Doing Business In Kenya 2008: A Country Commercial Guide for U.S. Companies

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Chapter 1: Doing Business In Kenya

Market Overview

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Kenya is the most developed economy in Eastern Africa. With a nominal 2006 gross domestic product (GDP) of USD 22.8 billion, it is also the economic, commercial, and logistical hub of the entire region. Kenya's estimated population is 36.9 million.

Kenya enjoys an extensive (if uneven) infrastructure, a large portion of the population that is extraordinarily well educated, English-speaking, and multi-lingual, and a strong entrepreneurial tradition. It is also a very young country with almost 50% of Kenya's population under the age of 15. An estimated 46% of the population lives below the poverty line, and the country's GDP per capita is approximately USD 478.

Kenya's key economic challenge is to increase its real GDP growth rate. Sustained, significant economic growth is essential if Kenya is to address its high unemployment rate (officially about 10.5%) and widespread poverty. Achieving high growth, however, will depend on improved economic governance and greater economic reform.

Kenya's strengths include its human resources, natural assets, and strategic location. The economy registered highly respectable growth rates of 4.9%, 5.8% and 6.1% in 2004, 2005, and 2006 respectively. In 2007, the economy is believed to have grown at 7%, but political unrest following a disputed Presidential election will likely have brought growth down in 2008. The government has taken steps to enhance Kenya's economic competitiveness and democracy is flourishing. The country continues to face challenges associated with corruption, tribal tensions, title to land, insecurity, and poverty.

In May 2003, the government enacted two anti-corruption laws, partially satisfying requirements for the resumption of IMF and World Bank programs. In August 2005, Parliament passed a Privatization Act and a Public Procurement and Disposal Act. The government suffered a major credibility gap in February 2005 following the resignation of John Githongo, the head of the President's Anti-Corruption Office and Permanent Secretary for Governance and Ethics. The vacancy has not been filled to date, sending wrong signals both to investors and business people on the government's commitment to fight graft.

The average annual inflation rate was 10.3 percent in 2005 and increased to 14.5 percent in 2006. In the first eight months of 2007, average annual inflation rate was 9 percent – the rate for the full year is not expected to have exceeded 12%. The increase in overall inflation is due to the impact of dry weather conditions on food production in the first half of the year and higher fuel and power costs. Kenya continues to run a current account deficit, which has been offset to some degree by donor assistance and private investment.

Nairobi is the undisputed 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 stubborn deficiencies in equipment, inefficiency, and petty corruption.

Kenya's financial and manufacturing industries, while relatively modest, are far and away the most sophisticated in Eastern Africa. Its tourism industry, already one of the most successful in the world, continues to expand. While Kenya's mineral resources are limited, it is attractive as a potentially important source of valuable materials such as titanium, and at present significant sums are being invested in searches for oil off the Indian Ocean coast.

Kenyan Imports	2004	2005	2006
USA	181.9	562.4	526.0
EU	1,099.1	1,237.6	1,591.0
COMESA	184.0	204.0	240.4
Middle East	1,291.6	1,413.7	1,664.5
Total	4,597.2	5,701.4	7,416.0

The agricultural sector is the largest employer in Kenya. The country's major exports are tea, coffee, cut flowers, and vegetables. Tea exports, traditionally Kenya's largest single foreign exchange earner, fell to third place behind tourism and horticulture in both 2005 and 2006. Tea exports in 2006 netted the country USD 656.7 m, up 17% from 2005. Horticulture earned the country USD 677 million in 2006, a rise of 15% over 2005.

Tourism, grossing USD 803 million in 2006, is now Kenya's largest foreign exchange earner. Tourist arrivals in the first nine months of 2007 increased by 13.3% from the same period a year previously, and generated 22.4% of Kenya's earnings in 2006. Growth was due in part to better marketing in key European, U.S., and Asian markets. While Europe remains the largest and most important source of tourists for Kenya, U.S. tourist arrivals in 2006 were up 21% in the first nine months of 2007.

Kenya's volume of trade increased by 9.8% in 2006 compared to 2005. Significant increases in exports were recorded in horticulture, tea, coffee, iron and steel products, and cement, articles of apparel and clothing accessories, which combined accounted for almost 60% of total export earnings in 2006. Export earnings increased to USD 3.48 billion from January to July 2007.

While exports grew by more than a third in 2006, Kenya's import bill grew by 27%. With export growth outpacing that of imports, merchandise trade deficits have trended downward year on year. The total import bill for Kenya in 2006 was USD 7.2 billion. The increase in value of merchandise imports was largely reflected in machinery and transport equipment, manufactured goods, chemicals and petroleum products.

U.S exports to Kenya fell 17.5%, but that figure is deceiving. Although aircraft exports fell by $214 million (50% lower than the previous year), growth in the other top 10 export items came close to compensating. AGOA garments represent over 70% of Kenyan exports to the U.S., although the share falls each year.

Kenyan Exports	2004	2005	2006
Tea	488	560	657
Horticulture	498	590	677
Tourism	391	648	780
Total	1,348	2,564	3,481
Exports to the USA	59.3	59.8	353.7

All figures in millions of USD
Exchange rate in this report:

2004 - 1 USD ~ Kenya shillings 79.3
2005 - 1 USD ~ Kenya shillings 75.55
2006 - 1 USD ~ Kenya shillings 72.1
2007 - 1 USD ~ Kenya shillings 68.0

Market Challenges

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Kenya is not a low cost economy. The cost of skilled, educated labor is high by developing world standards. A very large portion of the young population is relatively unskilled and subsists in an environment offering few opportunities. Skilled, educated labor is relatively abundant in comparison with neighboring countries. While Kenya's physical infrastructure is also superior in many cases to that of its neighbors, it remains rudimentary and a key obstacle to economic development. Investment over the next decade in roads, bureaucratic efficiency and reliability, competition regulation and the judicial system will determine if Kenya gains or loses ground compared with its neighbors.

Despite the price sensitivity of consumers and companies, there is little price competition in Kenya compared with many other fast-developing countries. This is both an opportunity and a challenge for a new investor or trader. It remains to be seen if Kenya's government will promote price competition to improve market efficiency. Absent regulatory action, it is very unlikely that competitors will choose to pursue market share by improving efficiency to lower costs, and thereby prices. There are too many opportunities for high margin new ventures.

The government has been unable to provide a secure environment for businesses and families, especially in urban settings. Property crime and violence are major concerns in the cities and another normally avoidable cost for companies.

Transparency International, which ranked Kenya 142 of 158 countries for two years in succession (2004 and 2005), ranked Kenya number 144 of 163 countries surveyed in November 2006. Problems exist particularly in land purchases and large government contracts, with relatively few problems company-to-company.

Kenya's people and private companies cannot rely on the judicial system to apply the law equitably, based solely on the merits of a case and the law that applies. Legal recourse is slow and expensive. Popular wisdom supposes that government decisions are often more closely related to the personal incentives affecting judges and bureaucrats than the letter of the law. While there are many honorable and honest judges and civil servants, on balance there is considerable cynicism about the objectivity of executive and judicial branch decisions. This is especially damaging to companies who refuse to pay bribes.

Widespread violations of intellectual property rights (IPR) for videos, music, software, and consumer goods continue to cause major problems for some U.S. firms. The uncontrolled entry of counterfeit, substandard goods has caused deaths and injured consumers, and severely damaged the brand names, sales and viability of many consumer packaged goods companies, both in Kenya and neighboring countries.

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 and perceived historical injustices, which Kenya's young democracy has been unable to resolve to date.

In mid-June 2007, the government unexpectedly reduced the threshold for foreign ownership of companies listed with the Nairobi Stock Exchange from 75 to 60 percent. Listed companies with foreign ownership above 60 percent constituted, as of late November 2007, a market capitalization of KSh 268.9 billion (just over USD 4 billion) or a third of the total capitalization of KSh 804 billion (about USD 12.5 billion).

Shipment times from the U.S. average eight weeks, and customs irregularities are not unusual. If market size warrants, U.S. firms should consider warehousing in Kenya for prompt supply and customer service.

On September 29, 2005 the Kenya Bureau of Standards (KEBS) implemented a Pre-shipment Verification of Conformity to standards program (PVoC). This is a conformity assessment and verification procedure applied to specific “Import Regulated Products” from exporting countries to ensure their compliance with the applicable Kenyan Technical Regulations and Mandatory Standards or approved equivalents (international standards and national standards). While not a show-stopper by any means, compliance in many cases has been problematic, time-consuming, and expensive (see next item).

The Government of Kenya (GOK) now requires that all consignments of regulated products entering Kenya must obtain a Certificate of Conformity (CoC) issued by one of two firms appointed by KEBS to enact the PVoC program: SGS (Société Générale de Surveillance S.A.) or Intertek. Exporting countries must now certify that goods comply with Kenya Bureau of Standards requirements prior to shipment. The issued certificate is a mandatory customs clearance document in Kenya; consignments of regulated products arriving at Kenyan Customs Points of Entry without this document will be subject to delays and possibly denial of admission into Kenya. In late November 2007 KEBS announced it would waive the CoC requirement on bulk agricultural commodities inspected and certified by USG inspection agencies such as the U.S. Department of Agriculture Federal Grain Inspection Service (FGIS) and Animal and Plant Health Inspection Service (APHIS).

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The demand for telephone receivers and cellular telephones is expected to continue growing at a high rate owing to the removal of all duties for these categories of products. Growth in Kenya’s mobile telephony sector since 1998 has been phenomenal (from just over 10,000 subscribers to about 11.2 million in 2007), and will continue to provide demand for telecommunication technologies. Contracts for fiber-optic cables to serve Kenya have been signed, which will precipitate a boom in fiber investment and internet services across the region. Best sales prospects in the short term include computers, data terminals, modems, payphone terminals, routers, broadband equipment, and VSAT equipment.

Tea and coffee are the country’s primary agricultural foreign exchange earners. Following closely is Kenya’s lucrative, flourishing, and rapidly growing floriculture sector, which generated USD 617 million in 2007. Kenya is the leading exporter of fresh cut flowers to the European Union and further growth is taking place in exports to Japan and the U.S. The following products offer best opportunities for U.S. exporters: tractors and parts, farm implements such as disc ploughs, harrows, planters, tractor trailers, combined harvesters, irrigation equipment, dairy processing equipment, processing and packaging equipment, and greenhouses.

The predominant role of agriculture in Kenya’s economy and strong growth in horticultural exports is driving increased demand for agricultural chemicals. The best sales prospects for U.S. exporters include fertilizers and pesticides. Half of all pesticides imported by Kenya are fungicides, 20% crop insecticides, 20% are herbicides, acaricides, rodenticides, and nematicides.

The most widely used fertilizer is di-ammonium phosphate (DAP), followed by nitrate potassium phosphate (NPP), single super phosphate (SSP), and calcium ammonium nitrate (CAN).

The Kenyan market preference for desktop computer systems is largely skewed towards P4 systems, with 512 MB of RAM, a 2.4 GHz or faster processor, 80 to 160 GB hard drive, onboard modem, PS/2.0 keyboard and 15" CRT monitor. Full multimedia ("FMM") is desired in the local market, but is not leading edge by developed world standards. Import and excise duties for digital processing machines (comprising at least a central processing unit and an input and output unit, HTS code: 8471.41.00) and peripherals were effectively zero-rated (16% VAT removed) in June 2006. Kenya's computer assembling business was dealt a major blow in 2004, however, when a 2.5% surcharge was introduced on units manufactured under the EPZ program and sold in the domestic market. This surcharge is being fought by local assemblers but has yet to be repealed.

In road and housing construction, important opportunities exist for U.S. exporters in 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.

Driven principally by demand from regional operators, business and tourism, there are attractive opportunities in the provision of aircraft and services for general and civil aviation. The World Bank has given Kenya a USD 12 million loan and the GOK will provide USD 3 million for the airport modernization. There is demand for direct investments and joint ventures in aircraft parts, maintenance, and equipment for domestic and regional markets include medium and heavy aircraft maintenance, assembly and fabrication of components, parts and sub-assemblies for aircraft communications, navigation and surveillance equipment, duty free importation of aircraft, aircraft spare parts, and jet fuel.

The U.S. government has dedicated large resources to assist Kenya in combating disease, including HIV-AIDs. A consequence has been improved interest in the U.S. medical products industry. One major U.S. manufacturer has already announced the construction of a factory in Kenya to build medical imaging equipment. Best sales prospects include CT scanners, ultrasound units, X-ray equipment, angiography, endoscopy, biochemistry, hematology, and immunology systems.

Although installed power generation capacity is relatively small by first-world standards, Kenya is the leading generator in Eastern Africa. Access to electricity in Kenya is only about 16%, with much of rural Kenya without any electrical power whatsoever. The national generator, KenGen, is soon to contract a financial advisor in an ambitious $ 1 billion multi-year investment program. The transmission network also requires significant investment to reduce system losses and expand national coverage. Best prospects for U.S. exporters include drilling rigs and associated equipment to tap geothermal sources, electric and electrical cables, transformers, electric meters, electric poles, and switchgear.

Demand for U.S. higher education remains extraordinarily high and many U.S. universities and colleges are adopting aggressive marketing strategies to tap into the market. Some of the major courses pursued by Kenyan students are business administration, IT, engineering, medicine and other health related courses.

Market Entry Strategy

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A traditional entry strategy is to first appoint an agent or stocking distributor, and when sales have grown sufficiently to enter on your own account. Kenya is one of the key logistical conduits into East Africa and a regional financial hub. Many foreign companies operating here have already taken the second step and entered in their own name to manage penetration of the larger, regional market.

Despite the relative advantages Kenya enjoys over many of its neighbors, it enjoys few such advantages over countries in other parts of the world. In other words, the management of commercial, political and legal risks are important competitive factors. When negotiating an agent or distributor agreement with a Kenyan counter-party, there are many dimensions to take into account. The Commercial Service strongly recommends that U.S. firms analyze the short-term incentives of a proposed agreement from the counter-party's perspective, and to assume that recourse under Kenyan law is either impractical or impossibly expensive. For example, agreement on what law governs a contract, the timing of payments and credit terms can form the foundation for negotiations on delivery quantities, price, shared marketing expense or training.

U.S. firms are encouraged to maintain close communication with distributors and customers to exchange information and ideas on market trends, opportunities, and strategies. The principles of customary business courtesy, especially replying promptly to requests for price quotations and orders, are a prerequisite for exporting success. Friendship and mutual trust are highly valued. There is no substitute for face-to-face contact, and the use of first names at an early stage of a business relationship is acceptable. Kenyan buyers appreciate quality and service, and will pay a premium if convinced of a product's overall superiority and the reliability of customer service. U.S. exporters should allow for additional shipping time to Kenya and ensure that Kenyan buyers are continuously updated on changes in shipping schedules and routing. It is much better to quote a later delivery date that can be guaranteed, than an earlier one that is not completely certain.

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Chapter 2: Political and Economic Environment

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

www.state.gov/r/pa/ei/bgn/2962.htm

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Chapter 3: Selling U.S. Products and Services

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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 generally speaking highly advisable for a U.S. company to retain such an agent or distributor resident in Kenya. If the product to be exported requires servicing, qualified service personnel and a reasonable supply of spare parts must be provided. Failure to address the issue of after-sales support and service is a major impediment to success in this market. To locate a local agent, distributor, or partner, U.S. business representatives should 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). Nominal fees are charged for these services. A complete list of USEACs may be found on www.export.gov. The Commercial Service at the U.S. Embassy in Nairobi also provides extensive counseling services for U.S. businesses and their partners and representatives free of charge.

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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 name 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 more complicated and usually more expensive. Registration entails delivering the following within 30 days of establishing a place of business in Kenya to the Registrar of Companies, Companies Registry, Attorney General Chambers, in Nairobi:

(1) A copy of the charter, statutes, Memorandum of Understanding, Articles of Association, or other instrument constituting or defining the company and certified as accurate by a Notary Public;

(2) A list of the company directors and a secretary containing their full names, physical and/or postal address, nationalities, business occupation, and directorships (if any) of Kenyan companies;

(3) A statement of all mortgages or charges (if any) created by the company over any property situated wholly or partly in Kenya;

(4) The names and postal addresses of one or more people resident in Kenya authorized to accept service of legal proceedings or notices on behalf of the company;

(5) The full physical and postal address of the company's head office or registered office; and

(6) The physical and postal address of the company's place of business in Kenya.

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 Trade and Industry.

The U.S. Commercial Service recommends that U.S. firms obtain the services of a local attorney to undertake registration. Well-established Kenyan legal firms provide such services for an average fee of USD 500 plus Government of Kenya Stamp Duty of 1% of share capital value. Interested U.S. firms may contact U.S. Commercial Service Eastern Africa for a list of reputable attorneys.

Kenya has, in the main cities of Nairobi and Mombasa, well-established realtors specializing in all areas of real estate management. The U.S. Commercial Service Eastern Africa office assists in identifying realtors to recommend suitable office space.

