical Supplies Agency (KEMSA)
Kenya Medical Devices Report
Health Care Resources Guide

Telecommunications Equipment

Overview

Unit: US Millions

	2014	2015	2016	2017
Total Market Size	580.20	600.00	610.21	620.15
Total Local Production*	0	0	0	0
Total Exports*	0	0	0	0
Total Imports	580.20	600.00	610.21	n/a
Imports from the U.S.	25.80	30.00	34.86	n/a
Exchange Rate: 1 USD	87.5	88.0	101.00	101.00

NB: All figures in millions of USD with exception of exchange rate in Kenya shillings (Kshs) Applicable HS Codes: 8517, 8525, 8527, 8528, and 8529
**Data not available*
Total Market Size = (Total Local Production + Total Imports) – (Total Exports).

Data Sources:
Total Market Size: Global Trade Atlas
Total Local Production: N/A
Total Exports: N/A
Total Imports: Global Trade Atlas
Imports from U.S: Global Trade Atlas
Exchange Rate: Central Bank of Kenya

Kenya's telecoms market is one of the most dynamic and rapidly growing in Sub-Saharan Africa, as reported in the Business Monitor International (BMI). The country is a regional leader in terms of value-added services, most notably mobile money transfer service, and mobile banking services. According to a report by the Communications Authority of Kenya (CAK), the industry regulator, the total number of mobile money subscriptions was recorded at 31.9 million subscriptions while mobile money agents were recorded at 161,583 during the last quarter of 2016. The volume of transactions made was recorded at 456.6 million with over $ 9.65 billion being transferred among users. During the quarter mobile commerce posted a total of 262.6 million transactions valued at $5.65 million. Person to person transfers made during the quarter amounted to $4.97 billion. Mobile number portability which allowed a user to port/use their mobile number on a different network registered a decline in the number of in-ports to stand at 153.

To enhance the development of broadband, the Kenyan government in July 2013 launched the National Broadband Strategy (NBS) aimed at transforming Kenya into a knowledge-based economy through the provision of quality broadband services to all citizens in the country. The broadband definition for Kenya for the period 2013 - 2017 is for the provision of 'Connectivity that is always-on and that delivers a minimum of 5mbps to individuals, homes, and businesses for high speed access to voice, data, video, and applications for development.

According to the Communications Authority of Kenya, the availability of various technologies and services that offer faster and more reliable internet connections has continued to grow in the country with consumers embracing these services. This has led to increased usage of

internet/data services over the years. The number of internet subscriptions grew slightly to stand at 26.6 million subscriptions up from 25.6 million for the third quarter of 2016.

A continued push by the Kenya Government to provide more of its services online has contributed to demand-driven growth of the sector. Some of the major government services that were automated include online applications for acquiring a Personal Identification Number (PIN) for tax purposes and the introduction of iTax, a platform where citizens are now able to file their annual tax returns online.

More and more small and medium size (SME's) businesses are entering the online space via creative company websites. A recent report from the Communications Authority of Kenya puts the number of total registered domain names at 62,215 with ".co.ke" (companies) holding the highest share of 92.83 percent. The adoption of e-commerce has driven revenues for most businesses with some only holding virtual offices as they conduct their trade through online and mobile platforms. The disruptive use of social media in marketing has driven the uptake of data services, both fixed and mobile.

U.S. mobile telephony products are available and competing for the middle to upper income brackets with brands like Apple being used widely in the market. The lower- to middle-end of the market is however price sensitive, resulting in wide use of cheap and often counterfeit mobile devices that are easily available and often sold as original devices to unsuspecting customers. In a move to fight the growing counterfeit problem in the sector, the Kenyan government switched off all counterfeit phones from the network.

Kenya's GSM network has been impressive since the inception of mobile telephone services in 1992. There are currently four main providers, Safaricom leading with a 71.2% subscriptions market share, followed by Airtel at 17.6%, Telkom Kenya at 7.4% and finally the new entrant Finserve Africa Limited (Equitel), which has a market share of 3.8% according to the Communications Authority of Kenya. Current mobile phone penetration is 88 percent. There are also four Undersea Fiber cables that land off the coast of Kenya. SEACOM, TEAMS, EASSY, LION2, and Satellite Internet Bandwidth are live and providing services. The fiber sea cable capacity led to a significant drop in the cost of internet delivery (by 90%); however, at the retail level, the cost remained stable at US 0.75 cents per hour at a cyber café, and an average of $15 to $25 per month for a home connection offering between 500kbps and 4mbps speeds.

The total number of fixed telephone subscriptions has continued to record a downward trend. During the second quarter in 2016, the total number of fixed network subscriptions was recorded at 72,801 subscriptions, down from the previous quarter's 80,288 subscriptions. This decline in fixed telephone lines is attributed to availability of GSM cell phones, CDMA (termed as fixed wireless), and vandalism to physical infrastructure for scrap metal.

According to the Kenya National Bureau of Statistics, Kenya's broadcasting industry is comprised of more than 139 FM stations and more than 62 television stations. In 2015 all 62 television stations moved to the digital television platform which is served by 5 authorized

digital signal distributors. Both radio and television stations mainly use English and Swahili as their primary language of communication.

In January 2016 the government passed new regulations that support local content. The regulations include a mandatory inclusion of 40 percent (9.6 hours) of local content. Advertisers will also be required to ensure that at least 40 percent of commercials contain local scenes, and are produced by a local crew.

The Communications Authority of Kenya (CA) is currently implementing a new system to regulate the frequency spectrum across the country. The system promises to be a critical regulatory tool that will facilitate efficient planning and utilization of spectrum resource in view of increasing demands between fixed and mobile services and broadcasting.

Sub-Sector Best Prospects

Growth in Kenya's mobile telephony sector is strong (from just over 10,000 subscribers to about 38.9 million by December 2016), and will continue to grow for telecommunication technologies, especially 3G/4G or mobile data modems. Best sales prospects include data terminals, modems, routers, broadband equipment, IPPABX, and VSAT equipment. Fiber cable and connectivity accessories will also be in demand as the fiber backbone spreads throughout the country and companies attempt to roll out Fiber to the Home (FTTH). ADSL equipment will continue to have a market as homeowners and apartment owners continue to install Internet services in existing buildings to build their attractiveness to potential tenants. Smart phones and smart devices are also expected to have significant sales as the largest internet population consists of teenagers and young adults who have adapted to accessing the Internet on hand held devices. Software demand will continue to increase with a focus on data protection and data loss prevention.

Opportunities

Kenya's mobile network operators are expected to maintain a strategy of revenue stream diversification as the downward pressure on voice revenues continues. In addition to the expansion of the scope and functionality of m-commerce systems, operators are expected to explore new mobile crossover opportunities in other industries such as health, agriculture, education, and entertainment. Opportunities exist in strategic alliances or joint ventures, especially in cellular telephony and value add-ons to the traditional telephone system. Affordable fixed data and VPN (virtual private network) solutions will be in demand as the growing middle class seeks home connections for teleworking.

Cellular telephony remains the fastest growing telecommunication sub-sector. The ongoing clamp down on counterfeit phones will continue to create demand for original manufacturer verified mobile handsets. Finally, growing cybersecurity concerns will see software and hardware components become critical for large multinationals, banking and financial service providers, as well as government agencies.

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Web Resources
Business Monitor international
ECitizen portal
Communications Authority of Kenya (CAK)
Kenya National Bureau of Statistics Economic Survey
Ministry of Information Communications Technology
Telecommunications Service Providers of Kenya

Agricultural Sector

Agriculture dominates the Kenyan economy, accounting for 70 percent of the workforce and about 25 percent of the annual GDP. The country's major agricultural exports are tea, coffee, cut-flowers, and vegetables. Kenya is the world's leading exporter of black tea and cut-flowers.

Kenya's high rainfall areas constitute about ten percent of Kenya's arable land, and produce 70 percent of national commercial agricultural output. Farmers in semi-arid regions produce about 20 percent of the output while the arid regions account for the remaining ten percent of the output. Productivity remains relatively low in all the regions due to poor incentives, and underdeveloped supporting infrastructure and institutions. Since 2013 Kenya has been undertaking agricultural sector reforms that are expected to spur growth. A new regulatory framework, arising from the consolidation and harmonization of the sectoral laws is under implementation.

Although Kenya is perennially faced with supply deficits in most of its food sectors, the country continues to use instruments under the Common Market for Eastern and Southern Africa (COMESA) and the East African Community (EAC) agreements to limit food imports. Both agreements provide for high non-member tariffs on sensitive commodities including meat, dairy poultry, maize, rice, wheat, and beans. Elements of subsidy still exist especially in the seed and fertilizer systems.

Corn (Maize)

Corn remains the most important staple food in Kenya and its consumption continues to increase despite calls by Government of Kenya (GOK) for diet diversification. Corn is also a key raw material in animal feeds. Kenya is a corn deficit country, necessitating importation mainly from the East African Community (EAC) countries, with a significant portion of the imports being contributed by informal cross-border trade. Imports from outside the EAC currently attract a steep external ad valorem tariff of fifty percent, unless waived by EAC for a specific

period to address dire shortages. Corn imports from the US are currently impeded by the existing import ban on genetically modified (GM) products.

Marketing Year (Jul/Jun)	**2014**	**2015**	**2016**	**2017 (E)**	**2018(F)**
Local Production (MMT)	2.80	2.65	2.80	2.50	2.80
Total Imports (MMT)	0.8	0.9	1.0	1.3	1.0
Imports from the U.S. (MMT)	0	0	0	0	0

(E) (F) FAS/Nairobi estimates and forecasts, respectively

Wheat

Domestic wheat production meets less than a third of the wheat demand creating the need for importation. The increase in wheat demand is fueled by the considerable expansion in home and industrial baking. In addition to the traditional bakeries, most leading supermarkets chains have opened baking units within their stores. The bulk of the wheat imports are from the Black Sea region (Russia, Ukraine and Kazakhstan), Pakistan, Brazil, Argentina, and Australia. Pricing and cost of transportation are a major consideration in wheat import decisions; imports into Kenya by registered millers are charged a 10 percent ad-valorem tariff; otherwise the EAC common external tariff of 35 percent applies. Imports from the US are mainly for food aid programs.

Marketing Year (Jul/Jun)	**2015**	**2016**	**2017 (E)**	**2018 (F)**
Local Production (TMT)	420	450	380	450
Total Imports (TMT)	1,455	1,590	1,620	1,650
Imports from the U.S. (TMT)	38	57	44	0

(E) (F) FAS/Nairobi estimates and forecasts, respectively

Rice, Rough

Rice is the third most important food crop in Kenya after maize and wheat. Local production can barely cope with the increasing demand and importation has been inevitable. Rice imports into Kenya are mainly from Pakistan, Vietnam, Thailand, and India. In 2015, the EAC revised the common external tariff (CET) to seventy five percent ad valorem or $345 per ton, whichever is higher. The EAC has however allowed Kenya, on account of low local and regional production, to continue applying a tariff of 35 percent ad-valorem or $200 per ton, whichever is higher on imports from outside the EAC, a concession that is reviewed every year.

Marketing Year (Oct/Nov)	**2014**	**2015**	**2016**	**2017 (E)**	**2018(F)**
Rough Production (TMT)	91	90	136	106	152
Total Imports (TMT)	400	4,200	460	4,700	480
Imports from the U.S. (TMT)	0	0	0	0	0

(E) (F) FAS/Nairobi estimates and forecasts, respectively

Animal Genetics

Kenyan cattle producers own about 14 million indigenous (Zebu) and over four million dairy cattle. Demand for animal genetics is most vibrant among the more than 650,000 small-scale producers who own 80 percent of the dairy cattle. Due to declining farm sizes and recurrent droughts, Kenya's dairy producers appear to be opting for breeds such as the Aryshire to Holstein because of their lower feed demands.

United States is the largest supplier of bovine genetics in Kenya with a 42 percent market share. Other suppliers of animal genetics to the Kenyan markets include the Netherlands, Canada, Germany and the United Kingdom.

Calendar Year	**2014**	**2015**	**2016**	**2017E**	**2018 (F)**
Total Local Production (1,000 straws)	800	850	900	900	920
Total Exports ($1,000)	N/A	N/A	N/A	N/A	N/A
Total Imports($1,000)	762	809	1,083	1,220	1,390
Imports from the U.S. ($1,000)	258	209	460	440	520

(E) (F) FAS/Nairobi estimates and forecasts, respectively

Sugar

Kenya is a sugar deficit country with local production constrained by high cost production, and inefficiencies at processing and marketing levels. Kenya however continues to protect her domestic industry by utilizing safeguards offered by the Common Market for Eastern and Southern Africa (COMESA) to limit duty- free imports from COMESA countries to 350,000 tons per year. The Government of Kenya (GOK) has been keen on attracting new investments into the sector, and has commenced the privatization process for the state-owned sugar mills.

Marketing Year (May/Apr)	**2014**	**2015**	**2016**	**2017 (E)**	**2018(F)**
Local Production (TMT)	520	550	580	520	520
Imports (TMT)	325	350	256	270	320

(E) (F) FAS/Nairobi estimates and forecasts, respectively

Consumer-Oriented Agricultural Products

Growth in demand for consumer-oriented agricultural products is driven by an expanding middle class with higher disposable incomes, increased urbanization, and a growing food service sector. Kenya imports over 72 percent of consumer-oriented agricultural products mainly from Uganda, South Africa, Europe, India and the United States. The food service sector (hotels, restaurants, and institutions) has recently attracted U.S. investment interests and several U.S. food service franchises have already established outlets in Kenya's leading cities. The growth tempo of consumer-ready food imports has however been negatively affected by Kenya's import ban on genetically modified (GM) food products.

Calendar Year	**2014**	**2015**	**2016**	**2017 (E)**	**2018 (F)**
Local Production	NA	NA	NA	NA	
Exports ($ millions)	1,306	1,224	1,246	1,300	1,323
Imports ($ millions)	255	281	288	300	310
Imports from the U.S. ($ millions)	12.8	10.6	12.7	12.5	13.0

(E) (F) FAS/Nairobi estimates and forecasts, respectively: NA – Data not Available

Regulations, Customs & Standards

Trade Barriers

Non-tariff barriers include the requirement to obtain a Certificate of Conformity from a Kenya Bureau of Standards appointed pre-export verification of conformity (PVoC) partner and the obligation to obtain an Import Standards Mark (ISM) for a list of sensitive products imported into Kenya. In January 2015, Intertek was awarded a further contract by KEBS to operate the PVoC program on KEBS behalf in regions such as parts of Europe including the UK, North America, Latin America, China, Australasia, Western Africa, Indian subcontinent, and the UAE. Some U.S. firms may find packaging and labeling requirements difficult to meet. The lack of enforcement of intellectual property rights protection on videos, music, and computer software makes some U.S. firms reluctant to export these goods and services to Kenya.

Kenya's twelve tax treaties generally follow the Organization for Economic Cooperation and Development model for the prevention of double taxation of income. There is no double tax treaty between Kenya and the United States.

Import Tariffs

Kenya applies tariffs based on the international harmonized system (HS) of product classification, and applies duties and tariffs of the East African Community (EAC) Common External Tariff. In general, Customs duty is levied at rates between **0%** and **100%**, with an average rate of **25%**. Imports into Kenya are subject to a standard VAT rate of **16%**, levied on the sum of the CIF value, duty, and other applicable taxes. Tariff rates can be estimated by visiting Kenya Revenue Authority.

Import Requirements and Documentation

To import any commodity into Kenya, an importer will have to enlist the services of a clearing agent who will process the import documentation through Kenya Customs electronically on the Simba 2005 system and clear the goods on your behalf.

An import declaration fee (IDF) of 2.25% of the CIF Value subject to a minimum of 5,000.00 Kenyan Shillings is payable. Customs will assess duty payable depending on the value of the item(s) and the duty rate applicable. The East African Community Common External Tariff laying out the duty rates of imported items is available.

Kenya has a pre-shipment inspection requirement (the Pre-Shipment Verification of Conformity, or PVoC) for exports destined for Kenya. Exports to Kenya must also obtain an additional Import Standards Mark (ISM), which must be affixed to a list of sensitive imported products sold in Kenya.

For a small number of health, environment, and security imports, import licenses are required. Imports of machinery and equipment classified as equity capital or loan purchases must be

received prior to exchange approval; local banks will not issue shipping guarantees for clearance of imports in the absence of such approval. All imports procured by Kenyan-based importers must be insured with companies licensed to conduct business in Kenya. Importation of animals, plants, and seeds are subject to quarantine regulations.

All Kenyan imports are required to have the following documents: Import Declaration Forms (IDF); a Certificate of Conformity (CoC) from the PVoC agent for regulated products; an import standards mark (ISM) when applicable; and valid pro forma invoices from the exporting firm.

U.S. Export Controls

The U.S. Department of Commerce's Bureau of Industry and Security (BIS) is charged with the development, implementation, and interpretation of U.S. export control policy for dual-use commodities, software, and technology. Dual-use items subject to BIS regulatory jurisdiction have predominantly commercial uses, but also have military applications.

U.S. companies exporting to Kenya must adhere to the requirements of BIS and the U.S. Department of Treasury's Office of Foreign Asset Control (OFAC).

The primary mission of BIS is the accurate, consistent, and timely evaluation and processing of licenses for proposed exports and re-exports of goods and technology from the United States. BIS is responsible for implementing and enforcing the Export Administration Regulations (EAR), which regulates the export and re-export of most commercial items. Items that BIS regulates are often referred to as "dual-use;" i.e., items that have both commercial and military or proliferation applications. However, purely commercial items without an obvious military use can also be subject to the EAR. The EAR does not control all goods, services, and technologies.

BIS's activities include regulating the export of sensitive goods and technologies in an effective and efficient manner; enforcing export control, anti-boycott, and public safety laws; cooperating with and assisting other countries on export control and strategic trade issues; and assisting U.S. industry to comply with international arms control agreement.

Other U.S. government agencies regulate more specialized exports. For example, the U.S. Department of State has authority over defense articles and defense services. Other agencies involved in export controls include the Department of Treasury's Office of Foreign Asset Control, which administers controls against certain countries (such as Sudan) that are the object of sanctions affecting exports and re-exports, as well as imports and financial dealings. A list of other agencies involved in export controls can be found in Supplement No. 3 to Part 730 of the EAR.

Temporary Entry

Kenya allows duty-free entry into the country of goods destined for neighboring countries or for transshipment; however, bonds must be executed. Such goods must be held in bonded

warehouses designated by the Kenyan Customs Department. Release of the bonded goods into the Kenyan market is prohibited unless statutory customs payments are made.

Samples and exhibits/displays for trade fairs may be imported into the country duty free. It is a Customs Department requirement, however, that such items are re-exported or are certified destroyed by a customs certification officer after use. An importing firm that fails to meet these requirements will be charged import duties and value added taxes on the presumed value of the items.

Labeling/Marking Requirements

Please refer to the "Standards" section below.

Prohibited and Restricted Imports

Please refer to the "Standards" section below.

Customs Regulations

The Customs Services Department under the Kenya Revenue Authority has the primary function of collecting and accounting for import duty and VAT on imports. Other taxes collected by the Customs Services Department on an agency basis include the Petroleum Development Levy, Sugar Levy, Road Maintenance Levy, Import Declaration Fee (IDF), Road Transit Toll, Directorate of Civil Aviation fees, Air Passenger Service Charge, Kenya Airport Authority Concession fees, and various fees associated with motor vehicle permits.

Apart from its strictly fiscal responsibilities, the Customs Services Department has responsibility for the collection of trade statistics, facilitation of trade and protection of society from illegal entry and exit of prohibited goods (e.g. drugs of abuse, hazardous chemicals, pornography, and weapons/explosives).

The Customs Services Department implements bilateral, regional, and international trade arrangements. The department also supports global enforcement efforts against smuggling, the illegal importation, and exportation of arms, and drugs of abuse, as mandated through various international legal instruments. For example, Kenya is a member of both the East African Community (EAC) and the Common Market for Eastern and Southern Africa (COMESA). Membership in these two regional blocs entails extending preferential tariffs to goods imported from EAC and COMESA member states subject to pre-agreed conditions (the Rules of Origin). Goods originating in Kenya also enter into member countries on preferential rates.

The Customs Services Department, as the agency of government entrusted with the responsibility to monitor and control imports and exports, is responsible for the implementation of the trade and customs clauses of regional trade agreements. This also applies to trade preferences that may not be reciprocal – such as the preferences extended to Kenya under the African Growth and Opportunity Act (AGOA) of the U.S. and the Africa,

Caribbean and Pacific/European Union Cotonou Partnership Agreement signed in June 2000. The Kenya Revenue Authority Customs Services Department is a member of the World Customs Organization (WCO).

Customs Services Department
Kenya Revenue Authority,
Times Tower, 12th Floor,
P.O. Box 40160 – 00100 GPO Nairobi, Kenya
Tel: +254-20-2817104 / 341218; Fax: +254-20-318204
Contact: Ms. Beatrice Memo, Commissioner for Customs Services
Email: Beatrice.Memo@kra.go.ke

Standards for Trade

Overview

A Kenyan Standard is a document established by consensus and approved by the Kenya Bureau of Standards (KEBS) that provides, for common and repeated use, rules, guidelines, or characteristics for products and services and related processes or production methods, aimed at the achievement of the optimum degree of order in a given context.

Kenya applies a comparative 'standard' to all products or services. Kenya standards are classified into six categories: glossaries or definitions of terminology; dimensional standards; performance standards; standard methods of test; codes of practice; and measurement standards. These standards are developed by technical committees whose membership includes representatives of various interest groups such as producers, consumers, technologists, research organizations, and testing organizations, in both the private and public sectors. The secretariat of these technical committees is the Kenya Bureau of Standards (KEBS).

Some of the departments include the Food and Agriculture Department which is responsible for the development of standards covering food technologies, food safety, fertilizers, agricultural produce, livestock and livestock products, poultry and poultry products, etc.

The Chemical Department is responsible for the development of standards covering soaps, detergents, paints, pesticides, stationery, and related equipment and all products based on chemical formulations. Others include the services standards department, and the engineering department.
The Standards Information and Resource Section are responsible for the maintenance and availability of standards information, library, World Trade Organization (WTO) National Enquiry Point (NEP), and sales of standards while the Publishing Section is responsible for the editing and publishing of all Kenya Standards and related documents.

Standards Organizations

Organizations that develop standards in Kenya include:
The Kenya Bureau of Standards (KEBS)

The National Environment Management Authority (NEMA)
The Division of Environmental Health

The Kenya Bureau of Standards (KEBS) is the government regulatory body under Kenya's Ministry of Trade mandated to prepare standards relating to products, measurements, materials, processes, etc., and their promote these at national, regional and international levels. The National Environment Management Authority, under the Ministry of Environment and Natural Resources, the Department of Public Health, and the Ministry of Health are all government organizations that develop environmental and public health standards in partnership with KEBS. KEBS conducts product testing for individual product categories and undertakes certification. KEBS has a semi-annual standards development plan, and is now reviewing all standards with particular attention to those that are ten or more years old. A large number of the standards have been already reviewed and harmonized within the Eastern Africa region.

Kenya is member country of the World Trade Organization (WTO) and is required under the WTO Agreement on Technical Barriers to Trade (TBT Agreement) to report to the WTO all proposed technical regulations that could affect trade with other Member countries.

NIST Notify U.S. Service
Notify U.S., operated by the U.S. Commerce Department's National Institute for Standards and Technology, is a free, web-based email subscription service that offers an opportunity to review and comment on proposed technical regulations of WTO member countries that can affect access to international markets. Register online.

Conformity Assessment
All consignments of regulated products must now obtain a Certificate of Conformity issued by authorized PVoC country offices (programs managed by partners such as Intertek Services) and an import standards mark (ISM) prior to shipment.

The certificate and ISM are mandatory customs clearance documents in Kenya; consignments of products arriving at points of entry without these documents are subject to delays and possibly denial of admission into the country.

The ISM is consignment specific. The mark must be applied to all products which have impact on health and safety, environment such as food and foodstuffs, electrical fittings, electrical appliances and accessories, infant ware and toys. Informal arrangements with customs officials are widely believed to be responsible for the large volume of fake and counterfeit products present in the market, despite these regulatory requirements.

For consignments shipped without inspection, importers may apply for a destination inspection subject to KEBS acceptance and pay a penalty of 15 percent and a 15 percent bond of the CIF value, plus the costs of the test. It is the seller's responsibility to ensure that shipments to Kenya happen only after issuance of a Certificate of Conformity and ISM. In

November 2007, KEBS removed a significant non-tariff trade barrier by agreeing to waive the Certificate of Conformity (CoC) requirement on bulk agricultural commodities inspected and certified by U.S. government inspection agencies, i.e., the U.S. Department of Agriculture Federal Grain Inspection Service (FGIS) and Animal and Plant Health Inspection Service (APHIS).