Franchising

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Although franchising is one of the fastest-growing commercial practices today, historically it has not been a main commercial feature in Kenya. It is therefore one of the least understood and least practiced channels of distribution. With the exception of a dozen or so world-renowned firms (such as Coca-Cola), franchising in general has not been successful in Kenya, although five years ago South African franchises began to enter the fast-food market. Key impediments include the availability of local supply that meets required quality standards, frequent infringement of the franchise agreement, lack of commitment by the franchisees, perceived lack of a “critical mass” customer base, and a lack of understanding of franchising concept in general. The distance between the U.S. and Kenya has made franchise supervision and training difficult. Despite these shortcomings, frequent local inquiries for U.S. fast food and auto rental franchises clearly indicate growing interest in franchising.

The U.S. Commercial Service Eastern Africa is working with the newly created Kenya Franchise Association to help create awareness and plans to hold a franchising seminar in 2007. Details are available upon request.

Direct Marketing

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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. 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. For these items, Commercial Service Eastern Africa prepares market reports on both public government tenders and private trade leads, which are then distributed through the U.S. Department of Commerce www.export.gov website.

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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. Commercial Service Eastern Africa frequently recommends joint ventures or licensing as a practical arrangement for entering the Kenyan market, as it combines local marketing expertise with U.S. design and manufacturing experience. However, such arrangements should only be finalized through a local attorney. While a negotiated settlement by the parties is almost always the better solution, there is a board of arbitration to which commercial disputes can be referred. Joint ventures and licensing arrangements are generally recognized and protected by Kenyan commercial law.

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.

Distribution and Sales Channels

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On July 1, 2005, the Commissioner of Customs Services issued regulations applying after expiry of the requirement for Pre-Shipment Inspection, which has been replaced by a Pre-Shipment Verification of Conformity requirement. Specifically, the Commissioner clarified that:

- Import Declaration Forms (IDFs) shall 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 Forodha House Nairobi, Customs House Mombasa, and Customs House Kisumu.
- Imported goods shall be subjected to the usual customs clearance procedures. Destination inspection, to include scanning, physical verification, and examination shall be carried out by Customs at ports of importation before release from customs control.
- Importers are encouraged to declare and submit Forms 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. Details on the requirements may be obtained from the KEBS website www.kebs.org. On arrival in Kenya, imported goods are subjected to the usual Customs clearance procedures. Scanning, physical verification and examination are carried out by Customs at ports of importation before release from Customs Control. However, goods imported with IDFs issued by approved agencies are cleared using the Clean Report of Findings (CCRF) 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 misdeclaration and/or under-valuation of goods, officers are expected to raise Offence Reports and penalize the importer on the spot before release of 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 shall in all cases 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 with a view to settling the disputes and should facilitate 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, either by road or rail, usually to the buyer's warehouse for storage. The buyer's sales channels ensure that the imported goods reach the retail shelves and ultimately consumers. The distribution system, especially at the retail level, consists of outlets that are small by U.S. standards. Wholesellers often also act as retailers. They purchase goods from manufacturers and then distribute them either directly and/or through retail outlets to end-users. End-users can include government agencies and other private local organizations. Most buyers of imported perishable consumer goods sell products directly to the large retail stores, such as the Uchumi and Nakumatt supermarket chains.

Although the Kenyan market presents no unique or particular marketing problems for U.S. suppliers, the long distance from U.S. manufacturers usually requires that the local dealer or distributor stock higher than normal levels to compensate for longer freight times. Price and compatible technical specifications are usually the major considerations when deciding to purchase goods. Other than setting up a manufacturing plant, U.S. manufacturers and exporters are best served by establishing a local representative as the most realistic market penetration strategy for Kenya and the region.

Kenya lacks a tradition of truly effective after-sales service and support, making these major considerations when Kenyans purchase from international sources. Kenyan dealers and retailers generally do a smaller volume of business than do their U.S. counterparts, so U.S. exporters should be prepared to sell in smaller quantities.

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Catalogs and 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.

Today, Kenya virtually requires the use of cell phones for doing business and telemarketing. Connections by fixed lines are not reliable and are usually of lesser quality. Kenya's mobile phone providers, Safaricom and Celtel, do excellent business as mobile phones are affordable to most businesspersons and pre-paid calling cards are also readily available for general users.

The electrical current in Kenya is 240 volts, 50 hertz (cycles per second). At times, the voltage can vary from 200 to 265 volts; accordingly, surge protectors are highly recommended. Single-item voltage regulators/stabilizers are readily available in Kenya, but most are imported and are expensive (many people use them only for personal computers). Electrical flickers, power surges, brownouts, and black outs of up to 2-4 hours are common in all parts of the country, including Nairobi, at any time.

Kenyan businesses strongly support the use of business cards when conducting business transactions. They are customarily exchanged in the early stages of a business encounter, such as when being introduced to a potential buyer through the U.S. Commercial Service Gold Key Matchmaking Service.

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The Kenyan government recognizes the important role that e-commerce can play in trade development and poverty alleviation. At present, the use of e-commerce remains limited for the most part to the airline, hospitality, banking, and courier services sectors. Of the major network applications most frequently used in B2B e-commerce – e-mail, the internet, intranets, and electronic data interchange (EDI) – e-mail and the internet are the most commonly used. Kenya is estimated to have over 2 million people subscribing to the internet, placing it among the top ten countries in Africa.

Although high-speed digital connections are increasingly available in Kenya, most companies continue to use modem-based analogue network connections due to the regional high cost of high-speed networks. In addition to cost, the low utilization of credit cards, estimated at less than 1% of the population in Kenya, has also impeded the development of e-commerce. Bandwidth constraints, however, will disappear with the licensing of additional internet gateway providers by the Communications Commission of Kenya since September 2004 and the installation of undersea fiber optic cables now underway. In December 2004, the Communications Commission of Kenya approved the use of Voice over Internet Protocol (VoIP) traffic by ISPs that will allow making less expensive telephone calls to any part of the world over the internet without going through Telkom Kenya's fixed line or private mobile telephone networks.

While the cabinet approved a draft National ICT Policy recognizing the role of e-commerce in January 2006, the government's proposed ICT Bill has not yet been placed before Parliament for review and enactment. This Bill, when passed, will provide a policy framework and adequate legislation to support e-commerce, e-government, e-health and e-learning transactions.

E-sokoni is currently the main business-to-business trading hub in Eastern Africa. It hosts over 200 suppliers. E-sokoni allows businesses to order non-production supplies such as stationery, fuel, and vehicle spares through an electronic system securely accessible over the Internet. Several leading local firms including British American Tobacco, Unilever, Magadi Soda, and Homegrown are using E-sokoni for many of their procurement needs.

Trade Promotion and Advertising

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The most widely used advertising media in Kenya are print, radio, and television. The development and use of other media are limited and not considered particularly cost-effective. Kenya has four main daily newspapers: *Daily Nation, East African Standard, The People, and Kenya Times*; five weekly newspapers: *People Weekly, Sunday Times, Sunday Nation, Sunday Standard*, and *East African*. There are a number of monthly magazines such as *The Executive*, *Market Intelligence*, *Marketing Africa, Parents*, *Presence*, *Law Review*, *Health Digest, Construction Review, Real Estate, Eve Magazine, Drum East Africa, The Farmers,* and *Computers in Africa*.

The government-owned Kenya Broadcasting Corporation (KBC) operates both radio and television stations on a subsidized commercial countrywide basis and airs from 5:00 a.m. to midnight. KBC, in a joint venture with South Africa's Multichoice, also operates a 24-hour commercial satellite and cable television station targeting Nairobi's up-market viewers. KBC also operates *Metro FM Radio,* a music station, and *Metro Television*, a dedicated sports and entertainment channel.

The GOK has almost fully liberalized the licensing of radio and television stations. Seven television and several radio broadcasting stations are privately owned, including: *Kenya Television Network (KTN)* - run by The Standard Group Ltd., *Nation Television & Radio* – run by the Nation Media Group, government owned - *Kenya Broadcasting Corporation* (KBC) also running *Metro FM*, *Family TV & Radio* (an American station featuring mainly Christian programming), *Citizen Television & Radio*, *Kiss FM, Capital FM, East Africa Television & Radio* – with coverage also in Uganda and Tanzania and Radio Simba to name a few. Television stations are all 24-hour with considerable foreign television programming including CNN, BBC, Sky News, and VOA.

There are at least eight registered vernacular radio stations: *Kameme FM, Coro FM, Inooro FM, Mulembe FM, Musye FM, Pwani FM and Ramogi FM, Kass FM*, and roughly a dozen other local vernacular radio stations all targeted at rural listeners. There are four ethnic Asian-Indian stations including *East FM*, *Sound Asia,* and *Metro East FM; Iqra FM* caters to the Muslim community; and *Baraka Radio, Waumini,* and *Sauti Ya Rehema* serve the Christian community. *Cable Television Network (CTN)*, a pay-per-view television network, runs a cable station aimed mainly at up-market, Nairobi-based, Asian clientele.

Many leading international advertising agencies including Ogilvy & Mather, McCann Erickson, and Young & Rubicam have local offices or affiliates. 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.

The U.S. Commercial Service assists individual firms in conducting solo exhibitions or technical seminars on a reimbursable basis. The service that is recommended for this is the Single Company Promotion.

The annual, six-day Nairobi International Trade Fair is organized by the Agricultural Society of Kenya. It can be a particularly useful venue for the exhibition and promotion of such products as agricultural machinery, equipment and inputs; construction equipment; food processing and packaging equipment; and road construction equipment. In 2004-2006, the U.S. Embassy facilitated award-winning U.S. representation in the International Pavilion, with plans for doing so again in 2008.

There also are a few specialized trade exhibitions organized annually in Nairobi covering computers (www.aitecafrica.com), horticulture, medical, and telecommunications equipment. U.S. firms marketing regionally should examine the possibility of participating in regional trade fairs and in U.S. pavilions organized in other countries in Eastern and Central Africa.

Pricing

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Although many U.S. firms prefer to quote prices FOB U.S. port, local custom is for price quotations for Kenyan-destined goods to be on a CIF Mombasa or Nairobi basis (i.e., costs, insurance, and freight to the point of disembarking; Mombasa for sea freight and Nairobi for air freight). Kenyan importers generally prefer CIF quotes in U.S. dollars as they are familiar with customs charges, including taxes that are levied at the local ports/airports and brokerage and handling charges.

Whether quotes are made FOB the 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 cannot find itself owner of merchandise stranded at the Kenyan port of entry, and the importer of record is the Kenyan counterparty, who is always better positioned to manage local customs formalities.

There are few price controls in Kenya. Pricing formulas will vary from one product to another based on supply, demand, landed cost, margin expectations and competitive alternatives. Street wisdom supposes that customary gross margin expectations are between 15 and 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:

FOB costs, as per bill of lading
Net sea/airfreight charges
Insurance
Shipping agents fee
Port charges
Clearing and forwarding charges (generally up to 0.5% of FOB cost), and
Land transport costs

Sales Service/Customer Support

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U.S.-based manufacturers can be strongly disadvantaged in terms of freight time compared to Chinese, Indian, and European competitors. U.S. firms exporting major items and durable items 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. Freight time should be significantly reduced once Delta Airlines begins direct New York to Nairobi service, via Dakar, Senegal, in late 2008.

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 in transit, from improper installation, and from power surges and fluctuations to a degree not encountered in more developed economies.

Protecting Your Intellectual Property

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Introduction

Several general principles are important for effective management of intellectual property rights in Kenya. First, it is important to have an overall strategy to protect IPR. Second, IPR is protected differently in Kenya than in the U.S. Third, rights must be registered and enforced in Kenya, under local laws. Companies may wish to seek advice from local attorneys or IP consultants. The U.S. Commercial Service can often provide a list of local lawyers upon request.

It is vital that companies understand that intellectual property is primarily a private right and that the US government generally cannot enforce rights for private individuals in Kenya. It is the responsibility of the rights' holders to register, protect, and enforce their rights where relevant, retaining their own counsel and advisors. While the U.S. Government is willing to assist, there is little it can do if the rights holders have not taken these fundamental steps necessary to securing and enforcing their IPR in a timely fashion. Moreover, in many countries, rights holders who delay enforcing their rights on a mistaken belief that the USG can provide a political resolution to a legal problem may find that their rights have been eroded or abrogated due to doctrines such as statutes of limitations, laches, estoppel, or unreasonable delay in prosecuting a law suit. In no instance should USG advice be seen as a substitute for the obligation of a rights holder to promptly pursue its case.

It is always advisable to conduct due diligence on partners. Negotiate from the position of your partner and give your partner clear incentives to honor the contract. A good partner is an important ally in protecting IP rights. Keep an eye on your cost structure and reduce the margins (and the incentive) of would-be bad actors. Projects and sales in Kenya require constant attention. Work with legal counsel familiar with Kenya laws to create a solid contract that includes non-compete clauses, and confidentiality/non-disclosure provisions.

It is also recommended that small and medium-size companies understand the importance of working together with trade associations and organizations to support efforts to protect IPR and stop counterfeiting. There are a number of these organizations, both Kenya or U.S.-based. These include:

- The U.S. Chamber and local American Chambers of Commerce
- National Association of Manufacturers (NAM)
- International Intellectual Property Alliance (IIPA)
- International Trademark Association (INTA)
- The Coalition Against Counterfeiting and Piracy
- International Anti-Counterfeiting Coalition (IACC)
- Pharmaceutical Research and Manufacturers of America (PhRMA)
- Biotechnology Industry Organization (BIO)
- Kenya Association of Manufacturers
- Kenya Revenue Authority
- Copyright Board of Kenya
- Music Copyright Society of Kenya

IPR Resources

A wealth of information on protecting IPR is freely available to U.S. owners of intellectual property. Some excellent resources for companies regarding intellectual property include the following:

- For information about patent, trademark, or copyright issues -- including enforcement issues in the US and other countries -- call the STOP! Hotline: **1-866-999-HALT** or register at **www.StopFakes.gov**.
- For more information about registering trademarks and patents (both in the U.S. as well as in foreign countries), contact the US Patent and Trademark Office (USPTO) at: **1-800-786-9199**.
- For more information about registering for copyright protection in the US, contact the US Copyright Office at: **1-202-707-5959**.
- For US small and medium-size companies, the Department of Commerce offers a "SME IPR Advisory Program" available through the American Bar Association that provides one hour of free IPR legal advice for companies with concerns in Brazil, China, Egypt, India, Russia, and Thailand. For details and to register, visit: **http://www.abanet.org/intlaw/intlproj/iprprogram_consultation.html**
- For information on obtaining and enforcing intellectual property rights and market-specific IP Toolkits visit: **www.StopFakes.gov** This site is linked to the USPTO website for registering trademarks and patents (both in the U.S. as well as in foreign countries), the U.S. Customs & Border Protection website to record registered trademarks and copyrighted works (to assist customs in blocking imports of IPR-infringing products) and allows you to register for Webinars on protecting IPR.
- The U.S. Commerce Department has positioned IP attachés in key markets around the world. You can get contact information for the IP attaché who covers Kenya at: Kenya IP Attaché

IPR Climate in Kenya

Kenya is a member of most major international and regional intellectual property conventions. However, government enforcement of IPR continues to be a serious challenge. Pirated and counterfeit products in Kenya, mostly imported from South Asia and East Asia, present a major impediment to U.S. business interests in the country. Industry estimates that piracy and counterfeiting of business software, records, music, consumer goods, and pharmaceuticals in Kenya costs firms over $300 million in lost sales annually. Kenya is among the world's top software piracy markets, according to a Business Software Alliance investigation.

Patents and Trademarks

Patent protections are enshrined in Kenya's Trademarks Act, which established the Kenya Industrial Property Institute (KIPI). KIPI considers applications for and grants industrial property rights and privileges that are valid for 10 years on a renewable basis. The Amendments to the Act -- designed to bring Kenya into conformity with the Madrid Agreement and Protocol as well as the TRIPS Agreement -- were passed and came into force in 2004. The Act provides the legal basis for protection of registered trade and service marks and entitles foreign investors to national treatment and priority right recognition for their patents' and trademarks' filing dates.

Copyrights

The Kenya Copyright Board (KCB) 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 KCB established an IPR enforcement unit in October 2006. The KCB has minimal staff and has not, to date, effectively carried out its mandate. The KCB is working jointly with Microsoft and, in late 2007 conducted raids on several cyber cafes in Nairobi that were found to be using counterfeit Microsoft operating software. A Kenyan media report estimated that eight of ten computers in Kenya use pirated operating software.

Kenyan artists have formed organizations to raise awareness of intellectual property rights and to lobby the government for better enforcement, but merchants still freely peddle pirated versions of Kenyan and international works without fear of arrest or prosecution. Pirated materials and counterfeit goods produced in other countries are readily available in all major towns. These materials include pre-recorded audiocassette tapes, DVDs, CDs, and consumer products. However, general public awareness of IPR is limited.

Enforcement

In November 2006, the American Chamber of Commerce of Kenya (ACCK) in conjunction with the Ministry of Trade and Industry and the Kenya Association of Manufacturers (KAM) held a pioneering regional IPR conference in Nairobi. The ACCK joined with Tanzanian business associations and the government of Tanzania to hold a second regional IPR conference in Dar es Salaam in October 2007.