In addition to KEBS, other national testing bodies include:

- The Government Chemist (forensic testing for law enforcement agencies);
- The National Quality Control Laboratories (medical and pharmaceutical testing);
- The National Public Health Laboratories (testing of microbiological reagents);
- The Kenya Plant Health Inspectorate Service (KEPHIS) (certification of all imported plant materials as well as implementing sanitary & phytosanitary requirements);
- Materials Testing Department, Ministry of Roads & Public Works (testing of materials used in the building and construction industries).

Private conformity assessment bodies in Kenya include SGS Kenya, Bureau Veritas, and InterTek Services, all of which provide private consumer product-testing services. With the exception of Intertek Services, these organizations also undertake systems and services certification.

Product Certification

Certification can improve reputation, open up new markets, or simply enable the company to operate. It also enables companies to manage risk and drive performance, by tracking a number of key variables over a period of time.

The certification process typically includes on-site audits and standardized testing and inspections. Once a certificate has been delivered, it is maintained through regular audits.

Product certification is voluntary, but essential for marketing purposes. There are no mandatory requirements for product certification, but companies are encouraged to have their export products certified. National organizations such as the Radiation Protection Board, NEMA, the Dairy Board of Kenya, and the Communications Authority of Kenya (CAK) have specific product and system requirements that must be met prior to issuance of licenses or permits.

The importation of any form of plant material (seeds, cuttings, bud wood plantlets, fresh fruit, flowers, and timber) into Kenya is subject to strict conditions as outlined in the import permit issued by the Kenya Plant Health Inspectorate Service (KEPHIS) prior to shipment of such plants from the origin regardless of whether they are duty free, gifts or for commercial or experimental purposes.

Seed certification is mandatory before seeds can be sold locally; the process can take up to three years. Kenya has been a member of the International Union for the Protection of New Varieties of Plants (UPOV) since 1999. Note: Seeds are the number one good counterfeited in Kenya.

The Pest Control Products Board (PCPB) registers all agricultural chemicals imported or distributed in Kenya following local testing by an appointed research agency. It also inspects and licenses all premises involved in the production, distribution, and sale of the chemicals. The board has the right to test chemicals sold locally to assure their compliance with originally certified specifications. No agricultural chemicals can be imported into Kenya without prior PCPB authorization, and chemicals can only be sold for the specific use granted by the board. For the most part, major horticulture producers and exporters also adhere to strict European Union and U.S. standards in the application and use of agricultural chemicals.

All organizations involved in the manufacture, distribution, and sale of agricultural chemicals in Kenya are members of the Agro Chemical Association of Kenya (ACAK). Members must sign a "Code of Conduct" based on the U.N.'s Food and Agriculture Organization Code. This document requires rigid controls in the manufacturing, packaging, labeling, and distribution of agrochemicals. It also mandates an ethics code.

Kenya's Pharmacy and Poisons Board (PPB) and the Ministry of Health are responsible for the certification and registration of all pharmaceutical drugs manufactured or imported into the country.

To indicate conformity with mandatory product requirements, manufacturers can voluntarily place a KEBS mark of quality on the certified product. KEBS has the legal authority to stop the sale of substandard products and to prosecute offending parties. KEBS may inspect the product to ensure it conforms to KEBS or any other KEBS-approved standards; products that do not meet the standards are to withdrawn from the market and the importer/manufacturer may be prosecuted.

Accreditation

Accreditation bodies in Kenya include KEBS, SGS, and Bureau Veritas; however, no mandatory accreditation for laboratories is required for any sector. The Kenya Accreditation Services (KENAS) is a quasi-government body with both public and private sector membership to develop a national accreditation system. KENAS is recognized by the GOK as the sole national accreditation body that provides format recognition for Certification Bodies (CBs), Inspection Bodies (IBs) and Laboratories throughout the country. This ensures that testing and calibration, proficiency testing scheme providers are competent to carry out specific conformity assessment tasks.

KENAS also registers assessors, auditors, and inspectors, and regulates training providers of management systems. KENAS is responsible for the Accreditation of Certification Bodies to ISO/IEC Guide 62 66 (replaced by ISO/IEC 17021:2006 in September 2007) and 65 (including adherence to the IAF interpretation of the same and laboratory certification to ISO/IEC 17025). All inspection bodies are accredited to ISO/IEC 17020 standards.

Publication of Technical Regulations

Proposed technical regulations under the Standards Act do not normally require notification via the official government publication, the *Kenya Gazette*; however, final regulations are

published in the *Kenya Gazette* as legal notices. By enrolling in a corporate membership with KEBS, U.S. companies can, upon a written request to the Managing Director of KEBS, receive proposed technical regulations that affect their industry. They can also submit their comments on the proposed regulations for consideration by the relevant technical committee.

To obtain the list of proposed KEBS standards, U.S. exporters can contact:
Kenya Bureau of Standards,
Off Mombasa Road, Nairobi South C,
P.O. Box 54974 -00200, Nairobi, Kenya;
Tel: +254 (20) 6948201/401; Fax: +254 (20) 60403;
Contact: Mr. Charles O. Ongwae, Managing Director,
Email: info@kebs.org

Labeling and Marking
Special labeling is required for certain goods including condensed milk, paints, varnishes, vegetables, and butter. In addition, imports of pre-packaged paints and related or similar products must be sold by metric weight or metric fluid measure. Weights and measure indicators must be in metric form or display both metric and imperial units (the U.S. standard).

Manufacturers are required to indicate the date of manufacture and expiry on the labels of consumable products. Labeling for pharmaceutical products must include therapeutically active substances, inactive ingredients, name, and percentage of any bactericidal or bacteriostatic agent, expiry date, and batch number, registration number of the product, and warnings or precautions, and the official name and business address of manufacture.

Contacts
Kenya Bureau of Standards
Popo Road, Off Mombasa Road, Nairobi South C
P.O. Box 54974-00200, Nairobi, Kenya
Tel: +254 (20) 6948-800, +254-722 202 137/8, +254-734 600 471/2
Fax: +254 (20) 6004-031
Contact: Charles Ongwae, Managing Director
Email: info@kebs.org

Trade Agreements

Multilateral Trade System (MTS)
The World Trade Organization (WTO) is the only international organization dealing with the global rules of trade between nations. Kenya has been a member of the WTO since its inception in January 1995.

The WTO's 10th Ministerial Conference was held in Nairobi, Kenya, in December 2015. The Conference culminated in the adoption of the "Nairobi Package", a series of six Ministerial Decisions on agriculture, cotton, and issues related to least-developed countries (LDCs).

Regional Markets
Kenya is a member of the East African Community (EAC) with a population of approximately 145 million. It is also a member of the Common Market for Eastern and Southern Africa (COMESA) with a population of approximately 400 million. Exports and imports within member countries enjoy preferential tariff rates. EAC Member States have signed a Protocol to establish a common Customs Union.

Moreover, the East African Community is the regional intergovernmental organization of Kenya, Uganda, Rwanda, Burundi, South Sudan and Tanzania, with headquarters located in Arusha in Tanzania. The Community was officially established in 1999. The EAC countries cover an estimated area of 2.47 million square kilometers and have a population of over 145 million people and share common history, language, culture, and infrastructure. These advantages provide the partner states with a unique framework for regional co-operation and integration.

ACP/Cotonou Partnership Agreement
Exports from Kenya entering the European Union are entitled to duty reductions and freedom from all quota restrictions. Trade preferences include duty-free entry of all industrial products as well as a wide range of agricultural products including beef, fish, dairy products, cereals, fresh and processed fruits, and vegetables. Additional information is available at African, Caribbean, and Pacific Group of States.

African Growth and Opportunity Act (AGOA)
Kenya qualifies for duty free access until 2025 to the U.S. market under the African Growth and Opportunity Act. Some of Kenya's major products that qualify for export under AGOA include textiles, apparels, and handicrafts.

Generalized System of Preferences (GSP)
Under the Generalized System of Preferences, a wide range of Kenya's manufactured products are entitled to preferential duty treatment in the United States, Japan, Canada, New Zealand, Australia, Switzerland, Norway, Sweden, Finland, Austria, and other European countries. In addition, no quantitative restrictions are applicable to Kenyan exports on any of the 3,000-plus items currently eligible for GSP treatment. Additional information is available at United Nations Conference on Trade and Development.

Bilateral Trade Agreements
Kenya has signed bilateral trade agreements with several countries:
Argentina, Bangladesh, Nigeria, Bulgaria, China, Comoros, Congo (DRC), Djibouti, Egypt, Hungary, India, Iraq, Lesotho, Liberia, Netherlands, Pakistan, Poland, Romania, Russia, Rwanda, Somalia, South Korea, Swaziland, Tanzania, Thailand, Zambia, and Zimbabwe.

Additional agreements are under negotiation with several additional countries:
Belarus, Czech Republic, Ethiopia, Eritrea, Iran, Kazakhstan, Mauritius, Mozambique, and South Africa.

Web Resources

African Growth and Opportunity Act (AGOA)
Common Market for Eastern and Southern Africa (COMESA)
Development (IGAD)
East African Community
Export Promotion Council
Kenya Customs Department
Kenya Bureau of Standards
Kenya Accreditation Service
Kenya Investment Authority
Kenya plant health inspectorate Service
Ministry of Finance
National Environmental Management Authority
The Division of Environmental Health
The Bureau of Industry and Security
World Trade Organization

Investment Climate Statement

Executive Summary

Kenya has a generally positive investment climate that has made it attractive to international firms seeking a location for their regional or pan-African operations. Year-on-year the country continues to make improvements to its regulatory framework and improve its attractiveness as a destination for foreign direct investment. Kenya has a strong telecommunications infrastructure, a robust financial sector, and extensive aviation connections within Africa and to Europe and Asia. Mombasa Port is the major trade gateway for much of East Africa. Kenya's membership in the East African Community (EAC), as well as other regional trade blocs, provides growing access to larger regional markets. The World Bank Group's Doing Business 2017 report ranked Kenya as the third most reformed country with the country moving up 21 places to 92 of the 190 economies reviewed on business regulatory reforms, following a similar move up in the rankings the previous year. Kenya's improvement was credited to reforms in the following five areas: starting a business; access to electricity; registering property; protecting minority investors; and resolving insolvency.

Kenya took some significant steps to improve the environment for foreign investment in 2016. Highlights include:

- Passage of the new Bribery Act (2016) which heightens penalties, mandates bribery prevention procedures, and imposes reporting obligations for private entities;
- Kenya now allows 100 percent foreign ownership of companies listed on Nairobi Stock Exchange;
- Passage of the Access to Information Act (2016), which provides procedures by which members of the public can request information held by the state or a private body and contains requirements that the information be furnished within 21 days;
- Continued progress by the Kenya Investment Authority (KenInvest) and the Business Environment Delivery Unit to reduce bureaucracy and simplify the business registration process;
- The operationalization of the Mining Act (2016) during the last year points to a more positive investment climate for the extractives industries; and
- Progress on draft legislation to promote financial sector reform, with the following measures in process: the Financial Services Authority Bill; Nairobi International Financial Centre (NIFC) Bill; and the Movable Property Securities Bill.

Kenya's macroeconomic fundamentals are among the strongest in Africa, with GDP growth at 5-6 percent, shrinking current account deficits, improving infrastructure, and strong consumer demand from a growing middle class. In the short-term, however, some observers are concerned that drought leading to rising inflation, a credit squeeze due to recently established statutory interest rate caps, and business anxiety about election-related turbulence could be a drag on growth. At the same time, the medium-term economic outlook appears strong. There has been great interest on the part of American companies to establish or expand their business presence and engagement in Kenya. The sectors offering the most

opportunities to investors are: financial services, energy, extractives, transportation, infrastructure, retail, restaurants, technology, health care, and mobile banking.

Table 1

Measure	Year	Index/Rank	Website Address
TI Corruption Perceptions Index	2016	145 of 178	Transparency International
World Bank's Doing Business Report "Ease of Doing Business"	2016	92 of 190	Doing Business
Global Innovation Index	2016	80 of 128	Global Innovation Index
U.S. FDI in partner country ($M USD, stock positions)	2015	323 USD	BEA
World Bank GNI Per Capita	2015	1340 USD	World Bank

Openness To, and Restrictions Upon, Foreign Investment

Policies Towards Foreign Direct Investment

Kenya has enjoyed a steadily improving environment for foreign direct investment (FDI). Foreign investors seeking to establish a presence in Kenya generally receive the same treatment as local investors, and multinational companies make up a large percentage of Kenya's industrial sector. There is little discrimination against foreigners in access to government-financed research, and the government's export promotion programs do not distinguish between goods produced by local and foreign-owned firms.

The Government of Kenya (GOK) prioritizes investment retention and maintains an ongoing dialogue with investors. All bills must pass through a period of public consultation in which investors have an opportunity to offer feedback. Private sector representatives can serve as board members on Kenya's state-owned enterprises. Since 2013, when the current government assumed power, the Kenya Private Sector Alliance (KEPSA), the apex private sector association, has had bi-annual round table meetings with President Kenyatta and his cabinet. During the budget making process, KEPSA presents a memorandum to the government on its wish list.

The government does not have a policy to steer investment to specific geographic locations but encourages investments in sectors that create employment, generate foreign exchange, and create forward and backward linkages with rural areas. Kenya puts significant effort into assuring the health and growth of its tourism industry. To strengthen Kenya's manufacturing capacity, the government offers incentives for the production of goods for export.

KenInvest, the country's official investment promotion agency, is viewed favorably by international investors. KenInvest's mandate is to promote and facilitate investment by assisting investors in obtaining the licenses necessary to invest and by providing other assistance and incentives as necessary for smoother operations. In order to help investors

navigate local regulations, KenInvest has developed an online database known as eRegulations, which is designed to provide investors and entrepreneurs with full transparency on investment-related regulations and procedures in Kenya. At each step, the system tells the investor where to go, who to see, what to bring, what to pay, what is the legal justification, and who to complain to in case there is a problem. According to United Nations Conference on Trade and Development (UNCTAD)'s Global Enterprise Registration Network, the KenInvest site makes Kenya one of only 25 countries to earn a perfect rating on its information portal.

Limits on Foreign Control and Right to Private Ownership and Establishment

The government provides the right for foreign and domestic private entities to establish and own business enterprises and engage in all forms of remunerative activity. In an effort to encourage foreign investment, the GOK repealed regulations in 2015 that imposed a 75 percent foreign ownership limitation for firms listed on the Nairobi Securities Exchange, allowing such firms now to be 100 percent foreign-owned, as reported by the UNCTAD *World Investment Report 2016*. In 2015, the government established regulations requiring that Kenyans own at least 15 percent of the share capital of derivatives exchanges, through which derivatives such as options and futures can be traded.

There appears to be a recent trend in Kenya toward imposing "local content" requirements on foreign investments. When President Kenyatta signed the new Companies Act (2015), it contained language requiring all foreign company to demonstrate at least 30 percent of shareholding by Kenyan citizens by birth. United States business associations raised concerns over the bill, pointing to its lack of clarity and the possibility that such measures could run afoul of Kenya's commitments under the WTO. The U.S. government also raised the issue with the Kenyan government. The clause has now been repealed.

Telecommunications regulator Communications Authority requires 20 percent Kenyan shareholding within three years of receiving a license. The new Mining Act (2016) restricts foreign participation in the mining sector. Among other restrictions, it reserves the acquisition of mineral rights to Kenyan companies, and requires 60 percent Kenyan ownership of mineral dealerships and artisanal mining companies. The Private Security Regulations Act (2016) restricts foreign participation in the private security sector by requiring that at least 25 percent of shares in private security firms be held by Kenyans. The National Construction Authority Act (2011) imposes local content restrictions on "foreign contractors," defined as companies incorporated outside Kenya or with more than 50 percent ownership by non-Kenyan citizens. The act requires foreign contractors to enter into subcontracts or joint ventures assuring that at least 30 percent of the contract work is done by local firms. Regulations implementing these requirements are in process. The Kenya Insurance Act (2010) restricts foreign capital investment to two thirds with no single person controlling more than 25 percent of an insurers' capital.

Other Investment Policy Reviews

There have been no third-party investment policy reviews through multilateral organizations in the last three years.

Business Facilitation

In September 2015, President Kenyatta signed into law The Business Registration Services (BRS) Act (2015) and the Companies Act (2015), which aim to strengthen Kenya's position as a destination for investors. The BRS seeks to establish a state corporation known as the Business Registration Service to ensure effective administration of the laws relating to the incorporation, registration, operation and management of companies, partnerships and firms. The BRS also devolves to the counties business registration services such as registration of business names and promoting local business ideas/legal entities, thus reducing costs of registration. The Companies Act (2015) deals with specifics of registration and management as they pertain to public and private corporations.

In 2014, the GOK established a Business Environment Delivery Unit to address challenges facing investors in the country. The unit has representatives from all ministries and focuses on reducing the bureaucratic steps related to setting up and doing business in the country. Separately, the Business Regulatory Reform Unit operates a web site offering online business registration and providing information on how to access detailed information on additional relevant business licenses and permits, including requirements, costs, application forms, and contact details for the relevant regulatory agency.

An investment guide to Kenya, also referred to as iGuide Kenya, designed by UNCTAD and the International Chamber of Commerce, provide investors with up-to-date information on business costs, licensing requirements, opportunities and conditions in developing countries. Kenya is a member of UNCTAD's international network of transparent investment procedures.

Outward Investment

The GOK does not promote or incentivize outward investment. Despite this, Kenya is evolving into an outward investor in tourism, manufacturing, retail, finance, education, and media. Currently, the majority of outward investment remains in the EAC, making the most of Kenyan preferential access between EAC member countries. The GOK also does not restrict domestic investors from investing abroad. Rather, the EAC advocates for free movement of capital across the six member states – Burundi, Kenya, Rwanda, South Sudan, Tanzania, and Uganda.

Bilateral Investment Agreements and Taxation Treaties

The United States does not have a free trade agreement, bilateral investment treaty, or bilateral taxation treaty with Kenya. Kenya, however, is a beneficiary of the African Growth and Opportunity Act (AGOA), a U.S. trade preference and export promotion policy, which Congress renewed in 2015 for an additional 10 years. Under AGOA, Kenyan exporters enjoy duty-free access to U.S. markets for products falling under more than 6,400 tariff lines. Kenya's primary exports to the United States under AGOA are apparel and accessories, coffee, tea, and nuts. In 2013, Kenya overtook Lesotho as the largest textile exporter to the United States under AGOA. According to the Kenya National Bureau of Statistics' Economic Survey 2016, apparel exported through EPZs under AGOA increased from $300 million in 2014 to $352 million in 2015. The GOK is currently developing a revised AGOA strategy.

The GOK has trade facilitation agreements (TFA) through the WTO, EAC Customs Union Protocol, Common Market for Eastern and Southern Africa (COMESA) Protocol on FTA, and the EU-EAC economic partnership agreement. The nine COMESA FTA member countries are Djibouti, Egypt, Kenya, Madagascar, Malawi, Mauritius, Sudan, Zambia, and Zimbabwe. The other 10 COMESA countries that are not part of the FTA trade with Kenya on preferential terms observing tariff reductions between 60 and 80 percent. The status of EU-EAC economic partnership agreement is unclear at this time because of the failure of Tanzania and Uganda to renew the agreement in 2016.

Legal Regime

Transparency of the Regulatory System

Kenya's regulatory system is relatively transparent and continues to improve. Proposed laws and regulations pertaining to business and investment are published in draft form for public input and stakeholder deliberation before their passage into law thorugh Kenya Law and Parliament of Kenya. Kenya's business registration and licensing systems are fully digitized and transparent while computerization of other government processes to increase transparency and close avenues for corrupt behavior is ongoing.

Many GOK laws have granted significant discretionary and approval powers to government agency administrators, which can create uncertainty among investors. While some government agencies either have amended laws or published clear guidelines for decision-making criteria, others have lagged in making their transactions transparent. For instance, foreign work permit processing continues to be in disarray with overlapping and sometimes contradictory regulations. American companies have complained about delays of up to seven months and non-issuance of permits that appear to be compliant with known regulations.

International Regulatory Considerations

Kenya is a member state of the EAC, and generally applies EAC policies on trade and investment. The U.S. government engages with Kenya on trade and investment issues both bilaterally and through the U.S.-EAC Trade and Investment Partnership. Kenya is also a member of COMESA and the Inter-Governmental Authority on Development (IGAD). According to the Africa Regional Integration Index Report 2016, Kenya is a leader in regional integration policies within these regional blocs with strong performance on regional infrastructure, productive integration, free movement of people, and financial and macro-economic integration. The GOK maintains a Department of East African Community Integration within the Ministry of EAC, Labor, and Social Protection.

Kenya generally adheres to international regulatory standards. The country is a member of the WTO and provides notification of draft technical regulations to the Committee on Technical Barriers to Trade (TBT). Kenya maintains a TBT National Enquiry Point. Additional information on Kenya's participation can be found at WTO. Accounting, legal, and regulatory procedures are transparent and consistent with international norms. Publicly listed companies adhere to International Financial Reporting Standards (IFRS) that have been developed and issued in the public interest by the International Accounting Standards Board. The board is an

independent, private sector, not-for-profit organization that is the standard-setting body of the IFRS Foundation. Kenya is a member of UNCTAD's international network of transparent investment procedures.

Legal System and Judicial Independence

The legal system is based on English Common Law, and the 2010 constitution establishes an independent judiciary with a Supreme Court, a Court of Appeal, a Constitutional Court, and a High Court. The following subordinate courts also remain in place: Magistrates, Khadis (Muslim succession and inheritance), Courts Martial, and the Employment and Labor Relations Court (formerly the Industrial Court) as well as the Milimani Commercial Courts which both have jurisdiction over economic and commercial matters. In 2016, Kenya's judiciary instituted specialized courts focused on corruption and economic crimes, which are now operational. The Chief Justice of Kenya is required under the constitution to issue an annual "State of the Judiciary and Administration of Justice Report." There is no systematic executive or other interference in the court system that affects foreign investors. The courts are nevertheless plagued by frequent allegations of corruption and long delays in rendering judgments.

The Foreign Judgments (Reciprocal Enforcement) Act (2012) provides for the enforcement of judgments given in other countries that accord reciprocal treatment to judgments given in Kenya. Kenya has entered into reciprocal enforcement agreements with Australia, the United Kingdom, Malawi, Tanzania, Uganda, Zambia, and Seychelles. Outside of such an agreement, a foreign judgment is not enforceable in the Kenyan courts except by filing a suit on the judgment. Foreign advocates are not entitled to practice in Kenya unless a Kenyan advocate instructs and accompanies them, although a foreign advocate may practice as an advocate for the purposes of a specified suit or matter if appointed to do so by the Attorney General.

Laws and Regulations on Foreign Direct Investment

The major regulations governing Foreign Direct Investment (FDI) are found in the Investment Promotion Act (2004). Other important documents that provide the legal framework for FDI include the 2010 constitution of Kenya, the Companies Ordinance, the Private Public Partnership Act (2013), the Foreign Investment Protection Act (1990), and the Companies Act (2015). GOK membership in the World Bank's Multilateral Investment Guarantee Agency (MIGA) provides an opportunity to insure FDI against non-commercial risk.

Competition and Anti-Trust Laws

In August 2011, the Competition Act (2010) replaced the outdated Monopolies and Price Control Act and the Monopolies and Prices Commission. Specifically, the act created the Competition Authority of Kenya (CAK). All mergers and acquisitions require the CAK's authorization before they are finalized, and the CAK regulates abuse of dominant position and other competition and consumer-welfare related issues in Kenya. In 2014, CAK imposed a filing fee for mergers and acquisitions set at one million shillings (approximately $10,000) for mergers involving turnover of between one and 50 billion shillings (up to approximately $500 million). Two million shillings (approximately $20,000) will be charged for larger mergers. Company

takeovers are possible if the share buy-out is more than 90 percent, although such takeovers are rarely seen in practice.

Expropriation and Compensation

The 2010 constitution guarantees safety from expropriation except in cases of eminent domain or security concerns. All cases are subject to the payment of prompt and fair compensation. The Land Acquisition Act (2010) governs compensation and due process in acquiring land, although land rights issues in Kenya remain contentious and can cause significant delays in projects. For more issue on land issues, see the section on real property.

Dispute Settlement

ICSID Convention and New York Convention

Kenya is a member of both the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, also known as the ICSID Convention or the Washington Convention, and the 1958 New York Convention on the Enforcement of Foreign Arbitral Awards. Kenya signed the ICSID Convention on May 24, 1966, and became a Contracting State on February 2, 1967. Kenya became a Contracting State in the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards on February 10, 1989. As it relates to arbitration over property issues, the Foreign Investments Protection Act (2014) specifically cites Article 75 of the Kenyan Constitution, which provides that "[e]very person having an interest or right in or over property which is compulsorily taken possession of or whose interest in or right over any property is compulsorily acquired shall have a right of direct access to the High Court."