In July 2006, the Ministry of Trade and Industry reported that Kenyan manufacturers incur an annual net loss of over Ksh30 billion (over $400 million) due to counterfeit products, while the government loses Ksh6 billion (approximately $80 million) in potential tax revenue due to counterfeit products. Imported drugs, shoes, textile products, office supplies, tubes and tires, batteries, shoe polish, soaps, and detergents are the most commonly counterfeited items. Historically, penalties and enforcement for copyright infringement have been low. According to the KCB, as of October 2007, there were about 20 pending piracy cases in the Kenyan courts, with bails ranging from $750 to $4,500.

To date, the KCB has conducted anti-counterfeit-related training for 150 police officers and plans to extend the same training to 40 magistrates and 30 prosecutors by April 2008. The Anti-Counterfeit Bill of 2007, designed to raise penalties significantly, was introduced in Parliament in June 2007 but was not acted on before Parliament was dissolved in December. The bill seeks to strengthen the ability of law enforcement agencies to investigate and prosecute manufacturers and distributors of counterfeit and pirated goods. In October 2007, HACO Industries, one of the largest manufacturing firms in the region, stated that it is losing more than $5 million annually in potential sales due to fakes. In 2007, Sara Lee threatened to cease commercial operations in Kenya if the government did not respond more forcefully in combating the importation of counterfeit shoe polishes.

Contacts

Copyright Offices
Attorney General's Chambers
Department of the Registrar-General
Address P.O. Box 30031 Nairobi
Tel: (254 20) 227-461 (ext. 37140) / 225-515
Fax 211-082 / 336-499
Email: rgen@africaonline.co.ke
Acting Registrar-General: Mrs. Bernice Wanjiku Gachegu

Industrial Property Offices
Ministry of Trade and Industry
Kenya Industrial Property Institute (KIPI)
Kapiti Road; Nairobi South C
P.O. Box 51648 Nairobi
Tel: (254 20) 602-210/11 / 606306 / 606326
Fax: 606312 / 504633 / 606306
Email: kipi@swiftkenya.com
Managing Director: Professor James Otieno-Odek

Due Diligence Return to top

The U.S Commercial Service 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, 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.

CS Nairobi's 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, contact Nairobi.Office.Box@mail.doc.gov.

Local Professional Services Return to top

The Kenyan legal system is based on British law. Although not substantially different from the U.S. legal system, Kenyan legal practices and procedures can be different enough to indicate the services of either a Kenya-based attorney or an attorney licensed to practice within the British Commonwealth. U.S. firms should seek the services of such attorneys whenever legal services are required. Even 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/or 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 Kenyan officials. 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. A listing of attorneys is available on CS Nairobi's www.buyusa.gov/kenya website. Similar listings of other professional organizations will soon be available on the same website, under "Business Service Providers."

Web Resources Return to top

Aitec Africa- aitecafrica.com

CS Nairobi- www.buyusa.gov/kenya

Daily Nation- www.nationaudio.com

East African Standard- www.eastandard.net

Gold Key Service- www.export.gov/salesandmarketing/gold_key.asp

International Company Profile - www.export.gov/salesandmarketing/ICP.asp

International Partner Search- www.export.gov/salesandmarketing/IPS.asp

Kenya Broadcasting Corporation- www.kbc.co.ke

Kenya Times- www.kentimes.com

Multichoice - www.multichoice.co.za

Single Company Profile - www.export.gov/comm_svc/single_co_promo.html

Sky News- www.sky.com

U.S. Department of Commerce- www.export.gov

Voice of America- www.voa.com

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Chapter 4: Leading Sectors for U.S. Export and Investment

Commercial Sectors

Telecommunications Equipment (TEL)

Telecommunications Equipment	2005	2006 est.	2007 est.
Total Market Size	152	246	342
Local Production	0	0	0
Exports	0	0	0
Imports	152	246	342
Imports from the USA	9.1	18.2	31.0

All figures in millions of USD

Overview Return to top

The Kenyan telecommunications equipment market in 2007 was estimated at about USD 342 million. It continues to experience remarkable growth initiated by the establishment of the Communications Commission of Kenya (CCK) in July 1999. At that time the sector was liberalized, with the now defunct Kenya Posts & Telecommunications Corporation split into three autonomous entities: Telkom Kenya; the Postal Corporation of Kenya; and the Communications Commission of Kenya (CCK).

The Kenyan telecommunications industry grew an estimated 9.1% annually between 2005 and 2008, with virtually all of the growth in mobile telephony. Although there is some assembly of telephone sets and PABXs, there is no significant local production of telecommunications equipment in Kenya. While U.S. technology is highly respected for quality and performance, U.S. firms have a continuing problem in matching the financing terms (concessionary and mixed credits) offered by competitors.

The Kenyan government is keenly focused on further supporting the telecommunications sector as it is one of the keys to sustained economic development. The government plans to increase urban and rural teledensities from the dismal 2005 level of 4 urban lines and 0.16 rural lines per 100 persons, to 20 urban lines and 4 lines per 100 persons in rural areas in 2007.

Between July 1999 and June 2004, Telkom Kenya increased its switching capacity by 26% to 531,442. Network capacity declined slightly in 2005 to 517,000, then increased by 3.3% in 2006 to stand at 534,000. Growth in subscriber connections were also inconsistent, growing 10% between July 1999 and June 2003 before declining to 299,255 in June 2004, and falling again to 286,000 by end of 2005. Subscriber connections remained stagnant at 287,000 as of December 2006. Fixed line teledensity declined to 0.79% by end of 2006. The number of installed payphones fell 50% to 6,000 in 2006 due to competition from mobile telephony and continued vandalism of telephone wires. Performance is hoped to improve following the licensing of 19 local loop operators (LLOs) and the introduction of Telkom Kenya's "fixed wireless" CDMA service.

In pursuit of these objectives, Telkom Kenya's monopoly ended in June 2004 and in October 2006 a second national operator, Dubai-based VTEL Holdings, was licensed to provide fixed-line competition. VTEL's license was later cancelled for non-compliance with tender rules, and the second place competitor, Reliance Communications of India, was invited to assume the license. Reliance was unable to meet shareholding obligations, and declined. Other companies have since been licensed, but stiff competition has not ensued.

The government's announced goal has been to restructure Telkom Kenya in preparation for eventual privatization. In 2001, the privatization apparently began in earnest with Salomon Brothers as the transaction advisors. But the process was abruptly halted at the end of 2004 under controversial circumstances. In a new "National Information and Communication Technology Policy" released in late 2005, the government proposed major changes in the sector. Restructuring of Telkom Kenya began anew in April 2006, with the intention of retrenching 12,000 employees. The long-delayed privatization was finally concluded in November 2007, when a consortium led by France Telecom and Dubai's Alcazar Capital offered $390 million to beat two competitors (Telkom South Africa and Reliance Communications of India) to a 51% percent stake.

In contrast, Kenya's GSM network has been impressive since the inception of mobile telephone services in 1992. The two current providers, Safaricom and Celtel Kenya, have realized tremendous growth in subscribers: the combined subscriber base of the two operators grew from 640,000 in June 2001 to 11.2 million as of June 2007.

The GOK issued a third GSM license in September 2003 to a consortium including local entities Rapsel Ltd. and the Kenya National Federation of Cooperatives (KNFC), Econet, and Wireless International, a firm jointly owned by South Africa's Altech group and Zimbabwe's Econet Wireless Group. However, in November 2004 and again under controversial circumstances, the government cancelled this 15-year license after the local entity, KNFC, failed to raise the equity needed to meet the shareholding requirement.

Econet Wireless contested the government's decision in Kenya's High Court, which ordered the CCK to issue a license to Econet Wireless in September 2006. In August 2007 Econet signed interlocking agreements, dropping its lawsuits against the government and accepting government recognition that their license was "in good standing". Econet expects to begin service in March 2008 after an initial investment totaling $100 million. Additionally, Telkom Kenya in September 2007 joined the mobile fray when it rolled out a "fixed wireless" service based on Code Division Multiple Access (CDMA) platform after a year-long trial period. Initially targeted to rural areas, Telkom Kenya's CDMA has aggressively rolled out the service in urban areas, competing head-to-head with Safaricom and Celtel and already claiming 150,000 subscribers out of a target of one million that it expects to have by the end of 2008.

There were 51 licensed Internet Service Providers (ISPs) in the country at the end of 2006. Although current bandwidth costs are as high as $3,000 per megabyte per month versus the global norm of $300-$600 in competing markets such as India, many hope these prices will fall with the introduction of terrestrial and undersea fiber optic cables. There are currently three different competing initiatives to construct submarine fiber optic cables for the East Coast of Africa. These are the East African Submarine Cable System (EASSy) project; the Kenyan government-UAE standalone initiative -The East African Marine System (TEAMS) project, which will connect Mombasa and Fujaira in the UAE; and the larger SEACOM project, which will run along the entire coastline from South Africa to the Red Sea. All projects are expected to land mid-2009. On land, at least two privately operated fiber networks already link a handful of major cities in Kenya. Telkom Kenya completed a 310-mile fiber cable linking Mombasa to Nairobi in July 2006 and in October 2007 another linking Nairobi and Malaba, along the Uganda border. Additionally, the government in February 2007 embarked on an ambitious plan to build a $50 million national fiber network linking all major towns and cities.

Other significant developments within the telecommunications sector include the licensing of additional companies since November 2004 as internet gateway providers and public data network operators (PDNO), and the liberalization of the use of VSAT and VoIP services. Authorities licensed Kencall, Kenya's first contact center, in November 2004, and the firm reportedly is enjoying rapid, successful growth. Other contact center businesses have since developed as Kenya takes business from India – Kenya has excellent English speakers and an advantageous time zone, especially to Europe.

Best Products/Services Return to top

The demand for telephone receivers and cellular telephones is expected to continue growing at a high rate following the removal of all duties for these categories of products. Growth in Kenya's mobile telephony sector since 1998 has been phenomenal (from just over 10,000 subscribers to about 11.2 million in 2007), and will continue to provide demand for telecommunication technologies. Best sales prospects include computers, data terminals, modems, payphone terminals, routers, broadband equipment, and VSAT equipment.

Opportunities Return to top

Opportunities exist in strategic alliances or joint ventures, especially in cellular telephony and value add-ons to the traditional telephone system. Cellular telephony remains the fastest growing telecommunication sub-sector. Vodafone PLC of the UK and Vivendi Telecom of France made a successful debut in the market through joint partnership with local firms, Safaricom and Kencell, respectively. However, in 2003, Vivendi Telecom pulled out of the cellular telephony market in Kenya and the Sameer Group, the majority shareholders in Kencell, held negotiations with several firms that eventually saw Celtel International acquire Vivendi's shares in 2004. In six years, Safaricom and Celtel have built a subscriber base estimated to grow to about 15 million in 2008. Kenya's coastal location and regionally superior infrastructure, coupled with continued liberalization of the telecommunications sector, should support an increasingly regional role for the industry.

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Celtel Communications – www.ke.celtel.com/en/index.html

Communications Commission of Kenya – www.cck.go.ke

Ministry of Information and Communications – www.information.go.ke

Safaricom Limited – www.safaricom.co.ke

Telecommunications Service Providers Association of Kenya – www.tespok.co.ke

Telkom Kenya – www.telkom.co.ke

Agricultural Machinery & Equipment (AGM)

Agricultural Equipment	2005	2006 est.	2007 est.
Total Market Size	35.2	36	37
Local Production	0	0	0
Exports	0	0	0
Imports	35.2	36	37
Imports from the USA	2.6	2.8	

All figures in millions of USD

Overview

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Agriculture and agricultural activities contribute to some 60% of Kenya's GDP. An estimated 75% of the population depends on the sector either directly or indirectly, making it the country's largest employer and the mainstay of the economy. Much of the intermittent strength and overall weakness in GDP and income growth in Kenya can be attributed to changes in agricultural performance, which can be radically affected by external factors such as import/export tariff regimes and weather patterns. Fabrication of replacement parts is the main local production activity; imports dominate the market. The country does not have an established manufacturing base as adequate know-how and requisite materials are in short supply. Furthermore, most agricultural activities are in primary industries, with the majority of Kenyan products exported in bulk with little or no value-added. Increasingly, there are plans to add value (processing, packaging) in Kenya, which should yield increasing demand for imported agricultural equipment.

Best Prospects/Services

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Tea and coffee are the country's primary agricultural foreign exchange earners. Following closely is Kenya's lucrative, flourishing, and rapidly growing floriculture sector, which generated USD 617 million in 2007. Kenya is the leading exporter of fresh cut flowers to the European Union and further growth is taking place in exports to Japan and the U.S. The following products offer best opportunities for U.S. exporters: tractors and parts, farm implements such as disc ploughs, harrows, planters, tractor trailers, combined harvesters, irrigation equipment, dairy processing equipment, processing and packaging equipment, and greenhouses.

Opportunities

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With ever-greater emphasis on food security in Eastern Africa, there will be increased need to use modern technology for agricultural production, transportation, storage, and food processing. With the envisaged opening up of Southern Sudan for investment and agricultural development in the next five to ten years, greater long-term demand for agricultural implements is expected to further support development in the region.

Resources

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Fresh Produce Exporters Association of Kenya - www.fpeak.org

Horticultural Crops Development Authority – www.hcda.org

Kenya Agricultural Research Institute - www.kari.org

Kenya Flower Council – www.kenyaflowers.co.ke

Kenya Plant Health Inspectorate Services - www.kephis.org

Ministry of Agriculture - www.agriculture.go.ke

Computers & Peripherals (CPT)

Computers & Peripherals	2005	2006 est.	2007 est.
Total Market Size	122	145	180
Local Production	0	0	0
Exports	0	0	0
Imports	122	145	180
Imports from the USA	6.5	7.5	11.7

All figures in millions of USD

Overview

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The computer and peripherals industry has for several years been one of the fastest growing business sectors in Kenya. Kenya imports 100% of its computers and peripherals, with a very small amount of total knock down (TKD) assembly done locally. The figures above reflect the estimated documented (i.e., formal) market only – when the informal economy is included, both the overall figures for Kenya's economy and the U.S. role in it expand considerably. Although U.S.- built computers are available, a substantial number of personal computers are imported by affiliates of European-based U.S. firms. These imports are not reflected in the above statistics as U.S. exports to Kenya, thus further distorting downward the actual U.S. share of the total market. The U.S. is, in fact, popularly regarded as the leading source of computers and peripherals used in Kenya, accounting for as much as 60% of the market.

Market growth in 2007 was an estimated 20%. Industry growth is expected to be in the 20–30% range in the next three years or so owing mainly to the complete removal of duties on computer peripherals in June 2006 -- and also due to enhanced GOK procurements related to its e-government projects. The main competition for U.S. exports in this industry is Asian clones, which originate mainly from the Middle East via Dubai. Most clones come into Kenya as knocked down kits assembled by importers. Import prices of clones range from USD 100-300 depending on specifications. Retail pricing accordingly ranges from USD 275-600. Market share for clones is estimated at 20%, with the major end-users being primary and secondary schools, colleges, internet cafes, and households. However, clones have been reported to have major defect rates, with industry observers estimating failure rates of as high as 30%.

Best Prospects/Services

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The Kenyan market preference for desktop computer systems is largely skewed towards P4 systems. The basic specifications are as follows:

RAM - 512 MB
Hard Disk Drive – 80/120/160 GB
15-inch monitor (CRT)
Keyboard PS/2.0
Onboard processor - 2.4 GHZ and above
Onboard modem
Full multimedia (FMM)

Import and excise duties for digital processing machines (comprising at least a central processing unit and an input and output unit, HTS code: 8471.41.00) and peripherals were effectively zero-rated (16% VAT removed) in June 2006. Kenya's computer assembling business was dealt a major blow in 2004, however, when a 2.5% surcharge was introduced on units manufactured under the EPZ program and sold in the domestic market. This surcharge is being fought by local assemblers but has yet to be repealed.

Opportunities

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In April 2004, the GOK launched a comprehensive e-government strategy to introduce the use of information and communication technology in government operations. Initial funding was an estimated cost of USD 37.8 million (KSh 3 billion) with a completion date of 2010. A Directorate of E-government under the Office of the President is in place as well as plans for the creation of an e-security department within the directorate, with a program and a manual for operations. Local area networks (LANs) are still being installed. Some of the services to be integrated into the e-government strategy include the registration of persons, an integrated property and assets registration system, an electronic payment system of utilities such as water and electricity bills, and some administration of police operations.

Additionally, the Kenyan government and the World Bank initiated in May 2007 an USD 120 million Kenya Transparency and Communication Infrastructure Project (KTCIP) that will support the creation of digital villages in rural and urban areas, facilitating connectivity for the country's emerging business process outsourcing (BPO) industry, and accelerate e-government services. Other project initiatives that are being supported under the KTCIP include:

a) The Digital Villages Project - e-centers that provide a suite of services to the public via computers connected to the Internet, digital cameras, printers, fax machines, and other ICT equipment. This initiative is expected to support the development of at least 300 digital villages over the next 3 years.

b) E-government and Mobile Communications Project - this will entail the acquisition, deployment and maintenance of robust applications to be used for e-government initiatives, the government information portal, and support the development of SMS and IVR e-services.

c) E-government Applications - Phase I will involve digitization of the pension administration system, driver's license registration, and wealth declaration. Phase II will involve the digitization of the High Court Registrar's office, Registrar of Companies, while Phase III will support an Integrated Population Registration System (IPRS) and Land Information and Land Registration System.