Investor-State Dispute Settlement

There have been very few investment disputes involving U.S. and international companies. Commercial disputes, including those involving government tenders, are more common. The private sector cites weak institutional capacity, inadequate transparency, and inordinate delays in dispute resolution in lower courts. The resources and time involved in settling a dispute through the Kenyan courts often render them ineffective as a form of dispute resolution.

International Commercial Arbitration and Foreign Courts

The government does accept binding international arbitration of investment disputes with foreign investors. The Kenyan Arbitration Act (1995) as amended in 2010 is anchored entirely on the United Nations Commission on International Trade Law (UNCITRAL) Model Law. Legislation introduced in 2013 established the Nairobi Centre for International Arbitration (NCIA), which seeks to serve as an independent, not-for-profit international organization for commercial arbitration, and may offer a quicker alternative to the court system.

In June 2014, the Kenya Revenue Authority launched an Alternative Dispute Resolution (ADR) mechanism aiming to provide taxpayers with an alternative, fast-track avenue for resolving tax disputes. The ADR mechanism offers a cheaper mechanism for foreign investors and an alternative to the lengthy court processes in Kenya.

Bankruptcy Regulations
The Insolvency Act (2015) modernized the legal framework for bankruptcies. Its provisions generally correspond to those of the Model Law on Cross Border Insolvency adopted by the United Nations Commission on International Trade Law on May 30, 1997. The act promotes fair and efficient administration of cross-border insolvencies to protect the interests of all creditors and other interested persons, including the debtor. The act repeals the Bankruptcy Act (2012) and updates the legal structure relating to insolvency of natural persons and incorporated and unincorporated bodies. Section 720 of the Insolvency Act (2015) grants the force of law to the UNCITRAL Model Law.

Creditors' rights are comparable to those in other common law countries, and monetary judgments typically are made in Kenyan shillings. Similarly, the new Insolvency Act (2015) increased the rights of borrowers and prioritizes the revival of distressed firms. The new law states that a debtor will automatically be discharged from debt after three years. Bankruptcy is not criminalized in Kenya. The World Bank Group's Doing Business 2017 report puts Kenya at 92 of 190 countries in the "resolving insolvency" category. This is up 42 rankings since 2015.

Industrial Policies

Investment Incentives
The minimum foreign investment to qualify for GOK investment incentives is $100,000, a potential deterrent to foreign small and medium enterprise investment, especially in the services sector. Investment Certificate benefits, including entry permits for expatriates, are outlined in the Investment Promotion Act (2004).

The government allows all locally financed materials and equipment for use in construction or refurbishment of tourist hotels to be zero-rated for purposes of VAT calculation – excluding motor vehicles and goods for regular repair and maintenance. The National Treasury principal secretary, however, must approve such purchases. An additional measure enacted to boost the ailing tourism industry makes one-week employee vacations paid by employers a tax-deductible expense. Aircraft and aircraft parts, tractors, inputs for solar manufacturing, and services relating to goods in transit are fully exempt from VAT. Investors in metal manufacturing and products and the hospitality services sectors are able to deduct from their taxes a large portion of the cost of buildings and capital machinery.

The government's Manufacturing Under Bond (MUB) program, established in 1986, is meant to encourage manufacturing for export. The program provides a 100 percent tax deduction on plant machinery and equipment and raw materials imported for production of goods for export. The program is also open to Kenyan companies producing goods that can be imported duty-free or goods for supply to the armed forces or to an approved aid-funded project.

The Finance Act (2014) amended the Income Tax Act (1974) to reintroduce after 29 years the capital gains tax (CGT) on transfer of property located in Kenya. Under this provision, gains derived on sale or transfer of property by an individual or company are subject to tax at rates

of at least five percent. The effective date of this provision was January 1, 2015, and sales and transfer of property related to the oil and gas industry are taxed up to 37.5 percent.

The Finance Act (2014) also reintroduced the withholding VAT system by government ministries, departments and agencies. The system excludes the Railway Development Levy (RDL) imports for persons, goods, and projects; the implementation of an official aid-funded project; diplomatic missions and institutions or organizations 'gazetted' under the Privileges and Immunities Act (2014); and the United Nations or its agencies.

Foreign Trade Zones/Free Ports/Trade Facilitation

Kenya's Export Processing Zones (EPZ) and Special Economic Zones (SEZ) offer special incentives for firms operating within their boundaries. By the end of 2015, Kenya had 57 designated Export Processing Zones (EPZs) with 89 companies and 50,850 workers contributing KSh 35 billion (approximately $350 million) to the Kenyan economy. Companies operating within an EPZ benefit from the following tax benefits: a 10-year corporate-tax holiday and a 25 percent tax thereafter; a 10-year withholding tax holiday; stamp duty exemption; 100 percent tax deduction on initial investment applied over 20 years; and VAT exemption on industrial inputs.

About 54 percent of EPZ products are exported to the United States under AGOA. The majority of the exports are textiles – Kenya's third largest export behind tea and horticulture – and more recently handicrafts. Eighty percent of Kenya's textiles and apparel originate from EPZ-based firms. Approximately 50 percent of all firms in the zones are fully owned by foreigners – mainly from India – while the rest are locally owned or joint ventures with foreigners. The proposed Textile City, to be set up at the Athi River EPZ, is expected to attract more than 100 textile investments, but progress on the project has been slow.

While EPZs are focused on encouraging production for export, the not yet fully established special economic zones (SEZs) are designed to boost local economies by offering benefits for goods that are consumed both internally and externally. The SEZs will allow for a wider range of commercial ventures, including primary activities such as farming, fishing, and forestry. The 2016 Special Economic Zones Regulations that came into effect in August 2016 state that the Special Economic Zone Authority (SEZA) must maintain an open investment environment to facilitate and encourage business by the establishment of simple, flexible, and transparent procedures for investor registration. The new rules also empower county governments to set aside public land for establishment of industrial zones.

Companies operating in the SEZ's will receive the following benefits: all SEZ supplies of goods and services to companies and developers will be exempted from value-added tax (VAT); the corporate tax rate for enterprises, developers, and operators will be reduced from 30 percent to 10 percent for the first 10 years and 15 percent for the next 10 years; exemption from taxes and duties payable under the Customs and Excise Act (2014), the Income Tax Act (1974), the EAC Customs Management Act (2004), and stamp duty; and exemption from advertisement and license fees levied by county governments.

The Second Medium Term Plan of Kenya's Vision 2030 economic development agenda calls for establishing SEZs in Mombasa (2000 sq. km), Lamu (700 sq. km), Kisumu (700 sq. km), and eventually to additional towns throughout the country. An SEZ near Naivasha is also under consideration. It would be located near the Olkaria geothermal power plant where manufacturers would benefit from cheaper and reliable power. In the FY 2015/16 budget statement, the GOK allocated KSh 3 billion (approximately $33 million) for industrial development, including SEZs.

Performance and Data Localization Requirements

The GOK mandates local employment in the category of unskilled labor. The Kenyan government regularly issues permits for key senior managers and personnel with special skills not available locally. For other skilled labor, any enterprise whether local or foreign may recruit from outside if the skills are not available in Kenya. Firms seeking to hire expatriates must demonstrate that the requisite skills are not available locally through an exhaustive search. The Ministry of EAC, Labor, and Social Protection, however, has noted plans to replace this requirement with an official inventory of skills that are not available in Kenya. A work permit can cost up to KSh 200,000 (approximately $2,000).

In January 2016, the new Public Procurement and Asset Disposal Act (2015) came into force offering preferences to firms owned by Kenyan citizens and to products manufactured or mined in Kenya. For tenders funded entirely by the government with a value of less than KSh 50 million (approximately $500,000), the preference for Kenyan firms and goods is exclusive. Where the procuring entity seeks to contract with non-Kenyan firms or procure foreign goods, the act requires a report detailing evidence of an inability to procure locally. The act also calls for at least 30 percent of government procurement contracts to go to firms owned by women, youth, and persons with disabilities. The act further reserves 20 percent of procurement contracts tendered at the county level to residents of that county. With the support of the World Bank and in collaboration with the Kenya ICT Board, the Public Procurement Oversight Authority (PPOA) is developing a web-based Market Price Index to increase transparency in public procurement and implementation of the new act.

There is currently no legislation that requires data localization. A draft data protection bill has been under discussion for a long time.

Protection of Property Rights

Real Property

Foreigners cannot own land in Kenya, though they can lease it in 99-year increments. The cumbersome and opaque process required to acquire land raises concerns about security of title, particularly given past abuses relating to the distribution and redistribution of public land.

Mortgages and liens exist in Kenya, but the recording system is not reliable, and there are often complaints of property rights and interests not being enforced. The legal infrastructure around land ownership and registration has changed in recent years, and land issues delayed several major infrastructure projects in 2016. Kenya's 2010 Constitution required all land

leases to convert from 999 years to 99 years, giving the state the power to review leasehold land at the expiry of the 99 years, deny lease renewal, and confiscate the land if it determines the land has not been used productively. The Constitution also converted foreign-owned freehold interests into 99-year leases at a "peppercorn rate" (a nominally low rate used to satisfy the requirements for the creation of a legal contract). The GOK has not yet effectively implemented this provision. Work continues on the National Land Information Management System, but fully digitized, border-to-border cadastral data is still many years in the future.

The 2010 Constitution and subsequent land legislation created the National Land Commission, an independent government body mandated to review historical land injustices and provide oversight of the government's land policy and management. This has had the unintended side effect of introducing coordination and jurisdictional confusion between the commission and the Ministry of Land, Housing, and Urban Development.

On February 11, 2015, President Uhuru Kenyatta officially commissioned the newly established National Titling Center with a promise to increase the 5.6 million title deeds issued since independence to nearly 9 million. Land grabbing resulting from double registration of titles, however, remains prevalent. Property legally purchased and unoccupied can revert ownership to other parties.

Intellectual Property Rights

The major intellectual property enforcement issues in Kenya related to counterfeit products are corruption, lack of penalty enforcement, failure to impound imports of counterfeit goods at the ports of entry (especially in Mombasa), and the reluctance of brand owners to file a complaint with the Anti-Counterfeit Agency (ACA). The prevalence of "gray market" products – genuine products that enter the country illegally without paying import duties – also presents a challenge, especially in the mobile phone and computer sectors.

In an attempt to combat the import of counterfeits, the Ministry of Industrialization and the Kenya Bureau of Standards (KEBS) decreed in 2009 that all locally-manufactured goods must have a KEBS standardization mark. Several categories of imported goods, specifically food products, electronics, and medicines, must have an import standardization mark (ISM). Under this new program, U.S. consumer-ready products may enter the Kenyan market without altering the U.S. label but must also carry an ISM. Once the product qualifies for a Confirmation of Conformity, KEBS will issue the ISM free of charge.

For additional information regarding the IPR environment in Kenya, also see USTR's Special 301 Report. For additional information about treaty obligations and points of contact at local IP offices, please see the World Intellectual Property Organization's country profiles.

Financial Sector

Capital Markets and Portfolio Investment

Though small by Western standards, Kenya's capital markets are the deepest and most sophisticated in East Africa. Sixty-seven companies were listed on the Nairobi Stock Exchange

for a total market capitalization of KSh 1.9 trillion (approximately $19 billion) as of March 2016. The Kenyan capital market has grown rapidly in recent years and has also exhibited strong capital raising capacity. The bond market, however, is still underdeveloped and dominated by trading in government debt securities. Long-dated corporate bond issuances are uncommon, leading to a lack of long-term investment capital. As of February 2016, the domestic government bond market denominated in local currency represents a total of $14 billion dollars, of which only five percent is comprised of international institutional investors. In March 2017, the Kenyan National Treasury launched its mobile money platform government bond to retail investors locally. The name of the product is M-Akiba, through which local Kenyans will be able to purchase bonds as small as $30 on their mobile phones.

The Central Bank of Kenya (CBK) is working with regulators in EAC member states through the Capital Market Development Committee (CMDC) and East African Securities Regulatory Authorities (EASRA) on a regional integration initiative and has successfully introduced cross listing of equity shares. The combined use of both the Central Depository System (CDS) and an automated trading system has moved the Kenyan securities market to globally accepted standards. Kenya is a full (ordinary) member of the International Organization of Securities Commissions.

Money and Banking System

In August 2016, President Kenyatta signed into law the Banking Act (2016), which caps the maximum interest rate banks can charge on loans at four percent above the CBK's benchmark lending rate. It further provides a floor for the deposit rate held in interest earning accounts to at least 70 percent of the CBK benchmark rate. The cap has already hurt the GOK's ability to raise funds in the local debt market, and the CBK has cancelled three auctions of treasury bills and bonds this year. The cap has also slowed the consumer and small and medium business credit market. The International Monetary Fund and other observers have warned that the restrictions will result in a continuing contraction in the availability of credit.