- Government Information Portal - aimed at strengthening the provision of information on the existing portal developed by the Ministry of Information and Communication (www.information.go.ke) through the development of information services and web content over the next 3 years. This will entail financing the purchase of web servers, internet bandwidth, computers and software.

- SMS and Interactive Voice Recognition (IVR) - entails the development of innovative communication and information applications deployed on mobile phones via SMS and IVR technologies. Potential applications on the mobile telephony include early warning systems, data monitoring (e.g. weather station readings) and the provision of agricultural extension services.

Electronic tax collection (ETC) initiatives are well underway with the majority of large companies in Kenya's formal sector (i.e., major retailers, hotels, etc.) already compliant. However, given the size and diversity of Kenya's informal economy, tax collection at point-of-sale in Kenya remains by far the exception rather than the norm, and decades may elapse before the practice is universal. By June 2008, the government plans to install a system that will enable workers to file income tax returns online.

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AITEC Kenya - www.aitecafrica.com/Kenya/index.php

Computer Society of Kenya – www.csk-online.org

Cyber Café Operators Association of Kenya (CCOAK) – www.ccoak.net

The Kenya ICT Federation (KIF) – www.kif.or.ke

Construction Equipment (CON)

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Construction Equipment	2005	2006 est.	2007 est.
Total Market Size	86.5	93.5	98.2
Local Production	0	0	0
Exports	0	0	0
Imports	86.5	93.5	98.2
Imports from the USA	43.2	46	48

All figures in millions of USD

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The construction industry in Kenya consists primarily of two key sub-sectors: roads and housing. The Ministry of Roads and Public Works oversees the construction, maintenance, and rehabilitation of the entire road network. The Kenya Roads Board (KRB) was set up in 1999 to oversee road maintenance. It also manages the road maintenance levy fund, and sets policy and regulations on safety. The KRB budgeted USD 172.5 million in 2007 for maintenance of Kenya's road network, which is estimated to be about 63,000 kilometers. However, the Ministry of Roads and Public Works estimates that the total amount required for adequate maintenance and rehabilitation of Kenya's roads is as much as USD 1.4 billion annually. The Ministry's Roads

Department reports that multilateral donors contributed USD 338.2 million and Kenya's government USD 251.3 million to road construction projects in 2007.

The Ministry of Housing oversees the housing sector. An indisputably huge housing deficit exists in Kenya. Estimates range from 400,000 to over a million units if urban slum dwellings are taken into account. The GOK estimates that 150,000 new units at a minimum are required per year to meet existing and rising demand in housing -- but the former government was unable to meet this demand in its five years in office. The National Housing Corporation (NHC) has been mired in a financing quagmire as the GOK refuses to guarantee its borrowing. The GOK is encouraging parastatals to issue infrastructure bonds to raise capital for their programs instead of relying on the treasury, and the NHC is currently in the process of structuring a bond issue for this purpose. The private sector is expected to play a major role in the provision of the housing units required. Several U.S. exporters have made preliminary but extensive investigations into providing various technological solutions for low cost, high-quality public and private housing.

Best Prospects/Services Return to top

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.

Opportunities Return to top

A variety of public and private sector investments are on offer at present – or are planned -- to private investors. Many are BOT (Build, Operate, and Transfer) or BOOT (Build, Own, Operate, and Transfer) road concessions with conventional road tolling, such as the currently approved Northern Corridor Project. Regionally, should Southern Sudan continue to modernize and become further open to U.S. investment, as many hope and predict, construction/infrastructure projects could well increase by several orders of magnitude. It is taken as a given by most analysts that most economic investment in Southern Sudan requires logistical bases of operation in Kenya rather than in Northern Sudan.

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Kenya Roads Board- www.kroadsboard.go.ke

Kenya Institute of Public Policy and Research Analysis- www.kippra.org

Ministry of Public Works and Housing- www.publicworks.go.ke

National Housing Corporation- www.nhckenya.co.ke

Aircraft and Aircraft Parts (AIR)

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Aircraft & Aircraft Parts	2005	2006	2007 est.
Total Market Size	484	605	550
Local Production	0	0	0
Exports	0	0	0

Imports	480.4	605	550
Imports from the USA	430.8	219.7	267.2

All figures in millions of USD

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Kenya has no domestic production of aircraft or aircraft parts. Although the Kenyan tourist industry declined overall in the late 1990's and early years of this decade, there has been a strong resurgence since 2004 in tourist numbers. Small aircraft operators, particularly those in the charter service sector, have indicated their intention to increase their fleets to meet growing demand, especially for regional tourism. U.S. firms are encouraged to maintain their marketing presence, as big-ticket items take many years before a purchase contract is signed. Nairobi's Wilson Airport is the busiest general aviation airport in Africa and serves as the regional small aircraft maintenance center.

Best Prospects/Services Return to top

Direct investments and joint ventures in aircraft parts, maintenance, and equipment for domestic and regional markets include medium and heavy aircraft maintenance, assembly and fabrication of components, parts and sub-assemblies for aircraft communications, navigation and surveillance equipment, duty free importation of aircraft, aircraft spare parts, and jet fuel.

Opportunities Return to top

The private carrier Kenya Airways has received numerous Boeing 737, 767, and 777 aircraft in recent years as part of a USD 400 million fleet modernization program. In March 2006, Kenya Airways concluded a contract for the purchase of multiple 777 and state-of-the-art 787 "Dreamliner" aircraft, some scheduled for delivery as late as 2012. Kenya Airways is widely regarded as one of the most successful and profitable airlines in Africa, and its continued success will require support and maintenance across the board. The many airports Kenya Airways services are likewise either scheduled for, or strongly in need of modernization and sourcing of advanced equipment and services. There is also expected to be strong demand in Kenya over the next several years for smaller civil aircraft, general and recreational aviation, service and parts -- especially in the face of strong marketing by South African firms.

In October 2006, Kenya became the twelfth country to ratify the Cape Town Convention and Aircraft Protocol, designed to facilitate asset based financing and leasing of high value mobile equipment.

Resources Return to top

Kenya Ports Authority - www.kenyaairports.co.ke

Kenya Airways - www.kenya-airways.com

Kenya Civil Aviation Authority - www.kenyacivilaviation.or.ke

Ministry of Transport and Communication - www.transport.go.ke

Agricultural Chemicals (AGC)

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Agricultural Chemicals	2005	2006 est.	2007 est.
Total Market Size	61.7	61.7	64
Local Production	0	0	0
Exports	0	0	0
Imports	61.7	61.7	64
Imports from the USA	12.5	23.9	12.4

All figures in millions of USD

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Kenya imports virtually all of its agricultural chemicals as there is no significant local production. The market is currently dominated by European suppliers (especially Belgian, German, and Swiss) and, to a lesser extent, Asian exporters. In 2006 sectoral growth was estimated to be in the 7% range. 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.

Best Products/Services

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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 2005 was more than 380,000 tons, valued at over USD 42 million. The most widely used fertilizer is di-ammonium phosphate (DAP). Other fertilizers used in Kenya include nitrate potassium phosphate (NPP), single super phosphate (SSP), and calcium ammonium nitrate (CAN).

Opportunities

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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. Similar opportunities lie in Kenya's floriculture industry, which is the leading importer of fresh cut flowers to the flower auction in Holland. Kenya's real agricultural sector GDP registered almost 7% growth in 2005, a marked increase from the 1.4% growth rate in 2004 as a result of improved performance in nearly all sub-sectors. The value of fertilizers sold in 2005 increased 12.2% over the figure for 2004.

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Agrochemicals Association of Kenya (AAK)- www.agrochem.co.ke

Fresh Produce Exporters of Kenya (FPEAK)- www.fpeak.org

Kenya Flower Council (KFC)- www.kenyaflowers.co.ke

Ministry of Agriculture - www.agriculture.go.ke

Educational Services (ES)

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The table below shows the number of Kenyan students studying in the U.S.

Educational Services	2004	2005 est.	2006 est.
African Students in US	33,942	33,501	33,065
Tuition & Expenses	n/a	n/a	n/a
Kenyan Students in US	7,381	6,282	5,526
Tuition & Expenses	$ 236 m	$ 322 m	$ 412 m

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Education is highly valued in Kenya, as can be seen in the rapid growth of the number of students in primary, secondary and post secondary educational institutions over the last decade. Of importance is that a large proportion of the investment has been undertaken by the private sector. At the post-secondary level, Kenya currently boasts six public and thirteen private universities, and many tertiary colleges offering various disciplinary courses. The estimated number of candidates sitting for university entrance examinations is 900,000 annually. However, the number of places available in public and private universities is only 90,000, and the tertiary colleges can only absorb about 200,000. This mismatch leaves 600,000 students who have to look for alternative avenues to pursue further education. Some of the major foreign destinations that Kenyans generally go to for further studies are Britain, India, Australia, the U.S., Canada, Malaysia, and South Africa.

Best Products/Services

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More Kenyan students study in U.S. universities than from any other sub-Saharan country. Applicants are on average better prepared by Kenyan schools and demand for foreign education is strong. Over the last several years other nations, such as the U.K. and Australia, have increased their share of Kenyan students abroad through strong competition and concerns about U.S. visa availability, educational costs, and whether the U.S. would continue to welcome international students. Despite these challenges, demand for U.S. higher education remains extraordinarily high and many U.S. universities and colleges are adopting aggressive marketing strategies to tap into the market. Some of the major courses pursued by Kenyan students are business administration, IT, engineering, medicine and other health related courses, and aviation.

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Chronicles of Higher Education- www.lle.org/content/navigation

East African Standard- www.eastandard.net

Institute of International Education- www.opendoors.iienetwork.org

The Joint admissions board- www.ku.ac.ke/admissions

Ministry of Education-Kenya - www.bc.edu/bc_org or www.education.go.ke

Medical Equipment (MED)

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Medical Equipment	2005	2006	2007 est.
Total Market Size	34	117	88
Local Production	0	0	0
Exports	0	0	0
Imports	34	117	88
Imports from the USA	4.7	3.4	5.9

All figures in millions of USD

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The medical equipment market in Kenya is totally reliant on imports. The estimated market demand in Kenya for electro-medical equipment in 2005 was only USD 34 million, with imports from the U.S. accounting for some USD 4.7 million. However, 2006 estimates include unprecedented Government of Kenya procurement of medical equipment over several years worth approximately $100 million, representing the beginning of a re-equipping strategy for public hospitals. Major suppliers include Germany, the Netherlands, the U.K, India, Italy, and China. The electro-medical equipment sub-sector is expected to grow from its current base by at least 10% annually over the next three years. General Electric announced in mid-mid-2007 that it intends to build a major manufacturing facility in Kenya to produce medical electronic imaging equipment, such as MRIs and X-ray machines, as well as locomotive engines and spare parts.

Best Products/Services

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

Opportunities

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The U.S. is in an excellent position to increase its share of this market due to its technical superiority. 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. Public health institutions at present lack most basic medical equipment.

Resources

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Ministry of Health- www.health.go.ke

Cosmetics

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Cosmetics	2005	2006 est.	2007 est.
Total Market Size	n/a	n/a	n/a
Local Production	n/a	n/a	n/a
Exports	72.7	81.8	n/a
Imports	89.4	57.6	n/a
Imports from the USA	0.9	0.6	1.4

All figures in millions of USD

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Although the Kenyan cosmetics and fragrances market is highly competitive, the expanding population and increasing demand for anti-aging products will continue to drive market growth. The significant number of women in the workplace is also supporting demand, as is the trend towards the use of cosmetics at increasingly younger ages.

There is excellent potential for U.S. exporters of ethnic cosmetics, as this market is not highly developed in Kenya. Specialist outlets that stock a variety of global brands and designer names serve the very high end of the cosmetics and toiletries market. This is a distribution channel that experiences steady sales but slow growth. Opportunities also exist for male grooming products, including men's cosmetics, and natural and organic cosmetics and fragrances.

Although local personal care manufacturing companies, such as Haco Industries and Nice & Lovely (Interconsumer Products Ltd), are important, the clear market leaders are multinationals such as Unilever and Beiersdorf. Supermarkets continue their foray into the beauty industry's retail sector with mass-market brands and private label products. Key competitive factors for selling cosmetics and fragrances in Kenya are quality, price, and keeping up with the latest trends.

Products must comply with the Kenya Bureau of Standards (Safety) Regulations. In general, cosmetics are fairly immune from shifts in the economy. Although few consumers would consider cosmetics and fragrances as "essentials," most value the positive contribution of such products to their self-image and would resist not stop buying them even in times of an economic slowdown.

Best Products/Services

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There is huge demand for products such as beauty soaps, face washes, shampoos, conditioners, body and skin lotions, toners, astringents, cold creams and other moisturizing formulations, perfumes, hair colors, dyes, powders, eye and face packs, skin treatments, slimming treatments, and massage products for use in spas and professional skin care salons to mention just a few. Each market segment also has its own sub-sectors with unique best prospects. While most markets cite anti-aging, skin-lightening, and sun-screen and sun-care products as the sectors with the best overall sales prospects, other strong sectors are said to be body scents for under 13-year olds, baby toiletries, depilatory products, and men's cosmetics.

There is a local trend away from glamour and toward natural and organic brands. Behind this trend is a growing concern about the chemicals that go into many cosmetics and toiletries. As consumers become better informed, however, natural brands will be held to higher standards, potentially slowing the development of the trend and reducing the category to a limited number of high-quality players.

Natural and organic cosmetics and toiletries have been making headlines for some years now and in 2006 natural ingredients at last became a mainstream offering. Driving the trend is the increasing focus on health and well-being, the rising incidence of allergies, and concern about the safety of the countless number of chemicals people are exposed to every day. Government initiatives have also helped raise awareness. In the EU, for example, new legislation came into force in July outlawing many potentially harmful chemicals used in cosmetics and toiletries and requiring others to be safety tested before use.

As demand for natural/organic personal care continues to boom, however, consumers may become aware of a conflict between these products and another emerging trend – that for eco-friendly and socially ethical brands. Replacing synthetic ingredients with natural ones is creating sustainability issues particularly given the trend towards the use of scarce, exotic flora such as those derived from the Amazon rainforest.

Opportunities Return to top

Kenyan consumers are strongly devoted to the enhancement of beauty and health. There is ample demand across the full range of price points, with higher volumes for more affordable products. Women in Kenya constitute an estimated 60% of the total population and, like other African women, many are avid users of hair products (including wigs), skin lotions, creams, antiseptic soaps, and nail polish. Younger consumers (until recently, generally defined as “under 30”) are currently the heaviest users of perfume and cosmetics, although Kenya’s “first consumer generation,” born in the 1960s, also has a keen interest in personal appearance and brands.

The over-50 group accounts for the fastest growing market segment in Kenya, while young adults (age 15 to 25) represent the largest population cohort. By 2030, it is estimated that there will be three people in their fifties for every person in their twenties. Supported by these demographic trends, foundations have become the largest single product category. Formulation innovations, particularly those promising anti-ageing results, such as lifting wrinkles, removing blemishes, and reducing spider veins, are driving growth in this segment. Other products that are in demand are products containing organic and natural ingredients such as plant and herb extracts. Aromatherapies and fruit oils are increasingly popular, especially if they claim to enhance feelings of well-being or combat stress.

However, demand is strong for other products as well. Those that offer multiple benefits and enhance natural beauty are growing in popularity. Mascara continues to be the largest seller in the eye make-up segment with high demand for items that lengthen, thicken and curl the lashes. Lipsticks that incorporate moisturizing, gloss, and increased lip volume continue to be popular. Within the nail products segment, less importance is being placed on color polishes, as more consumers opt for a clean, but everyday style, such as a French manicure look.

Opportunities also exist in the export or manufacturing of shampoo and conditioners, hair care and styling aids gels, waxes, body lotions with essential oils, sun screens, insect repellents, lice foam and combing solution. U.S. cosmetics and toiletries generally enjoy an excellent reputation for good quality, stringent quality control, product safety, and innovation. However, cost is a major factor to end-users. Brands supported by well-known fashion models, designers, and movie stars are very popular. Beauty salons appear to be among the most common retail outlets in Kenya – and any successful marketing strategy must consider the thousands of such salons, boutiques, parlors, and sports club facilities – including many that are almost certainly operating in the informal sector.

Kenya's overall consumer base is increasing as end-users of cosmetics expand from the traditional market of women in their twenties and over to include teenage girls and boys. Recently, industry experts note that so-called "kids' cosmetics" are attracting the attention of even preteen girls -- as well as their parents. Another relatively new, growing, and highly affluent cosmetics consumer group is teen boys and men in their twenties who are increasingly interested in personal appearance and skin care. It is not unusual to find men visiting beauty salons these days, and industry sources point out that many seek not only beauty and health -- but also simply relaxation.

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Kenya Bureau of Standards – www.kebs.co.ke

Kenya Private Sector Alliance – www.kepsa.co.ke

Kenya Association of Manufacturers – www.kam.co.ke

Electrical Power Systems (ELP)

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Electrical Power Systems	2004	2005	2006 est.
Total Market Size	77	78.5	84
Local Production	0	0	0
Exports	0	0	0
Imports	77	78.5	84
Imports from the USA	13	14.3	15.5

All figures in millions of USD

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As is the case for many Sub-Saharan countries, Kenya suffers from low-quality, high-cost utilities. According to some members of the American Chamber of Commerce of Kenya (ACCK), when indirect costs associated with brownouts, blackouts, power surges, damage to equipment, and back-up and emergency electrical power sources are factored into the nominal cost of electricity off the grid, Kenya's electricity costs are the highest in the world.

The major sources of electricity in Kenya are hydroelectric, geothermal, thermal, and imports from Uganda. Total installed capacity is 1235 megawatts (hydroelectric 677 MW, oil-based thermal 407 MW, geothermal 121 MW, and imports from Uganda of 30 MW). With effective capacity of 1176 MW, demand in November 2007 reached 1031 MW. Kenya therefore has a power surplus of 145 MW, a reserve margin of just 7% under normal weather conditions. Like many of its neighbors, Kenya has experienced alarmingly severe climate pattern changes creating alternating drought and flood conditions. The gap between installed and effective capacity points to significant system losses in transmission and distribution and the need for investment in both areas. Industry analysts expect peak demand to reach 1153 MW against a supply of 1185 MW in

2008. Demand for electricity is expected to grow by at least 8% annually, reaching 1250 MW by 2010 and 3076 MW by 2020.

The industry is split into three government agencies. The government-owned Kenya Electricity Generating Company (KENGEN) created in 1997, carries out most power generation, supplemented by a handful of private sector investors licensed as Independent Power Producers (IPPs). KENGEN owns most generation facilities and supplies about 85% of electricity demand. KENGEN also has aggressive investment plans for the coming decade and will hire a financial advisor shortly to ensure their capital is employed productively. Kenya Power and Lighting Company (KPLC) holds the exclusive rights to distribute, market, and sell electricity in Kenya. KPLC has power purchase contracts with KENGEN and the IPPs. The Electricity Regulatory Board (ERB), set up in 1998, regulates the electricity and power sector -- including approval of electricity tariffs.

The Ministry of Energy oversees all activities within the power sector. Currently, there are three active IPPs with total installed capacity of 143.5 MW. These are Iberafrica Power Limited, 56.5 MW (diesel), OrPower 4 Inc., 12 MW (geothermal, to be increased to 48 MW in early 2008), and Tsavo Power Company 74 MW (diesel). Another source of grid supply is through an import contract with the Uganda Electricity Transmission Company (UETC). There are also seven isolated power stations, five of which belong to the government's rural electrification program and two to KENGEN. The parastatal Mumias Sugar Company began bagasse cogeneration in 2007, supplying 2 MW to the national grid. A single buyer model has been adopted for the electricity industry: KPLC is the sole power transmission and distribution utility and also manages the rural electricity program. Two river basin development authorities, Tana and Athi Rivers Development Authority (TARDA) and Kerio Valley Development Authority (KVDA), own some of the dams for KENGEN hydroelectric stations and are responsible for planning and co-ordination of development activities in their respective river basins.

New transmission lines are planned for construction and commissioning through 2008 and include the 100 km 220 KV Olkaria – Nairobi double circuit, 140 km Kiambere – Nairobi single circuit and the 140 km 220 KV Kamburu – Meru single circuit line. Both projects are in progress. While the total Kenyan power is expected to grow at 8% annually in real terms for the next few years, demand for items such as transmission lines and switchgear may grow at a faster rate. Demand for replacement equipment at existing facilities will also be a major factor.

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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. Access to electricity in Kenya is only about 16%, with much of rural Kenya without any electrical power whatsoever. KPLC has formal electricity supply contracts with only about 650,000 customers, of which only 80,000 fall under the rural electricity program. The country's highest achieved annual sales were 3,801 GWh. The transmission network comprises about 3000 km of 220 kV and 132 kV transmission lines, and 20,000 km of distribution lines on 66 kV, 40 kV, 33 kV and 11 kV. Low voltage lines operate at 240 V and 415 V total about 22,000 km. Best prospects for U.S. exporters include drilling rigs and associated equipment, electric and electrical cables, transformers, electric meters, electric poles, and switchgear.

Opportunities Return to top

Areas of particular interest to foreign suppliers include the continuing Rural Electrification Program, technical improvements to the distribution grid -- and geothermal, bagasse cogeneration, and thermal power generation projects. The GOK plans to create a statutory body to further implement the Rural Electrification Program with the aim of enhancing connectivity to at least 40% by 2010. It is expected that about 450 MW of geothermal, 450 MW in direct imports, 400 MW from diesel plant, and 360 MW from combined cycle plants will be installed by 2025. Current development plans indicate that only about 80 MW of new hydro capacity will be added during this period.

Although the World Bank previously withdrew funding for a geothermal project, funding resumed in 2004 following the passage of legislation to curb corruption. The GOK is committed to accelerating the Geothermal Resource Assessment (GRA) to facilitate designation of geothermal energy as a least-cost source of electricity supply. There is no local production of any of the equipment covered in this section.

Other opportunities include future investment in KPLC, concessioning, the privatization of isolated power stations to improve efficiency and lower power costs, the financing of power expansion projects with private funding instruments, the manufacture and fabrication of electrical equipment such as transformers, cables and switchgear; and a joint venture for a purpose-built facility of up to 600 MW for a Canadian firm with 30% U.S. ownership engaged in mining activities in the Coast Province. There are some under-developed hydroelectric sites, but they may be more expensive to develop than other alternatives.

The electricity supply industry faces various challenges. Given that about 70% of generation is derived from hydropower, power supply is highly vulnerable to weather conditions. There is, however, a shift towards geothermal energy in the future alongside thermal generation. Rising fuel costs continue to have an impact on power prices and the economy. Another great challenge is the level of system losses, currently estimated at 20%. This level is expected to be brought down to 15% in the next three years.

Electricity sales and revenues are vulnerable to the business performance of large power customers, who account for almost two-thirds of total sales but are only 1% of the customer base. Although there is high potential for growth, traditional reliance on foreign loans to invest in infrastructure has suffered with KPLC's poor financial performance. The level of technical losses has therefore risen. Power supply interruptions and maintenance costs for the distribution network are high as well.

A Canadian company holds a two-year renewable contract to manage the publicly owned national power distributor, KPLC. The company intends to increase demand and revenues by improving service quality, offering customers a variety of means to pay their bills, and through advertising and promotion campaigns. For example, KPLC plans to reduce power outages from the current 11,000 per month to 3,000 within two years while increasing the number of new subscribers from the current 40,000 to 150,000 per year. An expanded customer base will result in higher revenue, particularly with streamlined connection policies, outsourced operations, and establishment of customer group schemes. Funding initiatives should enable construction work to commence without waiting for full advance payments by customers.

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Electricity Regulatory Board – www.erb.go.ke

Kenya Electricity Generating Company – www.kengen.co.ke

Kenya Power & Lighting Company Ltd – www.kplc.co.ke

Ministry of Energy – www.energy.go.ke

Agricultural Sector

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The agricultural sector is the major driver of Kenya's economy. It directly accounts for about 24% of the country's GDP, with a further indirect contribution of about 27% through its links to manufacturing, distribution, and service related sectors. It generates some 70% of total national employment and produces most of the country's food requirements. The livestock subsector contributes about 10% of Kenya's GDP and 30% of the farm-level value of agricultural commodities.

Kenyan agriculture, like that in many Sub Saharan countries, faces a myriad of challenges. It is predominately rainfall dependent and thus subject to wide production variances. It is undercapitalized, implying sub-optimal technological absorption resulting in low productivity. Small-scale producers contribute about 75% to the country's total value of agricultural output and account for about 85 % of total employment in the agricultural sector. These attributes, coupled with challenges arising from institutional capacity weaknesses, poor infrastructure, and risks associated with liberalized markets, explain the relative stagnation of agricultural productivity and incomes.

Agricultural is dominated by production of a few commodities categorized as cash crops for export (tea, coffee and horticulture), food crops (corn, wheat, yams, pulses, and rice), industrial crops (sugar, pyrethrum, cotton and sisal) and livestock products (milk and beef). Industrial and export crops dominate in terms of marketed value. The performance of Kenya's agricultural sector has shown mixed trends in growth. In the 1960s and 1970s, the sector recorded one of the most impressive growth rates in Sub- Saharan Africa, growing by on average 5.6% per annum. During the period 1980 to 1990, the sector recorded an average growth rate of 3.5% annually. In the 1990s, however, the performance of the sector deteriorated with some years experiencing negative growth rates.

A confusing and often conflicting set of policy objectives, coupled with erratic policy and regulatory implementation, hinders the sector's progress. Kenya's long-term goal of food self-sufficiency (most often in the literal sense of producing everything consumed in the country) remains unmet with little prospect for change. Frequent droughts usually require donor-provided food aid to mitigate the ravages of famine, especially in the arid and semi-arid regions populated largely by livestock-based pastoral tribes.

1. Corn

Corn (maize) is Kenya's main staple, although production falls short of demand due to frequent droughts and low productivity. The area under cultivation has stabilized at around 1.5 million hectares with limited potential for further expansion given competition for land use. Smallholder farmers, with an average farm size of about 2 hectares, produce about 75% of all corn produced, while large and medium-scale farmers produce the other 25%. The average corn yield is about 1.64 metric tons per hectare for smallholders.

Average production is about 2,520,000 metric tons in a normal cropping year. However, annual corn consumption is estimated at 2,880,000 metric tons, with the shortfall being met by commercial imports. Corn production for 2006/07 is estimated at 2.79 million metric tons: 2.52 million metric tons from the long rain harvests, and about 270,000 metric tons from the short rains. In 2006, most parts of the country received highly enhanced short rains (Oct – Dec) that led to severe flooding especially along the coast, parts of Western, parts of Northeastern and the lake basin. Good crop and livestock performance has been recorded over most of central highlands and parts of southeastern Kenya.

Corn (Maize)	2004	2005	2006
Total Market Size	3200	3200	3200
Local Production	2031	2430	2790
Exports	0	0	100
Imports	275	150	120
Imports from the USA	52	10	0

All figures in thousands of metric tons.
Imports and exports are primarily cross border trade with Tanzania and Uganda.

2. <u>Wheat</u>

In terms of cereal demand and consumption, wheat is the second most important crop after corn. Kenya's annual wheat requirements have averaged about 720,000 tons in recent years. More than 70% of this requirement is met through commercial imports: average annual wheat production averages only 270,000 - 300,000 tons, depending on the production system, weather conditions, and other factors (timely rainfall, good crop husbandry, etc.). Land area under wheat cultivation has stagnated at about 140,000 hectares, with over 75% planted by large-scale wheat farmers.

Wheat consumption has increased faster than production due to high population growth and increased urbanization. Production technology has not kept up with even a fraction of the increased demand over the last decade, and Kenya can expect to continue to import 450,000 - 550,000 metric tons annually for the foreseeable future. The highest demand is for hard or high protein wheat used to blend bread flour, as Kenya produces little of this type of wheat. High transportation costs discourage would-be importers of U.S. wheat; however, the declining value of the dollar and high quality standards favor U.S. wheat.

Wheat	2004	2005	2006 est.
Total Market Size	720	720	720
Local Production	370	300	333
Exports	0	0	0
Imports	540	560	550
Imports from the USA	26	60	100

All figures in thousands of metric tons
Figures do not include beginning and ending stocks

3. <u>Animal Genetics</u>

Kenya has a relatively well-developed livestock sub-sector that contributes some 10% of GDP. The total cattle population is estimated to be over 12 million: nine million Zebu and three million dairy cattle. The dairy cattle industry accounts for 3.5% of GDP, supporting over 600,000 small-scale farmers. The current milk production is about 3.2 billion liters against a potential production of 5.6 billion liters. Since the government's liberalization policy in 1992, the sector no longer receives subsidies in the provision of artificial insemination, dipping, and other clinical services. With the liberalization of the dairy industry and the emergence of more private processors, dairy farmers are eager to improve their herds. Milk production in Kenya is constrained by inadequate breeding services, high prevalence of diseases, inadequate infrastructure and fluctuating milk prices. U.S. dairy genetics have been selling in the Kenya and the Eastern African region for the last five years, but face competition from Europe, Canada, New Zealand and more recently, South Africa. Three U.S. companies are active in Kenya.

Animal Genetics	2004	2005	2006 est.
Total Market Size	200	210	220
Local Production	120	120	120
Exports	0	0	0
Imports	80	84	85
Imports from the USA	39	77	80

All values represent thousand of Units/Straws (1 Unit/Straw = one dose of semen)

4. Centrifugal Sugar

In the 1970s and early 80s, Kenya produced enough for domestic consumption and export. In the late 80s, however, production began to decline. This, coupled with a growing population, necessitated the importation of the commodity. Kenya produces an average of 450,000 metric tons of sugar and has a domestic consumption estimated at 650,000 metric tons. The deficit of 200,000 metric tons is met through imports, mainly from COMESA member states. Most imports are refined sugar for industrial use. For the last three years, the sugar industry has experienced an upsurge in performance. This increase has been attributed to increased area under production, production efficiency, and overall improvement in management. The major challenge facing the sector remains competitiveness against cheaper COMESA imports.

Centrifugal Sugar	2004	2005	2006 est.
Total Market Size	650	650	650
Local Production	517	500	490
Exports	10	10	11
Imports	200	200	200
Imports from the USA	0	0	0

All figures in thousands of metric tons
Figures do not include beginning and ending stocks.

5. Oil Seeds & Products

Edible oil production in Kenya continues to face problems, mainly caused by importation of relatively cheap palm oil, low-yielding seed varieties, lack of farm credit, and a poor technical support system. As a result, edible oil production has leveled off at 80,000 tons for the past couple of years. Kenya's industrial sector has the capacity to handle 50,000 tons of seeds per year; however, only 5% (2500 tons) of this capacity is utilized by processing locally produced oil crops. Sunflower oil dominates the country's oilseed production, accounting for 90% of total output. In recent years, about 8,000 to 10,000 tons of edible oil has been produced from corn. Demand for cottonseed is high, but production remains low due to high production cost. Cottonseed is sometimes sourced from neighboring countries. The government and some nongovernmental organizations are trying to promote the cultivation of soybeans as current production cannot meet demand. The bulk of Kenya's soybean requirements are imported from countries such as Malaysia, Indonesia, and India. Most U.S. imports of edible oils and products are for food aid.

Oil Seeds & Products	2004	2005	2006 est.
Total Market Size	430	450	450
Local Production	80	80	80
Exports	0	0	0
Imports	350	370	370
Imports from the USA	9.2	2.4	11.1

All figures in thousands of metric tons
Reliable statistics or industry estimates are generally no longer available for this sector

6. Rice, Milled

Rice is the third most important cereal crop in Kenya after corn and wheat. About 95% of the farmed rice produced in Kenya is managed through the National Irrigation Board (NIB), which contracts with farmers using four major irrigation schemes. The remaining 5% is produced in smallholder fields producing rain-fed rice. The average yield under irrigation is 5.5 tons/ha for aromatic rice varieties and 7 tons/ha for non-aromatic varieties. The average yield for rain fed rice is below 2 tons/ha. In total, the country has an annual average production ranging between 60,000 – 70,000 tons against annual consumption of about 280,000 metric tons. The Ministry of Agriculture estimates production in the 2005/06 cropping year at 70,000 tons, with a bulk of it coming from NIB programs. The deficit is met through imports mainly from Pakistan, Thailand, Vietnam, India, China, and the U.S. The demand for rice consumption is forecast to grow, albeit slowly. Local rice is popular but expensive, thus attracting cheaper rice from the Asian countries. Because of the cheaper imports, NIB is often unable to rapidly move its rice stocks. Rice is popular, particularly in the urban areas of the country and along the coastal region. Lately, well-known U.S. brands have appeared in supermarkets and are purchased by high-end market clientele (e.g.: large expatriate community and wealthier Kenyans).

Milled Rice	2004	2005	2006 est.
Total Market Size	120	250	280
Local Production	49	60	70
Exports	0	0	0
Imports	73	100	200
Imports from the USA	0.6	0.3	0.3

All figures in thousands of metric tons. Stocks are not captured in the figures. Total market size figures are estimates by the Ministry of Agriculture.

7. Consumer Oriented Products

Kenya has a fast-growing food retail sector. Three large supermarket chains have multiple outlets in the six largest cities, and some are expanding. Suppliers able to provide modest quantities through consolidators find the greatest success. Most consumer-oriented food products from the U.S. are imported via consolidators in Dubai (United Arab Emirates) or suppliers in South Africa and Europe. The growing middle class (5 -10% of the total population) and a large expatriate community account for the high demand for high-value, consumer-oriented food items. Other sources of consumer-oriented products are Europe, South Africa, the Middle East, and Far Eastern countries.