The total population with access to financial services, either through conventional or mobile banking platforms is now approximately 80 percent. According to the World Bank, M-Pesa, Kenya's largest mobile banking platform, processes more transactions within Kenya each year than Western Union does globally. As of September 2016, 31.1 million Kenyans were using mobile phone platforms to transfer money, according to Communication Authority of Kenya figures. There were over 162,465 agents facilitating transactions in excess of KSh 3.1 trillion (approximately $3 billion) in the 2015/2016 fiscal year, a sum equivalent to half of Kenya's GDP in the same period. The National ICT Masterplan 2017 envisages the sector contributing at least 10 percent of GDP growth by 2017, up from 4.7 percent recorded in 2015. As of February 2016, Kenyan mobile money platform SimbaPay has received approval to operate in five European countries catering to the Kenyan diaspora, allowing them to bank in Kenya from abroad.

The CBK is the primary regulator of financial institutions. As of December 2016, Kenya had 43 banking institutions – 42 commercial banks and one mortgage finance company with three

locally-owned institutions not in operation as one was under statutory management and two were in receivership as of July 31, 2016. Kenya has seven representative offices of foreign banks, twelve deposit-taking microfinance institutions (DTMs), 76 foreign exchange bureaus, 17 money remittance providers, and three credit reference bureaus (CRBs). Out of the 43 banking institutions, 28 are locally owned – three with public shareholding and 25 privately-owned – and 13 are foreign owned. The foreign owned financial institutions are comprised of eight locally incorporated foreign banks and four branches of foreign incorporated banks. Some major international banks operating in Kenya include Citibank, Barclays, Bank of India, and Standard Chartered. These are listed as commercial banks on the CBK website.

Foreign Exchange and Remittances

Foreign Exchange

Kenya is an open economy with a liberalized capital account and a floating exchange rate. The CBK engages in volatility controls aimed exclusively at smoothing temporary market fluctuations. Between June 2015 and June 2016, the shilling declined 3.5 percent after a sharp decline of 15 percent during the same period in 2014/2015. In 2016, foreign exchange reserves continue to grow and now provide more than five months of import cover. The average inflation rate was 6.3 percent in 2016 and the rate on 91-day treasury bills had fallen to 8.44 percent in December 2016. According to CBK figures, the average exchange rate was KSh 101.5 to $1.00 in 2016.

Remittance Policies

Kenya's Foreign Investment Protection Act (FIPA) guarantees capital repatriation and remittance of dividends and interest to foreign investors, who are free to convert and repatriate profits including un-capitalized retained profits (proceeds of an investment after payment of the relevant taxes and the principal and interest associated with any loan). Kenya has no restrictions on converting or transferring funds associated with investment. Kenyan law requires the declaration to customs of amounts greater than KSh 500,000 (approximately $5,000) or the equivalent in foreign currencies for non-residents as a formal check against money laundering. Foreign currency is readily available from commercial banks and foreign exchange bureaus and can be freely bought and sold by local and foreign investors. The Central Bank of Kenya Act (2014), however, states that all foreign exchange dealers are required to obtain and retain appropriate documents for all transactions above the equivalent of KSh 1,000,000 (approximately $10,000). As of March 2017, the CBK has licensed 17 money remittance providers following the operationalization of the Money Remittance Regulations in April 2013.

Kenya is listed as a country of primary concern for money laundering and financial crime by the State Department's Bureau of International Narcotics and Law Enforcement. Kenya's ongoing progress in creating the legal and institutional framework to combat money laundering and the financing of terrorism resulted in the inter-governmental Financial Action Task Force (FATF) removing Kenya the FATF Watchlist in June 2014.

Sovereign Wealth Funds
Kenya is in the process of establishing a sovereign wealth fund through the Kenya National Sovereign Wealth Fund Bill (2014). The fund will receive income from any future privatization proceeds, dividends from state corporations, oil and gas, and minerals revenues due to the national government, revenue from other natural resources, and funds from any other source. The bill is still undergoing internal review and stakeholder consultations. The fund will have the triple goal of shielding the economy from cyclical changes in commodity prices, saving for future generations, and supporting infrastructure investment. According to the working draft of the bill, "Investments shall be directed to both local and foreign markets except to the extent restricted under this Act or under the investment Guidelines."

The Kenya Information and Communications Act (2009) provides for the establishment of a Universal Service Fund (USF). The purpose of the USF is to fund national projects that have significant impact on the availability and accessibility of ICT services in rural, remote, and poor urban areas. The USF has amassed sizeable assets, but to date, the fund and its managing committee have not been able to mobilize it for use on any project.

State-Owned Enterprises

In 2013, the Presidential Task Force on Parastatal Reforms (PTFPR) published a list of all state-owned enterprises (SOEs) and recommended proposals to reduce the number of State Corporations from 262 to 187 in order to eliminate redundant functions between parastatals, close or dispose of non-performing organizations, consolidate functions wherever possible, and reduce the workforce; however, progress is slow. The taskforce's report can be found online. In general, competitive equality is the standard applied to private enterprises in competition with public enterprises. Certain parastatals, however, have enjoyed preferential access to markets. Examples include Kenya Reinsurance, which enjoys a guaranteed market share; Kenya Seed Company, which has fewer marketing barriers than its foreign competitors; and the National Oil Corporation of Kenya (NOCK), which benefits from retail market outlets developed with government funds. Some state corporations have also benefited from easier access to government guarantees, subsidies, or credit at favorable interest rates. In addition, "partial listings" on the Nairobi Securities Exchange offer parastatals the benefit of financing through equity and GOK loans (or guarantees) without being completely privatized.

On procurement from the private sector, SOEs are guided by the Public Procurement (Preference and Reservations) (Amendment) Regulations (2013). The amendment reserves 30 percent government supply contracts for youth, women, and SMEs.

Kenya is neither party to the Government Procurement Agreement (GPA) within the framework of the World Trade Organization (WTO) nor an Observer Government.

Privatization Program
Kenya is not currently pursuing privatization.

Responsible Business Conduct

The Environmental Management and Coordination Act (1999) establishes a legal and institutional framework for the management of the environment while The Factories Act (1951) safeguards labor rights in industries. The legal system, however, has remained slow to prosecute corporate malfeasance in both areas.

The GOK does not have laws or regulations encouraging Corporate Social Responsibility (CSR) for fear of discouraging investment. It is not an adherent to the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, and it is not yet an Extractive Industry Transparency Initiative (EITI) implementing country or a Voluntary Principles Initiative signatory. Nonetheless, good examples of CSR abound as major foreign enterprises drive CSR efforts by applying international standards relating to human rights, business ethics, environmental policies, community development, and corporate governance.

Corruption

Corruption in Kenya is pervasive and entrenched. Transparency International's (TI) 2016 Global Corruption Perception Index ranks Kenya 145 out of 176 countries, six places lower than 2015. Lack of political will, little progress in prosecuting past corruption cases, and the slow pace of reform in key sectors were reasons cited for Kenya's chronic low ranking. Corruption is an impediment to FDI with local media reporting on allegations of high-level corruption related to health, energy, ICT, and infrastructure contracts. There are many reports that corruption often influences the outcomes of government tenders in Kenya, and U.S. firms have had limited success bidding on public procurements.

According to the PricewaterhouseCoopers (PwC) *Global Economic Crimes Survey 2016*, 72 percent of the firms in Kenya reported incidences of asset misappropriation compared to the global average of 64 percent. Bribery was the second most prevalent form of economic crime in Kenya with 47 percent of the firms reporting incidents, representing the third highest rate of incidence globally. Finally, procurement fraud was the third most prevalent economic crime reported in Kenya, with 37 percent of the respondents having experienced procurement fraud in the last two years, against a global average of 23 percent.

Kenyan law provides for criminal penalties for official corruption but no top officials were prosecuted successfully for corruption in 2016. Relevant legislation and regulations include the Anti-Corruption and Economic Crimes Act (2003), the Public Officers Ethics Act (2003), the Code of Ethics Act for Public Servants (2004), the Public Procurement and Disposal Act (2010), the Leadership and Integrity Act (2012), and the Bribery Act (2016). In September 2016, a new Access to Information Act (2016) went into force, providing additional mechanisms through which private citizens can obtain information on government activities; implementation of this act is ongoing. The Ethics and Anti-Corruption Commission (EACC) monitors and enforces compliance with the above legislation.

The government made modest progress in 2016 implementing elements of President Kenyatta's November 2015 anticorruption strategy. In December 2016, the new private sector-supported Bribery Act (2016) went into effect stiffening penalties for corruption in public tendering and requiring private firms participating in such tenders to sign a code of ethics and develop measures to prevent bribery. A multi-agency team launched in January 2016 by the Attorney General resulted in better coordination between law enforcement agencies on corruption cases.

Kenya is a signatory to the UN Convention Against Corruption (UNCAC), and in March 2016 published the results of a peer review process on UNCAC compliance. Kenya is also a signatory to the UN Anticorruption Convention and the OECD Convention on Combatting Bribery, and a member of the Open Government Partnership. Kenya is not a signatory to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. Kenya is also a signatory to the East African Community's Protocol on Preventing and Combating Corruption.

Resources to Report Corruption
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Political and Security Environment

Anxiety and speculation about political violence around the national elections in August 2017 has grown over the last year. Protests in Nairobi during May and June 2016 over the composition and authorities of Kenya's national elections commission were characterized by violence on the part of both protesters and police, resulting in at least five deaths. Various stakeholders continue to work to mitigate tensions and issues that have in Kenya's past led to electoral violence. Ethnically-charged political violence accompanied the 2007 election, resulting in approximately 1,200 deaths and the displacement of more than 300,000 people. Property damage was in the millions of dollars, and GDP growth dropped to 0.2 percent in 2008 before increasing to 3.3 percent in 2009 and 8.4 in 2010. Kenya's current constitution was approved in 2010 in a violence-free referendum, and elections in 2013 were relatively peaceful.

The United States maintains a travel warning for Kenya due to the threat of terrorism and crime. Instability in Somalia has heightened security concerns and led to increased security measures aimed at businesses and public institutions around the country. Tensions flare occasionally within and between ethnic communities. A severe drought afflicting Kenya has caused increased conflict between landowners and herders searching for water and grazing

lands in several areas of the country. Regional conflict, most notably in Somalia and South Sudan, sometimes have spill-over effects in Kenya. There could be an increase in refugees escaping drought and instability in neighboring countries, adding to the large refugee population already in Kenya from several countries. Security expenditures represent a substantial operating expense for businesses in Kenya.

Kenya and its neighbors are working together to mitigate the threats of terrorism and insecurity through African-led initiatives such as the African Union Mission in Somalia (AMISOM) and the nascent Eastern African Standby Force (EASF). Despite attacks against Kenyan forces in Somalia, the Government of Kenya has maintained its commitment to promoting peace and stability in Somalia.

Labor Policies and Practices

Kenya has not officially published complete labor statistics since 2009. Official and non-official reporting cites a 40 percent unemployment rate from the 2009 KNBS census, with unemployment and underemployment for youth approaching much higher levels. Employment in Kenya's formal sector was 2.6 million in 2015, an increase of 4.5 percent from 2014. Average wages for the formal sector are KSh 604,255 (approximately $6,000) annually. The government is the largest employer in the formal sector, with an estimated 718,400 government workers in 2015. Agriculture, forestry, and fishing employ 337,000 workers, and manufacturing employs 295,400 workers. Kenya's large informal sector, however, makes accurate labor reporting difficult.

Kenya's labor laws comply, for the most part, with internationally recognized standards and conventions, and the Ministry of EAC, Labor, and Social Protection is currently reviewing and ensuring that Kenya's labor laws are consistent with the 2010 constitution. The Labor Relations Act (2007) provides that workers, including those in export processing zones (EPZs), are free to form and join unions of their choice. The law permits workers in collective bargaining disputes to strike but requires the exhaustion of formal conciliation procedures and seven days' notice to both the government and the employer. Anti-union discrimination is prohibited, and the government does not have a history of retaliating against striking workers. The law provides for equal pay for equal work. Regulation of wages is part of the Labor Institutions Act (2014), and the government has established basic minimum wages by occupation and location.