Consumer-oriented food items include canned fruits and vegetables, snack foods, confectionery, bakery products, baby foods, pet foods, dry groceries, condiments, and some food ingredients (protein concentrates, vitamins, minerals, flavors, stabilizers etc.).

Consumer Oriented Products	2004	2005	2006 est.
Total Market Size	n/a	n/a	n/a
Local Production	n/a	n/a	n/a
Exports	198,760	200,000	200,000
Imports	163,746	165,000	165,000
Imports from the USA	1.74	4.47	6.06

All figures in thousands of USD

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Customs and Excise Department - www.revenue.go.ke

Kenya Bureau of Standards (KEBS) - www.kebs.org

Kenya Plant Health Inspectorate Service (KEPHIS) - www.kephis.org

USDA/FAS Washington **-** www.fas.usda.gov

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Chapter 5: Trade Regulations and Standards

Import Tariffs

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Kenya applies tariffs based on the international (HS) harmonized system of product classification. Recent tariff changes were announced in Kenya's 2007-2008 budget, the major highlights of which follow:

a) Import duty on felt paper used for manufacture of oil and air filters for motor vehicles was reduced from 25% to 10%.
b) Import duty on textile fabrics and felt that are needed in the manufacturing process of paper and that on millstones and grindstones for milling, grinding or pulping were reduced to 0%.
c) Medical equipment imported by licensed hospital will be exempted from duty under the EAC Customs Management Act.
d) Export duty of 20% or Kshs. 10/kg has been imposed on export of used lead acid batteries.
e) Export duty on raw hides and skins has been increased from 20% or Kshs. 10 /kg to 40% or Kshs. 20/kg.
f) Specific excise duty of Kshs. 6 per liter has been introduced on bottled water in addition to the existing ad valor excise duty of 10%.
g) Excise duty on malt beer was increased from Kshs. 48 per liter to Kshs. 50 per liter.
h) Commodities that have been zero-rated for Value Added Tax purposes include: milk powder, imported pyrethrum extracts, specialized solar equipment and accessories including deep cycle sealed batteries, certain insecticides, rodenticides, fungicides, herbicides, anti-sprouting products, plant growth regulators, disinfectants, and waste pharmaceuticals.
i) Live fowls, ducks, geese, turkey, guinea fowls, frozen fish, fresh/chilled fish fillet, cut flowers, flower buds, macadamia nuts (whether or not shelled or peeled, fresh or dried) have been exempted from VAT.
j) Import Declaration Form (IDF) fee on imported goods has been reduced from 2.75% of CIF to 2.25% for non-EAC Partner States and completely removed for goods originating from the 5 EAC Partner States.

It is important to note that those industries negatively affected by the proposed tax changes are aggressively lobbying the Ministry of Finance to reconsider its positions.

The government maintains lower duties and value-added tax for selected items in certain priority sectors. Those items include: palm oil and tallow, bicycles, steel billets, wire rods, graphite lead, windmills, power transformers, cables, active ingredients used for preparation of human and veterinary pharmaceuticals.

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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 for regulated imports. Some U.S. firms may find packaging and labeling requirements difficult to meet. The lack of certain intellectual property rights (IPR) protection on videos, music, and computer software makes some U.S. firms reluctant to export these goods and services to Kenya.

For a fuller treatment of the challenges of doing business in Kenya, refer to the discussion in Chapter 1, Market Challenges.

Kenya's eight tax treaties generally follow the Organization for Economic Cooperation and Development model for the prevention of double taxation of income. At this time there is no tax treaty between Kenya and the United States, but there is little or no evidence that this has been a significant hindrance to doing business, investing, or seeking residence in Kenya. There are many U.S. companies operating in Kenya and subject to Kenyan tax law. For a list of U.S. companies operating in Kenya, please contact the American Chamber Of Commerce Of Kenya: P. O. Box 9746 – 00100, Tel: +254 (20) 675-0721; Cell: +254 (720) 880-458; email: info@acck.org; Web: www.acck.org

Foreign Trade Barriers (Government Procurement)

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Kenya is not a signatory to the WTO Agreement on Government Procurement; however, in 2005 Kenya enacted the Public Procurement and Disposal Act, which provides for a Public Procurement Oversight Authority. The Minister of Finance appoints the Authority's nine-member Oversight Advisory Board. This new authority entered into force on January 1, 2006, but elements of its implementation remain uncertain. The legislation is intended to make procurement more transparent and accountable, requiring procurement agencies to carry out an annual update of pre-qualified firms, especially when dealing with restricted tenders, such as military tenders.

The new law establishes penalties for violations of the law, with penalties for individuals up to Ksh 4 million (about $58,000) in fines, or imprisonment for three years, or both; and for corporations, fines of up to Ksh 10 million (about $147,000). The new law gives exclusive preferences to Kenyan citizens where the funding is 100 percent from the government of Kenya or a Kenyan body, and the amounts are below a yet-to-be determined threshold. 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 to 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.

There remains some uncertainty about how much transparency the new law will apply to tenders for national security-related projects, which have been the subject of a number of high-profile corruption cases in recent years. Other reforms in public procurement have also been put in place in recent years; for example, the government increased transparency in bidding by removing from its tenders a clause that reads, "The government reserves the right to accept or reject any bid and is not obliged to give any reasons for its decisions." The Central Tender Board now publishes its decisions and, if a bidder asks, provides reasons for rejecting certain bids (although on occasion responses have been halting and/or unsatisfactory to the requesting bidder).

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 been frequently 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.

Export Promotion

Kenya's Manufacturing Under Bond (MUB) program is designed to encourage manufacturing for export. The program is open to both local and foreign investors. Enterprises operating under the program are exempted from duty and VAT on imported raw materials and other imported inputs and have 100 percent investment allowance on plant, machinery, equipment, and building expenses.

Firms operating in Export Processing Zones (EPZs) are exempted from all withholding taxes on dividends and other payments to non-residents during the first 10 years. They are also exempted from import duties on machinery, raw materials, and intermediate inputs. There are no restrictions on management or technical arrangements, and EPZ companies have access to expedited licensing procedures. EPZ firms are allowed to sell up to 20 percent of their output on the domestic market. However, they are liable for all taxes on products sold domestically plus a 2.5 percent penalty. There is no general system of preferential financing, although sectoral government development agencies in areas such as tourism and tea are supposed to provide funds at below-market rates to promote investment and exports. Kenya's EPZs have become the center of Kenya's successful garment and apparel sector, with most of the production being exported to the U.S. under AGOA preferences.

On December 8, 2006, U.S. House of Representatives and Senate (December 9) approved the Africa Investment Incentive Act of 2006, which extends AGOA trade preferences through 2012.

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Import licensing controls were dismantled in 1993. However, for a small number of health, environment, and security imports, import licenses are still required. Most other imports remain subject to some paperwork and approvals. Imports of machinery and equipment classified as equity capital or loan purchases must receive prior 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.

Certain pets require an import license. Cats and dogs are issued with an import license only after a veterinary surgeon has certified the animal to be vaccinated against rabies and free from any contagious disease. The Kenyan Embassy in Washington, DC (2249 R Street, N.W. Washington, DC 20008; tel: (202) 387-6101) and other Kenyan embassies may issue the import license. Import is allowed only at designated entry points.

All Kenyan imports are required to have the following documents: import declaration forms (IDF), a clean report of findings from the PvoC agent for regulated products, and valid pro forma invoices from the exporting firm. Firms exporting from Kenya need to obtain Form C 29 from Customs Department and the following documents, which serve as certificates of origin, from Kenya's Ministry of Trade and Industry: G.S.P. Form A for U.S. destined goods, EURO 1 for exports to the European Union, PTA Certificate of Origin for exports to the PTA (COMESA) area, and Ordinary Certificate of Origin for exports to all other parts of the world.

U.S. Export Controls Return to top

U.S. companies exporting to Kenya must adhere to the requirements of the U.S. Department of Commerce's Bureau of Industry and Security (BIS) and Department of Treasury's Office of Foreign Asset Control (OFAC). U.S. companies interested in doing business in and with Sudan – specifically Southern Sudan – may contact the U.S. Commercial Service Kenya, which maintains a page specifically for Sudan issues updated on its website and remains abreast of Sudan commercial issues.

The primary mission of the Bureau of Industry and Security 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 regulate 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 at present) that are the object of sanctions affecting not only exports and re-exports, but also imports and financial dealings. A list of other agencies involved in export controls can be found on this Web site or in Supplement No. 3 to Part 730 of the EAR which is available on the Government Printing Office website.

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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 duty and value added tax on the presumed value of the items.

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Please refer to the "Standards" section below.

Prohibited and Restricted Imports Return to top

It is illegal to import several items into Kenya unless exemption has been granted by the relevant Kenyan ministry or government agency. A complete list of prohibited and restricted goods is available from the Kenyan Customs Department at the following link:

Customs prohibited goods list

Customs Contact Information Return to top

Customs Services Department
Kenya Revenue Authority,
Times Tower, 12th Floor,
P.O. Box 40160 – 00100 GPO
Nairobi, Kenya
Tel: +254-20-2817105; Fax: +254-20-318204
Contact: Ms. Rose Namu, Acting Commissioner for Customs Services
Email: Rose.Namu@kra.go.ke
www.kra.go.ke

Mary Masyuko
Commercial Specialist
U.S. Commercial Service
Tel: +254 (20) 363-6063; fax: 363-6065
Email: Mary.Masyuko@mail.doc.gov
www.BuyUSA.gov/kenya

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 Department on an agency basis include: 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 fees on 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/pedophilia, and weapons/explosives).

The Customs Services Department implements bilateral, regional, and international trade arrangements, and supports global enforcement efforts against smuggling, the illegal importation and exportation of arms, 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 agreed conditions (the Rules of Origin). Goods originating in Kenya also enter into the countries concerned 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 mutually applying – 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. At the international level, the Kenya Revenue Authority Customs Services Department is a member of the World Customs Organization (WCO).

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- Conformity Assessment
- Product Certification
- Accreditation
- Publication of Technical Regulations
- Labeling and Marking

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A Kenya standard is an authoritative statement of the criteria necessary to ensure that a material, product, or procedure is fit for the purpose for which it is intended. Kenya standards fall 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 members include 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).

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Organizations that develop standards in Kenya include:

1. The Kenya Bureau of Standards (KEBS)
2. The National Environment Management Authority (NEMA)
3. The Division of Environmental Health

The Kenya Bureau of Standards (KEBS) is the government regulatory body under Kenya's Ministry of Trade mandated to develop (and ensure) compliance with International Standards Organization (ISO) product standards. The National Environment Management Authority, under the Ministry of Environment and Natural Resources, the Department of Public Health, and the Ministry of Health, are government organizations that develop environmental and public health standards, respectively, 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 currently in the process of 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.

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In addition to KEBS, other national testing bodies include:

a) The Government Chemist (carries out forensic testing for law enforcement agencies)

b) The National Quality Control Laboratories (medical and pharmaceutical testing)

c) The National Public Health Laboratories (testing on microbiological reagents)

d) The Kenya Plant Health Inspectorate Service (KEPHIS) (certification of all imported plant materials as well as implementing sanitary & phytosanitary requirements)

e) 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, Cotecna Inspection, and InterTek Services, which all provide private consumer product-testing services.

With the exception of Cotecna and InterTek Services, they also undertake systems and services certification.

Kenya's requirement for PSIs ceased in June 2005. Instead, all consignments of regulated products must now obtain a Certificate of Conformity issued by authorized PVoC Country Offices (offices operated & managed by KEBS partners) prior to shipment. The certificate is a mandatory customs clearance document in Kenya; consignments of regulated products arriving at Kenyan Customs points of entry without this document will be subject to delays and possibly denial of admission into the country. For consignments shipped without inspection, importers may apply for a destination inspection subject to KEBS acceptance and pay a penalty of 15% and a 15% bond of the CIF value, plus the costs of the test. It is the seller's responsibility to ensure that shipments to Kenya are effected only after issuance of a Certificate of Conformity. 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).

Product Certification Return to top

Product certification is currently voluntary, but is generally considered 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 Commission of Kenya (CCK) 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 specified conditions as outlined in the import permit issued by the Kenya Plant Health Inspectorate Service (KEPHIS). 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.

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 permitted 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 manufacture, packaging, labeling, and distribution. 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 product to ensure it conforms to KEBS or any other KEBS-approved standards; products that do not meet the standards are to be withdrawn from the market and the importer/manufacturer may be prosecuted.

Accreditation Return to top

Accreditation bodies in Kenya include KEBS, SGS, and Bureau Veritas. Currently, no mandatory accreditation for laboratories is required for any sector. In March 2005, the Government of Kenya formed the Kenya Accreditation Services (KENAS), a quasi-government body with both public and private sector membership, to spearhead the development of a national accreditation system. KENAS in 2006 accredited six calibration laboratories and has to date trained 40 assessors for the purpose of conformity assessment bodies. KENAS will transform into a fully autonomous body by July 2008.

Publication of Technical Regulations Return to top

Proposed technical regulations under the Standards Act do not normally require to be published in the Kenya Gazette, the government's official gazette. However, final regulations are published in the Kenya Gazette as legal notices to give them legal backing. By taking up corporate membership with KEBS, U.S. companies can, upon a written request to the Managing Director of KEBS, receive proposed technical regulations affecting their industry as well as 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 the Managing Director, Kenya Bureau of Standards (Off Mombasa Road, Nairobi South C, P.O. Box 54974, Nairobi, Kenya; tel: +254 (20) 502211; fax: +254 (20) 503293; contact: Eng. Kioko Mang'eli, Managing Director, email: kebs@africaonline.co.ke, Website: www.kebs.org.).

Labeling and Marking Return to top

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 both metric and imperial forms. Manufacturers are required to indicate on the labels of all consumables both the date of manufacture and expiry. Labeling for pharmaceutical products should include therapeutically active substances, inactive ingredients, name and percentage of any bactericidal or bacteriostatic agent, expiry date, batch number, warnings or precautions, name and business address of manufacturer, and registration number of the product.

Trade Agreements Return to top

Kenya first signed a bilateral trade and investment agreement with Germany in 1996. Since then, it has concluded a number of other trade agreements aimed at gaining export opportunities. Kenya is a member of the East African Community (EAC), the Intergovernmental Authority on Development (IGAD), the Common Market for Eastern and Southern Africa (COMESA), and the World Trade Organization (WTO). According to the Kenya Investment Authority agreements are pending with the United Kingdom, Italy, and Russia.

Kenya has no bilateral trade investment agreement with the U.S.; however, in 2006 Kenya and the U.S. initiated discussions aimed at working toward the signing of a Trade and Investment Framework Agreement, or TIFA. A TIFA is generally acknowledged as the key step towards ultimately a full Free Trade Agreement (FTA). Kenya is also a key eligible country for preferential access to the U.S. market under the African Growth and Opportunity Act (AGOA), which is now scheduled to run at least through 2012. Kenya has implemented the WTO Customs Valuation Agreement and the Financial Services Agreement, and has passed legislation designed to implement the Trade-related Aspects of Intellectual Property Rights (TRIPS) agreement.

Telecommunications

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The telecommunications system in Kenya, which includes direct dialing telephone service, cellular telephone service and fax to the U.S., is available throughout the country. There is a vibrant mobile telecommunications sector and there are mobile-renting facilities available, especially in the major towns. Interruptions in service do occur and simple local calls using landlines often are hard to complete. Microwave telecommunication links in Kenya are available and meet the quality requirements for transmission of high-speed business data and communications. Most of the larger hotels have business centers with internet facilities, although they can be antiquated, slow, or temporarily inoperative.

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African Growth and Opportunity Act (AGOA) – www.agoa.gov

Common Market for Eastern and Southern Africa (COMESA) – www.comesa.int

Centers for Disease Control – www.cdc.gov

East African Community – www.eac.int

Export Administration Regulations – www.bxa.doc.gov

Government Printing Office – www.access.gpo.gov/bis/ear_data.html

Intergovernmental Authority on Development (IGAD) – mailto:igad@intnet.dj

Kenya Customs Department – www.kra.go.ke

Kenya Bureau of Standards – www.kebs.org

Kenya Accreditation Service - http://kenyaaccreditation.org

Kenya Investment Authority – www.investmentkenya.com

Ministry of Finance – www.treasury.go.ke

National Environmental Management Authority – www.nema.go.ke

The Division of Environmental Health – www.dehs.his.gov

The Bureau of Industry and Security – www.bis.doc.gov

Trade-related Aspects of Intellectual Property Rights (TRIPS) – WTO Trips site

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Chapter 6: Investment Climate

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Kenya has had a long history of economic leadership in East Africa as one of the largest and most advanced economies in the region. However, inconsistent efforts at structural reforms and poor policies over the past 15 years generated a prolonged period of decline in development indicators and significantly eroded this leadership position. While Kenya was a prime choice for foreign investors seeking to establish a presence in Eastern and Southern Africa in the 1960s and 1970s, poor economic policies, rising problems of corruption and governance, and deterioration of public services have discouraged foreign direct investment (FDI) since the 1980s. Over the past 25 years, Kenya has been an underperformer in attracting direct foreign investment. Since 2003, Kenya's performance in attracting FDI has been marginally better at nearly US$6 per US$1,000 of GDP (US $82 million in total). But this is well below potential and pales in comparison to the FDI levels in neighboring countries with smaller economies. To make the country more attractive to investors, the Government of Kenya (GOK) reviewed its investment policy and launched a private sector development strategy in 2007. A policy review by the United Nations Conference on Trade and Development (UNCTAD) is one component of this effort.

The legal framework for FDI is provided by the Companies Ordinance, the Partnership Act, the Foreign Investment Protection, Act and the Investment Promotion Act 2004. To attract investment, the GOK has enacted several reforms, which include abolishing export and import licensing, except for a few items listed in the Imports, Exports and Essential Supplies Act, rationalizing and reducing import tariffs, revoking all export duties and current account restrictions, freeing the Kenya shilling's exchange rate, allowing residents and non-residents to open foreign currency accounts with domestic banks, and removing restrictions on borrowing by foreign as well as domestic companies.

The respective roles of the public and private sectors have evolved since independence in 1963, with a shift in emphasis from public investment to private sector-led investment. The GOK has introduced market-based reforms and provided more incentives for both local and foreign private investment. Foreign investors seeking to establish a presence in Kenya generally receive the same treatment as local investors, but there are some exceptions. Multinational companies make up a large percentage of Kenya's industrial sector.

A relatively recent investment code, articulated in the Investment Promotion Act of 2004, is designed to streamline the administrative and legal procedures to achieve a more effective investment climate. It came into force when published in the Kenya Gazette Supplement No.87 on January 3, 2005. The Investment Promotion Act of 2004 is to attract and facilitate investment by assisting investors in obtaining the licenses necessary to invest and by providing other assistance and incentives. The Act replaced the government's Investment Promotion Center with the new Kenya Investment Authority (KIA). The law creates some new barriers, however. Namely, it sets the minimum foreign investment threshold at $500,000 (likely to be reduced to $100,000 in 2008), and conditions some benefits on obtaining an investment certificate from the

KIA. The requirement is likely to deter investment despite the argument that it is meant to protect small domestic businesses in certain areas. Foreign employees are expected to be key senior managers or have special skills not available locally. Foreign investors are required to sign an agreement with the government defining training arrangements intended to phase out expatriates. Any enterprise, whether local or foreign, may recruit expatriates for any category of skilled labor if Kenyans are not available.

The GOK focuses its investment promotion on opportunities that earn foreign exchange, provide employment, promote backward and forward linkages, and transfer technology. The only significant sectors in which investment (both foreign and domestic) are constrained are those where state corporations still enjoy a statutory monopoly. These are restricted almost entirely to infrastructure (e.g., power, posts, telecommunications, and ports) and the media, although there has been partial liberalization of these sectors. For example, in recent years, five Independent Power Producers (IPPs) have begun operations in Kenya. Foreign telecom companies can also establish themselves in Kenya, but must have at least 30% local ownership. A legal notice published in June 2007 reduced the threshold for foreign ownership of listed companies on the Nairobi Stock Exchange (NSE) from 75% to 60%, which is a disincentive for foreign-owned firms interested in an NSE listing. Although the regulation is not applicable retroactively, it does compel companies with a foreign presence of more than 60% to downgrade foreign shareholding before applying to the NSE. The measure thus effectively bars these firms from selling excess shares to non-Kenyans.

All resident companies are subject to tax on their incomes at the rate of 30%. Branches of non-resident companies pay tax at the rate of 37.5%. Taxable income is generally defined to be income sourced in or from Kenya. Value Added Tax (VAT) is levied on goods imported into or manufactured in Kenya, and taxable services provided. The standard VAT rate is 16%. Work permits are required for all foreign nationals wishing to work in the country. It is becoming increasingly difficult for expatriates to obtain work permits because the government says qualified middle level managers and technical staffs are available locally but this may be driven more by the high unemployment level. The official unemployment level is 10.5% but there are numerous indications that the real unemployment rate in the country is over 40%. There is no discrimination against foreign investors in access to government-financed research. The government's export promotion programs do not distinguish between local and foreign-owned goods.

UNCTAD, in conjunction with the International Chamber of Commerce (ICC), published an Investment Guide to Kenya in May 2005. The guide provides comprehensive analyses of investment trends, opportunities, and the regulatory framework in the country. According to the UNCTAD report (and most observers), significant disincentives for investment in Kenya include government overregulation and inefficiency, expensive and irregular electricity and water supplies, an underdeveloped telecommunications sector, a poor transport infrastructure, and high costs associated with crime and general insecurity.

Efforts have been made to harmonize the investment regimes and incentives among the original East African Community (EAC) countries (Tanzania, Kenya and Uganda). Tariff barriers among the three East African countries were removed in 1999. In 2004, Kenya, Tanzania and Uganda signed a Customs Union Protocol, putting in place a three-tier tariff system and paving the way for further steps towards a common market. Rwanda and Burundi acceded to the EAC on June 18, 2007 and became full members of the Community effective July 1, 2007. The EAC aims at widening and deepening cooperation among the partner states in, among others, political, economic and social fields for mutual benefit. Under the protocol, EAC member states are to allow zero-rated entry of raw materials from EAC members, levy a 10% duty on semi-processed goods, and levy a 25% duty on finished goods. The realization of a large economic bloc with a combined population of more than 120 million and a combined gross domestic product of $41 billion bears great strategic and geopolitical significance and offers the prospects of a renewed and reinvigorated EAC. Non-tariff barriers (NTBs), however, remain a problem in the EAC. A March 2005 report on NTBs and the "Development of a Business Climate Index in the Eastern

African Region" by the East African Business Council identified administration of duties and other taxes as the main NTB, followed closely by corruption. The report also indicates that Kenya's level of investment and business optimism is dampened by low expectations relating to improvements in infrastructure, access to land, and profitability in business.

The GOK has sought foreign investment through investment conferences and foreign trips occasionally led by the Head of State. In August 2005, Kenyan President Mwai Kibaki made a five-day visit to China to market Kenya as an investment destination to prospective Chinese investors. President Kibaki made a follow-up trip to China in November 2006 as part of the government's strategy to broaden economic co-operation and diversify marketing activities into the non-traditional markets of the Far East. China is increasingly becoming an important trading partner that commands 6.6% of import share in the year to July 2007 compared to 4.9% in 2006. US import share in the same period was 7.9% compared to 4.1% previously. In early June 2007, Kibaki led a trade delegation on a three-day tour to Libya, where he sought oil at concessionary rates.

Conversion and Transfer Policies

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Capital repatriation, remittance of dividends, and interest are guaranteed to foreign investors under the Foreign Investment Protection Act (FIPA) (Cap 518). Foreign investors are free to convert and repatriate profits including retained profits, which have not been capitalized – i.e., proceeds of the investment after payment of the relevant taxes and the principal and interest associated with any loan. Foreign exchange is readily available from commercial banks and foreign exchange bureaus. Local and foreign investors are allowed to freely buy and sell foreign exchange. Kenya has a floating exchange rate. The Kenya shilling is tied to a basket of foreign currencies and was relatively stable in recent years until late 2007 when it increased significantly in value against the dollar, even trading briefly below KSh 60 to the dollar.

There are no restrictions on converting or transferring funds associated with investment. Under Kenyan law, amounts above KSh 500,000 (about $7,700) have to be declared as a formal check against money laundering although this is rarely enforced due to lack of appropriate legislation. The government published and tabled in Parliament the Proceeds of Crime and Anti-Money Laundering Bill of 2007 but it was not debated. The bill lapsed and has to be re-published and re-submitted in the Tenth Parliament.

Expropriation and Compensation

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Kenyan investment law is modeled on English investment law. The Companies Act, the Investment Promotion Act, and the Foreign Investment Act are the main pieces of legislation governing investment in Kenya. Kenyan law provides protection against the expropriation of private property except where due process is followed and adequate and prompt compensation is provided. Further protection is also guaranteed by various bilateral agreements with other countries. Expropriation may only occur for either security reasons or public interest. The GOK may revoke a foreign investment license if (1) an untrue statement is made while applying for the license; the provisions of the Investment Promotion Act or of any other law under which the license is granted are breached; or, if (2) there is a breach of the terms and conditions of the general authority. The Investment Promotion Act of 2004 provides for revocation of the license in instances of fraudulent representation to the Kenya Investment Authority by giving a written notice to the investor to show cause within 30 days from the date of notice why the license should not be revoked. In practice, licenses are rarely revoked.

In September 2007, squatters invaded a 15,000-acre private homestead in Coast Province, barely a month after President Kibaki announced that idle land would be re-possessed and given to the landless. The private property owner is challenging the squatters' confiscation of his land in court.

Dispute Settlement

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Kenya is a member of the World Bank-affiliated Multilateral Investment Guarantee Agency (MIGA), which issues guarantees against non-commercial risk to enterprises that invest in member countries. It is also a signatory to the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States. The Convention established the International Center for Settlement of Investment Disputes (ICSID) under the auspices of the World Bank. Kenya is also a member of the Africa Trade Insurance Agency (ATIA). Kenya is a member of many other global and regional organizations and treaties including; the Common Market for Eastern and Southern Africa (COMESA); the Cotonou Agreement between the European Union and the African, Caribbean and Pacific States (ACP); the East African Community (EAC); the Paris Convention on Intellectual Property, the Universal Copyright Convention and the Berne Copyright Convention; the World Intellectual Property Organization (WIPO), and the World Trade Organization (WTO). Kenya has also signed double taxation treaties with a number of countries including Canada, China, Germany, France, Japan, Netherlands, India, among others. On November 27, 2007, Kenya joined with its EAC sister states in signing the first-ever interim economic partnership agreement (EPA) with the European Community (EC).

The Kenyan Constitution guarantees the protection of life and property, which are also protected under the Penal Code of Laws of Kenya. Their violation is actionable in criminal law. Despite these protections, insecurity in the forms of international terrorism, unsafe borders, and common crime has been a major concern to many investors in Kenya. Kenya suffered major terrorist attacks in 1998 and 2002, resulting in the loss of lives and property. The shaky situation in neighboring Somalia has heightened security concerns at a time when Kenya has yet to enact appropriate anti-terrorism legislation. Unstable, porous or conflicted borders are a second source of insecurity both in Kenya and the region. Crime is also a major source of insecurity in the country. According to the World Bank, almost 70% of investors reported major or very severe concerns about crime, theft and disorder in Kenya in 2004.

Kenya's judicial system is modeled after the British, with magistrates' courts, high courts in major towns and a Court of Appeal at the apex of the judicial system. Immediately below the high courts are Subordinate Courts consisting of the Kadhis' Courts, the Resident Magistrate's Courts, the District Magistrate's Courts, and the Court Martial (for members of the Armed Forces). In addition, there is a separate industrial court that hears disputes over wages and labor terms. Its decisions cannot be appealed. Kenya also has commercial courts to deal with commercial disputes. Company and investment law is centered on the Companies Act of 1948. Property and contractual rights are enforceable, but long delays in resolving commercial cases are common. The legal system in Kenya is adversarial, and most disputes are resolved through litigation in court, although arbitration and alternative dispute resolution are becoming increasingly popular. The Arbitration Act governs arbitration.

The Foreign Judgments (Reciprocal Enforcement) Act provides for the enforcement in Kenya of judgments given in other countries that accord reciprocal treatment to judgments given in Kenya. The countries with which Kenya has entered into reciprocal enforcement agreements are Australia, the United Kingdom, Malawi, Tanzania, Uganda, Zambia, and Seychelles. Without such an agreement, a foreign judgment is not enforceable in the Kenyan courts except by filing suit on the judgment. Kenyan courts as a general rule recognize a governing-law clause in an agreement that provides for foreign law. A Kenyan court would not give effect to a foreign law if the parties intended to apply it in order to evade the mandatory provisions of a Kenyan law with which the agreement has its most substantial connection, and which the court would normally have applied.

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Chapter 7: Trade and Project Financing

How Do I Get Paid (Methods of Payment) Return to top

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 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

Being paid in full in a timely manner is always a major concern of any exporter, as is relative commercial risk. U.S. exporters are encouraged to discuss these and all other concerns with a CS Eastern Africa specialist before doing business with a new partner for the first time.

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 has 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.

CS Kenya can provide background and credit-risk information (for a nominal fee) on virtually any Kenyan individual or firm. CS Kenya 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 (generally, for a higher fee than charged by CS Kenya). Interested U.S. firms should visit the following website for further details: www.buyusa.gov/kenya

Note: Kenyan exporters themselves have liberal access to various types of attractive and useful export finance and insurance programs. These include overdraft facilities, revolving lines of credit, pre-shipment rediscounting facilities, and post-shipment financing.

How The Banking System Operates

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Kenya, already a regional leader, is developing one of the largest commercial banking bases in Africa. At independence the nation inherited a financial system typical of British colonies in Africa: a currency board; a commercial banking system wholly dominated by major British banks; a Post Office Saving Bank, and a small number of non-bank financial institutions (NBFIs) providing mortgage finance, insurance, and other financial services. The sector has become substantial, sophisticated, and complex. Recent years have witnessed a restructuring of the sector through liquidations and mergers brought about by a declining client base and non-performing loans -- as well as overall poor management of some of the smaller, indigenous banks.

The sector includes the Central Bank of Kenya (CBK); 45 domestic and foreign commercial banks with branches, agencies, and other outlets throughout the country; non-bank financial institutions (NBFIs) with excellent branch networks in Kenya's major cities; 2 building societies; 39 insurance companies; 2 mortgage finance companies; the Post Office Savings Bank with a large network of branches around the country; 95 foreign exchange (forex) bureaus, and over 1500 (generally less well-organized) savings and credit unions.

Despite the number of established banks, the banking sector is essentially dominated by four major commercial banks. NBFIs are often able to compete successfully with commercial banks because of the less restrictive regulatory framework within which they operate. NBFIs were originally designed to operate as merchant or investment banks, but in June 1994 the Central Bank instructed NBFIs to operate more like commercial banks, taking deposits and making short-term loans.

Despite the existence of a relatively developed and sophisticated financial system, Kenya's capital market is still in its infancy. Treasury bills and bonds dominate the market for short-term securities. There is only light trading in commercial paper, although Kenya has a secondary market in both government and commercial paper.

The Nairobi Stock Exchange (NSE) is the only licensed trading exchange in the country. The NSE originally started as a private association, but is now a fully-fledged and rapidly expanding stock market. Currently, there are 48 companies listed. The 20-share NSE index stood at 4,912.25 as at January 2008 compared to 5,589.64 at the same time in 2006. The NSE suffered a major downturn with the outbreak of riots following the disputed December 27 presidential election, before rebounding to 5300 in mid-January 2008. Market capitalization as of end of August 2007 stood at USD 12.1 billion up from USD 9.158 billion in August 2005. The significant increase in market capitalization can be attributed to several Initial Public Offerings (IPO's) and listings during the last two years and a very bullish market.

The IPO's include, Kenya Electricity Generating Company (KenGen), which was oversubscribed by USD 164 million; Eveready East Africa Ltd, oversubscribed by more than 800 per cent; and ScanGroup, also oversubscribed by USD 52 million. The GOK also offloaded 18.3% of its shares in the Mumias Sugar Company through the NSE in December 2006 and an additional 40% of its shares in Kenya Reinsurance Corporation via another oversubscribed IPO in July 2007.

Longer term, the Nairobi Stock Exchange is initiating talks with the Kampala security exchange and the Dar es Salaam stock exchange with a view of establishing a common central depository system and stock exchange. President Mwai Kibaki officially inaugurated the automated trading system (ATS) at the Nairobi Stock Exchange on October 26, 2006. Previously, the exchange was using the open outcry system. The ATS is set to improve transparency, increase the ability to absorb large issues and trading and overall make it easier to trade on the stock exchange. The ATS is in turn linked to an electronic central depository system (CDS), which holds all share certificates and gives members a statement after each transaction on the exchange.

The industry regulator is the Capital Markets Authority (CMA). The mission of the Capital Markets Authority is “to promote the development of dynamic capital markets in Kenya within a framework that facilitates innovation through regulation for the maintenance of investor confidence and safeguards the interest of all market participants.” All applications for listing must be approved by the CMA.

The strengthening of the CMA through revised legislation in the mid-1990’s helped in its growth. With the right macroeconomic framework, Kenya has the potential of joining the ranks of other strong emerging markets.

Foreign Exchange Controls Return to top

In conjunction with the removal of import licensing requirements in 1993, Kenya repealed all exchange control laws 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. These bureaus are open longer hours than banks and have increased competition in the foreign exchange market. Currently, only the following capital transactions have foreign exchange restrictions:

1) Investment by foreigners in shares (set in May 2002 at not more than 75% for both companies and individuals on shares traded on the NSE); and

2) Investments by Kenya residents outside Kenya exceeding USD 500,000 must be approved by the Central Bank through the facilitating bank.

Residents and non-residents are now permitted to buy or sell foreign exchange, without restriction, to and from authorized dealers up to the equivalent of USD 10,000. Amounts exceeding this require documentation to show the purpose for the transaction. This is, however, primarily only for administrative recording by the Central Bank of Kenya. There is currently no anti-money laundering legislation, although given Kenya’s unfortunate position as a base or transit point for global terrorists, anti-money laundering controls are clearly needed and laws are expected within the next few years.