The government also continued to implement a range of programs for the elimination of child labor with dozens of partner agencies, and has actively pursued the elimination of forced labor. However, extremely low salaries and the lack of vehicles, fuel, and other resources make it very difficult for labor inspectors to do their work. Employers in all sectors routinely bribe labor inspectors to prevent them from reporting infractions, especially in the area of child labor. The Labor Commissioner's Report for 2014 notes that "under-staffing and in particular of technical officers (inspectorate staff) has affected efficient delivery of services."

Work permits are required for all foreign nationals intending to work in Kenya. International companies have complained that the visa and work permit approval process is slow and sometimes bribes are solicited to speed up the process. In 2015, the Directorate of Immigration Services made administrative additions to the list of requirements for work permits and special passes applications. Recent policy changes also mandate assured income of at least $24,000 annually for the issuance of a work permit. However, firms in agriculture, mining, manufacturing, or consulting sectors can avoid this with a special permit.

A company holding an investment certificate granted by registering with KenInvest and passing health, safety, and environmental inspections becomes automatically eligible for three class D entry permits for management or technical staff and three class G, I, or J permits for owners, shareholders, or partners.

OPIC and Other Investment Insurance Programs

In 2016, the U.S. Overseas Private Insurance Corporation (OPIC) established a regional office in Nairobi. The agency is engaged in funding programs in Kenya with an active in-country portfolio of approximately $700 million, including projects in power generation, internet infrastructure, light manufacturing, and education infrastructure. Notable projects include the $310 million financing for the expansion of Nevada-based Ormat's geothermal plant, the $72 million financing of Wanachi's expansion of fiber optic internet service, and $4.1 million to expand Mawingu Network's last mile internet access program, among others. Going forward, OPIC currently has an active pipeline of approximately $600 million in new projects including transactions in the energy, education, and financial service sectors.

Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Host Country Statistical Source		**USG or International Statistical Source**		**USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other**
Economic Data	**Year**	**Amount**	**Year**	**Amount**	
Host Country Gross Domestic Product (GDP) ($M USD)	2015	$63,400	2015	$63,400	World Bank
Foreign Direct Investment	**Host Country Statistical Source**		**USG or International Statistical Source**		**USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other**
U.S. FDI in partner country ($M USD, stock positions)	N/A	N/A	2015	$323	BEA
Host country's FDI in the United States ($M USD, stock positions)	N/A	N/A	2015	$-10	BEA

Total inbound stock of FDI as % host GDP	N/A	N/A	2015	0.5 %	N/A

Table 3: Sources and Destination of FDI

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations (U.S. Dollars, Millions)					
Inward Direct Investment			**Outward Direct Investment**		
Total Inward	3,885	100%	Total Outward	803	100%
U.K	1,086	28%	Uganda	395	49%
Mauritius	675	17%	Mauritius	293	37%
Netherlands	652	17%	South Africa	52	6%
France	315	8%	Mozambique	37	5%
South Africa	309	8%	Italy	12	2%
"0" reflects amounts rounded to +/- USD 500,000.					

Source: IMF Coordinated Direct Investment Survey (CDIS). Figures are from 2012 (latest available). IMF no longer publishes Kenya data as part of its CDIS.

Table 4: Sources of Portfolio Investment

Portfolio Investment Assets								
Top Five Partners (Millions, US Dollars)								
Total			**Equity Securities**			**Total Debt Securities**		
All Countries	3,885	100%	All Countries	2,817	100%	All Countries	833	100%
U.K.	1,086	27%	U.K	974	35%	Netherlands	353	42%
Mauritius	675	17%	Mauritius	618	22%	France	174	21%
Netherlands	652	17%	Netherlands	299	11%	U.K.	112	13%
France	315	8%	South Africa	290	10%	Mauritius	57	7%
South Africa	309	8%	Germany	181	6%	Switzerland	55	7%

Source: IMF Coordinated Portfolio Investment Survey (CPIS). Figures are from 2012 (latest available). IMF no longer publishes Kenya data as part of its CPIS

Contact for More Information

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U.S. Department of Agriculture
Foreign Agricultural Service
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Tel: +254 (20) 363-6000 (x6413); fax: +254 (20) 363-6349
Contact: Kevin Sage-EL, Agricultural Affairs Counselor
Email: kevin.sage-EL@fas.usda.gov

Foreign Agricultural Service
Trade Assistance and Promotion Office
Tel: (202) 720-7420; fax: (202) 720-7772

Export-Import Bank (EXIM)
811 Vermont Avenue, N.W, Washington, D.C. 20571
Tel: (202) 565-3946 or 1-800-565-EXIM; fax: (202) 565-3380
Contact: Benn Todd

Overseas Private Investment Corporation (OPIC)
1100 New York Avenue, N.W, Washington, D.C. 20527
Contact Nairobi: Samuel Suresh
Email: Suresh.Samuel@opic.gov

Market Research
To view market research reports produced by the U.S. Commercial Service please visit Country and Industry Market Reports.

Please note that these reports are only available to U.S. citizens and U.S. companies. Registration to the site is required and free.

Trade Events
Please click on the link below for information on upcoming trade events.
US Commercial Services
International Buyer Program

Trade and Project Financing

Methods of Payment

Differences in business practices from country to country include export financing. Prior to exporting, U.S. firms are strongly advised to discuss best practices and transaction details with an experienced international bank familiar with Kenya. U.S. firms are also strongly advised to determine the range of financing offered by competitors.

There are several basic methods of receiving payment for products sold in Kenya, the selection of which is usually determined by the degree of trust in the buyer's ability to pay. Payment alternatives that U.S. exporters might consider, in order of the most secure to the least-secure include:

1. Cash in advance (confirmed wire transfer or check after depositing and clearing);
2. Confirmed irrevocable letter of credit (if concerned about the importer and international standing of his/her bank);
3. Irrevocable letter of credit (if concerned only about the reliability of the importer);
4. Documentary drafts for collection (checks drawn on the importer's bank);
5. Open account; and
6. Consignment sales

As a general rule, U.S. exporters selling to Kenya for the first time are advised to transact business only on the basis of cash-in-advance or an irrevocable letter of credit confirmed by a recognized international bank. Any other form of payment carries a high level of risk. The establishment of the African Trade Insurance Agency (ATI) in 2001 strengthened and increased foreign trade by providing cover against non-commercial risks such as war, trade embargoes, expropriation, and seizure of goods. ATI has support from the International Development Association – an arm of World Bank – and offers insurance at lower costs than most private, commercial insurers. Since 2003 ATI has supported over $ 13 billion worth of trade and investments across the continent, secured an investment grade rating of 'A' from Standard & Poor's, and expanded membership to more than a dozen African countries. With Standard & Poor's "A/Stable" credit rating, U.S. exporters can take cover from ATI for their sales to Kenyan and other African countries.

The Commercial Service section at the U.S. Embassy in Nairobi can provide background and credit-risk information on Kenyan individual or firm. The section can also recommend local companies that provide U.S. exporters with credit information and the bona fides of potential Kenyan importers on a commercial basis.

Banking Systems

The financial sector includes the Central Bank of Kenya (CBK) the primary regulator of the banking industry; 28 domestic and 14 foreign commercial banks with branches, agencies, and other outlets throughout the country; one mortgage finance company; eight representative offices of foreign banks; eleven licensed deposit taking microfinance institutions; 49 insurance

companies; the Post Office Savings Bank with a large network of branches around the country; 79 foreign exchange (forex) bureaus; three licensed credit reference bureaus, 14 money remittance providers and about 200 deposit-taking licensed savings and credit cooperative organizations (SACCOs) with a membership of over 3 million Kenyans. However, the banking sector is essentially dominated by four major commercial banks, namely Equity Bank, Kenya Commercial Bank, Barclays Bank of Kenya and Standard Chartered. In addition smaller banks have emerged and experienced tremendous growth in recent years.

More than 10 Kenyan banks—including Kenya Commercial Bank, Commercial Bank of Africa, Equity Bank and Bank of Africa—have subsidiaries operating in the East Africa Community and South Sudan. Increasing access to finance has been abridged with the use of innovation such as agent banking, which allows commercial banks and Deposit-Taking Microfinance (DTM) institutions to engage the services of third party outlets to deliver specified financial services on their behalf.

With the advent of mobile money and its recent linkages to the formal banking system, however, the number of Kenyans with access to electronic financial services has grown rapidly. Customers have also increased the use of bank platforms through a wide array of services. Mobile money platforms have been used to offer medical insurance, microloans, transfer money to a pre-paid credit card, and even to pay parking, electricity, and water bills.
Kenya's capital markets have also continued to expand. While treasury bills and bonds dominate the market for short-term securities there is only light trading in commercial paper. However, the sector has seen increased activity via issuances of corporate bonds and the establishment of collective investment schemes (unit trust, investment clubs, mutual funds and employer share ownership plans), asset-backed securities and venture capital funds.

U.S. investors, who consider extending short term financing to Kenyan businesses, should exercise caution in evaluating repayment risk. Possession of an audited financial statement and an attractive credit rating does not necessarily mean that debt will be repaid.

Foreign Exchange Controls
Kenya repealed all exchange control laws in 1993, and has moved to a fully market-determined exchange rate system. There are no controls on foreign exchange, and this policy has attracted short-term capital inflows.

The Central Bank of Kenya licenses foreign exchange bureaus, which were introduced in 1995 to enhance efficiency in the forex market. Only the following capital transactions have foreign exchange restrictions:

1. Investment by foreigners in shares (set in July 2002 at not more than 75 percent for both companies and individuals on shares traded on the NSE); and
2. Investments by Kenya residents outside Kenya exceeding US$500,000 must be approved by the Central Bank through the facilitating bank.

Residents and non-residents are permitted to buy or sell foreign exchange, without restriction, to and from authorized dealers up to the equivalent of US$10,000. Amounts exceeding this limit require documentation to show the purpose for the transaction. This is, however, primarily only for administrative recording by the Central Bank of Kenya. In December 2009, the GOK assented to the Anti-Money Laundering (AML) Bill, which came into effect in June 2010. The enactment of this AML law has been lauded as a positive move by Kenya's bankers and financial representatives, who see it as a major step in the fight against money laundering in the country and region given Kenya's unfortunate position as a base or transit point for money laundering activities.

Exporters may retain all their export proceeds in foreign currency accounts with local banks, or sell such proceeds to obtain local currency. Residents may borrow abroad with no limit on the amount; however, the government will not guarantee any borrowing by the private sector. Although payments under technical, management, royalty, and patent fees are freely remittable, relevant agreements and renewals are subject to approval.

Persons leaving or entering Kenya are permitted to take from or bring into the country up to KSh500,000 of Kenyan currency and a foreign currency equivalent to a maximum of US$6,250 without duty. Amounts beyond these limits may be taken out or brought into the country provided they are declared at the point of departure or entry.

The foreign exchange market has remained stable even as the global markets were volatile due to narrowing current account deficit with improved exports, strong diaspora remittances, and a lower oil import bill.

US Banks and Local Correspondent Banks

Almost all major commercial banks in Kenya have either direct or indirect correspondent offices in London and the U.S. They include the following:

- Bank of Africa
- Bank of Baroda
- Bank of India
- Barclays Bank of Kenya
- Citibank
- Commercial Bank of Africa (CBA)
- Guaranty Trust (GT) Bank (formerly Fina Bank)
- Habib Bank A.G. Zurich
- Habib Bank Ltd
- Kenya Commercial Bank
- Dubai Bank
- National Bank of Kenya
- Stanbic Bank
- Standard Chartered Bank
- Equity Bank

- Family Bank
- United Bank of Africa (UBA) Kenya
- Ecobank

Project Financing

Each year Kenya receives financing assistance from donors, focused more on capacity building than commercial projects. There are three sources of external assistance: multilateral, bilateral, and Private Voluntary Organizations (PVOs). The first category can further be divided into United Nations Organizations and non-United Nations multilateral institutions. Bilateral donors lead in provision of project financing, followed by multilaterals and PVOs.

The largest overall multilateral donor is the World Bank. During the period FY14-FY18, the World Bank Group plans to invest over $1 billion a year in Kenya, mainly through the International Development Association (IDA), the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA). The current IDA portfolio amounts to $ 5.5 billion in 27 national projects ($4.2 billion) and six regional projects ($1.3 billion).this includes new commitment of $200million in Kenya Devolution Support Program for results approved on March 2016. The projects are mainly focused in infrastructure (transport, energy, water and telecommunications), urban, health, public sector management and social protection.

The private lending arm of the World Bank, IFC supports Kenya's private enterprises through direct investments, advisory services and mobilizing capital from global financiers. To date, IFC has invested $1 billion in agribusiness, infrastructure, financial markets, health and education in Kenya. IFC's private sector clients and partners are tackling pressing development challenges, such as access to power, healthcare and food. It has invested in a wide range of companies, including Kenya Airways, Bridge International Academies, National Cement, AAR Healthcare, Faulu Kenya and Vegpro.

MIGA is providing investment guarantees of $302 million in support of projects in Kenya's infrastructure, power, agribusiness and service sectors. It is working closely with the Bank and IFC to help leverage financing for the construction of privately operated power plants to diversify Kenya's energy mix in line with the government's least cost power development plan. These projects insured by MIGA include an 84 megawatt private geothermal plant and an 87 megawatt heavy fuel oil plant supported by partial risk guarantees of $166 million. MIGA is also receiving increasing interest from other investors and sectors in the country.

For the list of active World Bank-funded projects please visit the World Bank.

Another multi-lateral donor that is active in Kenya is the African Development Bank (AfDB). The AfDB is a financial provider to African governments and private companies investing in the regional member countries (RMC). The primary function of AfDB is making loans and equity investments for socio-economic advancement of the RMC. The Bank also provides technical assistance for development projects and programs, promotes investment of public

and private capital for development and assists in organizing the development policies of RMCs.

Since 1967, total AfDB lending to Kenya in terms of loans and grant approvals amounts to $3.22 billion. For more information on opportunities for projects funded by AfDB, U.S. firms should visit online.

The Overseas Private Investment Corporation (OPIC) is the U.S. Government's development finance institution. It mobilizes private capital to help solve critical development challenges and in doing so, advances U.S. foreign policy. Because OPIC works with the U.S. private sector, it helps U.S. businesses gain footholds in emerging markets, catalyzing revenues, jobs and growth opportunities both at home and abroad. OPIC achieves its mission by providing investors with financing, guarantees, political risk insurance, and support for private equity investment funds. To date, OPIC has supported more than $200 billion of investment in over 4,000 projects, generated an estimated $76 billion in U.S. exports and supported more than 278,000 American jobs.

The Export-Import Bank of the United States (Ex-Im Bank) is the official export credit agency of the United States. Ex-Im Bank's mission is to assist in financing the export of U.S. goods and services to international markets including Kenya. Ex-Im Bank provides working capital guarantees (pre-export financing); export credit insurance; and loan guarantees and direct loans (buyer financing). Ex-Im Bank has done structured transactions such as multiple-country fiber-optic cable, oil and gas projects, air traffic control, telecommunications and manufacturing entities. With 80 years of experience, Ex-Im Bank has supported more than $567 billion of U.S. exports, primarily to developing markets worldwide. Ex-Im Bank's largest exposure in Kenya is mainly with Kenya Airways, through its support for the latter's procurement of Boeing aircrafts.

Web Resources

Ministry of National Treasury
Export-Import Bank of the United States
Country Limitation Schedule
Overseas Private Investment Corporation
Trade and Development Agency
Small Business Administration's Office of International Trade
USA Commodity Credit Corporation
U.S. Agency for International Development
Capital Markets Authority
Nairobi Securities Exchange
United Nations Organization
African Trade insurance Agency
Central Bank of Kenya
Africa Development Bank
International Finance Corporation

World Bank
News Time Africa

Business Travel

Business Customs

Within the context of Kenya's political and business culture, which differs in many respects from those of the U.S., the U.S and Kenya have enjoyed a stable relationship for many decades. The principles of customary business courtesy, especially replying promptly to requests for price quotations and orders, are a prerequisite for exporting success. In general, Kenyan business executives are sophisticated, informal, and open. The use of first names at an early stage of a business relationship is acceptable. Friendship and mutual trust are highly valued, and once an American has earned this trust, a productive working relationship can usually be obtained.

Kenyan firms have significant expertise in international business due to the competitive market, an increasing international experience and a growing prevalence of expatriated Kenyans doing business in U.S. who then return to home (Kenya) to live and work. Kenyan buyers appreciate quality and service, and, if justified, are willing to pay a premium if they are convinced of a product's overall superiority. The market, however, remains very price sensitive. It is not common to receive an inquiry to compare prices among suppliers. Care must be taken to ensure that delivery dates are closely adhered to and that after-sales service is promptly honored. While it is natural to assume the client understands the product well, it is important to communicate any known limitations or variations from similar products in the market to reduce the chances of misunderstandings, or failed business relationship.

As there are numerous factors that may interfere with prompt shipment, U.S. exporters should allow for additional shipping time to Kenya and ensure the Kenyan buyer is continuously updated on changes in shipping schedules and routing. Since Kenyan wholesalers and retailers generally do a lower volume of business than their American counterparts, U.S. firms should be prepared to sell smaller quantities than is normal in the U.S. It is recommended to have on your contact list, consolidators who could potentially fulfill shipment of smaller orders by consolidating them with other shipments destined for Kenya. Experience in shipping to Kenya would be necessary when selecting such firms.

U.S. firms should maintain close contact with distributors and customers to exchange information and ideas. Local distributors/representatives can serve as an excellent source of local market information and as appraisers of product market acceptance. In most instances, mail, fax, or telephone communications are sufficient, but the understanding developed through periodic personal visits is the best way to keep distributors apprised of new developments and to resolve problems quickly. Prompt acknowledgment of correspondence by fax or e-mail is mandatory.

If the market size and demand warrants, U.S. marketers should consider warehousing in Kenya for speedy supply and service of customers. Local assembly of complete knock down kits, especially for electrical and electronic goods has an import duty advantage. As would be the case in most markets, vigorous and sustained promotion is often needed to launch products.

Products must be adapted to both technical requirements and to consumer preferences, as well as to meet Government of Kenya (GOK) regulations.

The GOK wants to ensure that all imports conform to the stipulated technical specifications; any flaws detected could result in the withdrawal of the product from the market, prosecution of the manufacturer and the retailer/importer, or both. It is not sufficient to merely label a product in conformity with national requirements to achieve successful market penetration. Consumers must be attracted to the product by the label and packaging as well as ease of use. Where possible, a website detailing product value, features, dimensions and shipping weight would be an added advantage. It is more common now for Kenyan buyers to undertake a due diligence or search online for more information on products.

Travel Advisory

The U.S. maintains a Travel Warning on Kenya due to the threat of terrorism and violent crime. For information on the travel advisory, which keeps most recent advice concerning a country, please visit US Passports & International Travel.

Visa Requirements

As of 2011, the fee is $50 for single-entry visas, and $100 for multiple-entry visas, $20 for transit visas and an administrative fee for referred visa of $10. This applies to each applicant regardless of age, and whether obtained in advance or at the airport. Evidence of yellow fever immunization may be requested, and some travelers have been turned around at immigration for not having sufficient proof of immunization. Travelers to Kenya and neighboring African countries should ensure that the validity of their passports is at least six months beyond the end of their intended stay. Kenyan immigration authorities require a minimum of two blank (unstamped) visa pages in the passport to enter the country; some travelers have experienced difficulties when they arrive without the requisite blank pages. Travelers should make sure there are sufficient pages for visas and immigration stamps to enter into Kenya and other countries to be visited en route to Kenya or elsewhere in the region.

Travelers may obtain the latest information on visas as well as any additional details regarding entry requirements from the Embassy of Kenya, 2249 R Street NW, Washington, DC 20008, telephone (202) 387-6101, or the Kenyan Consulates General in Los Angeles and New York City. Persons outside the United States should contact the nearest Kenyan embassy or consulate.

If you are going to live in or travel to Kenya, please take the time to tell us about your trip by enrolling in the Smart Traveler Enrollment Program.

Telecommunications

Kenya has a well-developed telecommunications infrastructure that is reliable and affordable. The three primary mobile networks in Kenya are Safaricom, Airtel, and Telkom Kenya.

Roaming and international calling charges in East Africa are generally higher than those in Asia and Europe.

Wi-Fi service in the country is readily available with Wi-Fi hotspots available in major shopping malls, restaurants, salons, and even in some public transport vehicles.

Transportation

Taxis and rental automobiles are available in large towns and cities. Traffic moves on the left-hand side of the road. For safety reasons, visiting American business executives should not use the informal "matatu" bus system or trains. If possible, taxis should be hired via concierge services at hotels or through reputable travel agents.

Kenya has two major international airports: Jomo Kenyatta International Airport (JKIA) in Nairobi and Moi in Mombasa. Taxis are available at the airport, and we would recommend getting a taxi from the various Taxi companies with an office outside the arrivals.

Language

The official languages of Kenya are English and Kiswahili. However, many different languages and dialects are spoken throughout the country. The commercial language is English. Language barriers pose few problems, but in legal documents it is important to have lawyers who can interpret distinctions between American English and Kenyan English.

Health

Useful information on medical emergencies abroad, including overseas insurance programs, is provided in the Department of State's Bureau of Consular Affairs brochure, Medical Information for Americans Traveling Abroad, available via the Bureau of Consular Affairs.

Information on vaccinations and other health precautions may be obtained from the Centers for Disease Control and Prevention's international travelers hotline at telephone: 1-877-FYI-TRIP (1-877-394-8747); fax: 1-888-CDC-FAXX (1-888-232-3299), or by visiting the CDC home page.

The U.S. Embassy's Consular Section can provide visitors with a list of qualified local physicians and pharmacies.

U.S. medical insurance is not always valid outside the United States. U.S. Medicare and Medicaid programs in particular do not provide payment for medical services outside the United States. Physicians and hospitals expect immediate cash payment for health services. You must pay for your hospital or clinic bill before you leave the facility. Uninsured travelers who require medical care overseas may face serious financial difficulties.

Visitors should check with insurance companies to confirm whether their policies apply

overseas, and include medical evacuation for adequacy of coverage. Serious medical problems requiring hospitalization or medical evacuation to the U.S. can cost thousands of dollars. Visitors should ascertain whether payment will be made to the overseas hospital or doctor, or whether they will be reimbursed later for expenses they incur.

Local Time, Business Hours, and Holidays

Most of the year, Kenya is UTC/GMT +3, or three hours ahead of London and eight hours ahead of Eastern Standard Time.

A 40-hour workweek is the norm for offices and factories. Typical office working hours are 8:00 a.m. to 5:00 p.m. with lunch from 1:00 p.m. to 2:00 p.m. Banking hours are from 9:00 a.m. to 3:00 p.m. Most retail stores are open from 9:00 a.m. to 6:00 p.m. There are several supermarkets that are open 24hrs, and most shopping malls will have some shops open till 8pm.

The following are the official statutory holidays when most commercial offices are closed:

New Year's Day	January 1
Good Friday	April 18
Easter Monday	April 21
Labor Day	May 1
Madaraka Day	June 2
Id-Ul-Fitr	July 28*
Mashujaa Day	October 20
Jamhuri Day	December 12
Christmas Day	December 25
Boxing Day	December 26

**Subject to confirmation by the Chief Kadhi*

Temporary Entry of Materials and Personal Belongings

Kenyan law limits the period of temporary importation to be consistent with the purposes for which goods have been imported. For instance, the temporary importation period for goods imported for exhibition purposes shall be limited to the period of the exhibition. However, the Minister for Finance may extend the period of temporary importation beyond twelve months upon application depending on the merit of each case. Such extensions are best requested before the expiry date to avoid inconvenience.

Web Resources

American Citizens Registration Form
Bureau of Consular Affairs
Consular Information Sheet for Kenya
Centers for Disease Control
State Department Visa Website
Superintendent of Documents
U.S. Government Printing Office

Guide to Our Services

The President's National Export Initiative marshals Federal agencies to **prepare U.S. companies to export successfully**, **connect them with trade opportunities** and **support them once they do have exporting opportunities**.

The U.S. Commercial Service offers customized solutions to help U.S. exporters, particularly small and medium sized businesses, successfully expand exports to new markets. Our global network of trade specialists will work one-on-one with you through every step of the exporting process, helping you to:

Target the best markets with our world-class research
Promote your products and services to qualified buyers
Meet the best distributors and agents for your products and services
Overcome potential challenges or trade barriers
Gain access to the full range of U.S. government trade promotion agencies and their services, including export training and potential trade financing sources

To learn more about the Federal Government's trade promotion resources for new and experienced exporters, please visit US Commercial Services

U.S. exporters seeking general export information/assistance or country-specific commercial information can also contact the **U.S. Department of Commerce's Trade Information Center** at **(800) USA-TRADE).**

To the best of our knowledge, the information contained in this report is accurate as of the date published. However, **The Department of Commerce** does not take responsibility for actions readers may take based on the information contained herein. Readers should always conduct their own due diligence before entering into business ventures or other commercial arrangements. **The Department of Commerce** can assist companies in these endeavors.