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 or bring into the country, without declaration, Kenyan currency up to a maximum of KSh 500,000 and foreign currency equivalent to a maximum of USD 6,400. Amounts beyond these limits may be taken out or brought into the country provided they are declared at the point of departure or entry.

U.S. Banks and Local Correspondent Banks Return to top

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 Indosuez
Bank of Baroda
Bank of India
Barclays Bank of Kenya

Citibank
Commercial Bank of Africa (CBA)
Habib Bank A.G. Zurich
Habib Bank Ltd
Kenya Commercial Bank
Mashreq Bank PSC
National Bank of Kenya
CFC Bank
Stanbic Bank
Standard Chartered Bank
Equity Bank
Family Finance

Project Financing Return to top

Several large infrastructure projects, notably in the cellular business and power generation, have been financed internally through a combination of IPOs on Kenya's stock market and the issuance of local debt. The privatization of the government stake in Safaricom, to be completed in the first quarter of 2008, will represent a very large infusion of cash to the government. A recent IPO for KenGen, the mostly state-owned power generation company, was also over-subscribed by local investors, confirming that ample local funding is available for major infrastructure projects that have clear government backing. Recent foreign direct investment has originated from China (quasi-public), with private money coming from the Gulf States, Libya and recently Indian investors. South African banks, notably Standard Charter and Rand Merchant Bank, have expressed interest in providing debt financing to major projects of a purely commercial nature. There has been no limited recourse project financing in Kenya to date.

Each year Kenya receives significant project 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. As of September 2007, the World Bank's portfolio in Kenya consisted of 16 active operations (including a grant from the Global Environment Facility - GEF), with a total commitment of USD 919 million. In addition, the Bank is financing three regional projects with a total investment of USD 260 million for Kenya: the Transparency and Communications Infrastructure Project (USD 114.4 million), the East Africa Trade and Transport Facilitation Project (USD 120.6 million) and the Regional Trade Facilitation Project (USD 25 million). Kenya will also benefit from a regional Southwest Indian Ocean Fisheries GEF grant. Since January 2006, the Executive Board of Directors has approved nine projects. These projects support initiatives across a number of areas including:

- Governance, transparency and Anti-corruption
- Infrastructure, including national and regional transport and communications
- Health and Education
- Private sector management reform
- Community development
- Education
- Natural resource management
- Regional trade
- National statistics

Active World Bank-funded projects include:

Project	Funding	Value (million)
Total War Against HIV & AIDS (TOWA) Project	(World Bank)	$80
Western Kenya CDD and Flood Mitigation Project	(World Bank)	$86
Kenya - Natural Resource Management Project	(World Bank)	$68.5
Development of The National Statistical System Project	(World Bank)	$20.5
BioCF Kenya Greenbelt Movement	(World Bank)	$0
Education Sector Support Program	(World Bank)	$80
Kenya Arid Lands Resource Management Project Emergency Additional Financing	(World Bank)	$60
Institutional Reform and Capacity Building Technical Assistance Project	(World Bank)	$25
Western Kenya Integrated Ecosystem Management Project	(World Bank)	$0
Financial and Legal Sector Technical Assistance Project	(World Bank)	$18
Micro, Small, and Medium Enterprise Competitiveness Project	(World Bank)	$22
Energy Sector Recovery Project	(World Bank)	$80
Nairobi Water and Sewerage Institutional Restructuring Project	(World Bank)	$15
Kenya Agricultural Productivity Project	(World Bank)	$40
Northern Corridor Transport Improvement Project	(World Bank)	$207
Development Learning Centre Project	(World Bank)	$2.7
Arid Lands Resource Management Project Phase Two	(World Bank)	$60
Regional Trade Facilitation Project – Kenya	(World Bank)	$25
Lewa Wildlife Conservation Project	(World Bank)	$0
Export Development	(World Bank)	$49.2

The private lending arm of the World Bank Group, the International Finance Corporation (IFC), provides substantial amounts of finance to the private sector, particularly investments with a potential of generating foreign exchange.

In September 2007, the African Development Bank (AfDB) approved a loan and a grant of USD 190 million cumulatively to finance the Small-scale Horticulture Development Project for eight districts in Kenya; in November, AFDB made an USD 190 million loan and grant to the government of Kenya in support of the Nairobi-Thika Highway Improvement Project.

U.S. firms also should examine the possibility of using the private sector window established at the AFDB. For more information on opportunities for projects funded by multilateral development banks, U.S. firms should visit the African Development Bank's website on www.afdb.org.

In the U.S. fiscal year that ended on September 30, 2007, the U.S. had allocated about USD 613.8 million in direct and project assistance to Kenya (about KSh 42 billion). About USD 368 million of this was spent on combating HIV/AIDS through President Bush's Emergency Plan for

AIDS relief, or PEPFAR, generally regarded as one of the most successful programs of its kind in the world. The PEPFAR budget for the U.S. fiscal year 2007-2008 will be in excess of USD 534 million.

Other significant U.S. government investments in Kenya in 2007 included some USD 13.7 million in assistance to Kenya's security agencies, USD 31.4 million in emergency food aid, USD 53.5 million for economic development, USD 612,000 to improve aviation and airport security, OPIC/TDA program assistance valued at some USD 700,000, and numerous other education, environmental protection, and democracy and governance programs. Another U.S.-initiative is the "Ambassador's Self-Help Fund:" It constitutes USD 92,000 divided up annually among about 20 small-scale projects all over the country.

Web Resources

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Capital Markets Authority – www.cma.or.ke

Export-Import Bank of the United States: www.exim.gov

Country Limitation Schedule: www.exim.gov/tools/country/country_limits.html

Nairobi Stock Exchange – www.nse.co.ke

OPIC: www.opic.gov

SBA's Office of International Trade: www.sba.gov/oit/

Trade and Development Agency: www.tda.gov/

United Nations Organization – www.unon.org

U.S. Agency for International Development: www.usaid.gov

USDA Commodity Credit Corporation: www.fsa.usda.gov/ccc/default.htm

Multilateral Development Banks

Africa Development Bank: www.afdb.org

International Finance Corporation: www.ifc.org

World Bank: www.worldbank.org

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Chapter 8: Business Travel

Business Customs

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While there is solid potential for U.S. goods and services in Kenya, Kenya is a developing country with a complex market. The U.S. exporter should keep certain factors in mind to achieve maximum success, with logistics and safety key among these.

Given excellent business and political relations between Kenya and the U.S., there are significant commercial opportunities for U.S. firms. 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.

Given the competitive market, and increasing international experience and growing prevalence of overseas Kenyans doing business with and often returning to Kenya to live and work, Kenyan firms have significant expertise in international business. 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. Care must be taken to ensure that delivery dates are closely adhered to and that after-sales service is promptly honored. 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.

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 warrants, U.S. marketers should seriously consider warehousing in Kenya for speedy supply and service of customers. Local assembly of complete knock down kits, especially for electrical and electronic goods, is recommended; this has proven viable in the Kenyan market and also 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 Kenyan Government regulations. The GOK is keen 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.

Travel Advisory

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The U.S. maintains a travel warning on Kenya due to the threat of terrorism and violent crime. For information on the travel warning, visit http://www.travel.state.gov/travel/cis_pa_tw/tw/tw_923.html

Visa Requirements

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Consular Services: Consular Section U.S. Embassy Nairobi is a full service consular section with notaries, visas, citizenship and American Citizen Services.

A passport is required and all visitors require visas. The Kenyan single entry visa fee is USD 50. Business and other visas should be obtained in advance, although airport visas are available. Travelers who opt to obtain an airport visa should expect delays upon arrival. There is a fee for the business visa, whether obtained in advance or at the airport. Evidence of yellow fever immunization may be requested.

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, N.W., 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.

Upon arrival in Kenya, visitors are asked to register with the U.S. Embassy's consular section and receive the latest updates on safety and security.

U.S. companies that require travel of foreign businesspersons to the United States should allow sufficient time for visa issuance if required. For information, forms and visa appointments, visa applicants should go to the following links:

State Department Visa Website: travel.state.gov/visa/index.html

United States Visas.gov: www.unitedstatesvisas.gov/

U.S. Embassy-Nairobi's Consular Section:
www.usembassy.state.gov/nairobi/wwwhcop.html

Transportation

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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 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. Inland passengers and freight are conveyed by the road and rail network. Passenger travel by train is not recommended.

Language

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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

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Adequate medical services are available in Nairobi and, to a lesser extent, in Mombasa. Malaria is not prevalent at high elevations, but precautions must be taken in lower areas, especially in the coastal and lake basin regions. Americans traveling to Kenya are advised to carry with them malaria prophylaxis. Residents should follow a strict sanitary regime in washing and preparing food. Other precautions should be taken to avoid contracting endemic tropical diseases.

The U.S. Embassy's Consular Section can provide visitors with a list of qualified local physicians. If a pharmacy recommends a substitute prescription other than the one prescribed by a U.S. physician, please consult with one of the doctors on the Embassy's list.

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 often expect immediate cash payment for health services. Uninsured travelers who require medical care overseas may face serious financial difficulties.

Visitors should check with insurance companies to confirm whether a policy applies overseas, including provision for medical evacuation, and for adequacy of coverage. Serious medical problems requiring hospitalization and/or medical evacuation to the U.S. can cost tens of thousands of dollars. Visitors should ascertain whether payment will be made to the overseas hospital or doctor or whether a patient will be reimbursed later for expenses that he/she incurs. Some insurance policies also include coverage for psychiatric treatment and for disposition of remains in the event of death.

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 home page travel.state.gov/medical.html or auto fax: (202) 647-3000.

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 Internet home page at www.cdc.gov.

Local Time, Business Hours, and Holidays

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Most of the year, Kenya is UTC/GMT +3, or three hours ahead of London and eight hours ahead of Eastern Standard Time. Accordingly, 8:00 a.m. on the West Coast of the U.S. and 11:00 a.m. on the East Coast is 7:00 p.m. in Kenya.

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.

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

New Year's Day	January 1

Id-Ul-Fitr	Variable
Id-Ul-Adha	Variable
Good Friday	Variable (March/April)
Easter Monday	Variable (March/April)
Labor Day	May 1
Madaraka Day	June 1
Moi Day	October 10
Kenyatta Day	October 20
Jamhuri Day	December 12
Christmas Day	December 25
Boxing Day	December 26

Temporary Entry of Materials and Personal Belongings

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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.

Web Resources

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American Citizens Registration Form: usembassy.state.gov/nairobi.wwwhcon3.html

Bureau of Consular Affairs home page – travel.state.gov

Consular Information Sheet for Kenya – http://www.travel.state.gov/

Centers for Disease Control – www.cdc.gov

East Africa Public Announcement – travel.state.gov/travel/eafrica_announce.html

State Department Visa Website: travel.state.gov/visa/index.html

Superintendent of Documents, U.S. Government Printing Office – www.access.gpo.gov/su_docs

United States Visas.gov: www.unitedstatesvisas.gov/

Worldwide Caution Public Announcement: travel.state.gov/travel/wwc1.html

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Chapter 9: Contacts, Market Research, and Trade Events

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1. U.S. EMBASSY AND U.S. GOVERNMENT TRADE-RELATED CONTACTS

U.S. & Foreign Commercial Service
Commercial Service Eastern Africa
Commercial Service Eastern Africa
U.S. Embassy Nairobi, United Nations Avenue
P.O. Box 606, Village Market 00621, Nairobi, Kenya
Tel: +254 (20) 363-6000 (x6424); fax: +254 (20) 363-6065
Email: Jim.Sullivan@mail.doc.gov
Contact: Jim. Sullivan, Senior Commercial Officer and
Counselor for Commercial Affairs
Website: www.buyusa.gov/kenya

Economic Section
U.S. Embassy Nairobi, United Nations Avenue
Tel: +254 (20) 363-6000 (x6051); fax: +254 (20) 363-3611
Contact: John Hoover, Counselor for Economic Affairs
Email: HooverJF@state.gov
Website: www.usembassy.state.gov

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
Website: www.exim.gov

Foreign Agricultural Service
U.S. Embassy, Nairobi, United Nations Avenue
Tel: +254 (20) 363-6000 (x6413); fax: +254 (20) 363-6349
Contact: Kevin Smith, Agricultural Attaché
Email: Kevin.N.Smith@usda.gov
Website: www.fas.usda.gov

Market Access and Compliance – Office of Africa
U.S. Department of Commerce
14th & Constitution Avenues, N.W; Washington, D.C. 20230
Tel: (202) 482-4227; fax: (202) 482-5198
Contact: Mr. Robert Telchin
Email: Robert_Telchin@ita.doc.gov
Website: www.mac.doc.gov

Overseas Private Investment Corporation (OPIC)
1100 New York Avenue, N.W, Washington, D.C. 20527

Tel: (202) 336-8400; fax: (202) 336-8700
Website: www.opic.gov

Trade Promotion Coordinating Committee (TPCC)
Trade Information Center, USA Trade Center, Ronald Reagan Building
Washington, D.C. 20230
Tel: 1-800-USA-TRADE
Website: N/A

U.S. Department of Agriculture
Foreign Agricultural Service
Trade Assistance and Promotion Office
Tel: (202) 720-7420; fax: (202) 720-7772
Website: www.usda.gov

U.S. Department of State
Office of Coordinator for Business Affairs; Washington, D.C. 20230
Tel: (202) 746-1625; fax: (202) 647-3953
Website: www.state.gov

2. BUSINESS-RELATED ASSOCIATIONS

American Chamber of Commerce of Kenya (AmCham Kenya)
Eden Square, Block 3, Chiromo Road, Westlands
P.O. Box 9746-00100
Nairobi, Kenya
Tel: +254 (20) 675-0721; +254 (734) 386-383 / +254 (720) 880-458
Fax: +254 (20) 602-826
E-mail: info@acck.org or Brenda@acck.org
Contact: Ms. Carisa Graf (Carisa@acck.org) or Ms. Brenda W. Gitonga, Administrator, ACCK
Website: www.acck.org

Kenya National Chamber of Commerce and Industry
P.O. Box 47024, Nairobi, Kenya
Tel: +254 (20) 316-713; fax: +254 (20) 318-367
Contact: Mr. David Githere, Chairman
Email: info@kncci.co.ke
Website: www.kncci.org

Organization of Women in International Trade (OWIT)
Kenya Chapter
P.O. Box 38765-00600, Nairobi, Kenya
Tel: +254-(20) 246081/2 or 722-720-186; fax: +254 (20) 221-234
Contact: Ms. Lydia Waithaka
Email: lydiahwaithaka@yahoo.com
Website: www.owit.org

3. COUNTRY TRADE OR INDUSTRY ASSOCIATIONS IN KEY SECTORS

East African Association
Jubilee Insurance House, Wabera Street
P.O. Box 41272-00100, Nairobi, Kenya
Tel: +254 (20) 252-806; fax: +254 (20) 214-898
Contact: Mr. Gayling May, Regional Representative
Email: info@eaa.co.ke

Website: www.eaa-lon.co.uk

Kenya Association of Manufacturers
Peponi Road,
P.O. Box 30225, 00100, Nairobi, Kenya
Tel: +254 (20) 374-6005/6; fax: +254 (20) 374-6030/28
Contact: Ms. Betty Maina, Chief Executive
Email: kam@iconnect.co.ke
Website: www.kenyamanufacturers.org

Kenya Bureau of Standards
Off Mombasa Road, Nairobi South C
P.O. Box 54974-00200, Nairobi, Kenya
Tel: +254 (20) 6902-8000 Fax: +254 (20) 609-660 / 604-031
Contact: Eng. Kioko Mang'eli, Managing Director
Email: info@kebs.org
Website: www.kebs.com

Central Organization of Trade Unions
Solidarity House, Digo Road
P.O. Box 13000-00200, Nairobi, Kenya
Tel: +254 (20) 267-61375/77 / 676-2695; fax: +254 (20) 267-62695
Contact: Mr. Francis Atwoli, Secretary General
Email: info@cotu-kenya.org
Website: www.cotu-kenya.org

Federation of Kenya Employers
Waajiri House, Hurlingham
P.O. Box 48311-00100, Nairobi, Kenya
Tel: +254 (20)-272-1929; fax: +254 (20)-272-1990
Contact: Gerrison Nkonditi, Executive Director
Email: fke@wananchi.com
Website: www.fke-kenya.org

Kenya National Federation of Agricultural Producers
P.O. Box 43148, 00100, Nairobi, Kenya
Family Health Plaza – Langata Road, 2nd Floor
Tel: +254 (20) 608-324/500-036/600-355; fax: +254 (20) 608-325
Contact: Mr. John K. Mutunga, Chief Executive
Email: producers@kenfap.org
Website: www.kenfap.org

Marketing Society of Kenya
Witu Road
P.O. Box 69826-00400, Nairobi, Kenya
Tel: +254 (20) 551-600/10 or 559920; fax: +254 (20)-535-390
Contact: Mr. Paul Kukubo, Chairperson
Email: msk@africaonline.co.ke
Website: N/A

Kenya Bankers Association
Trans National Plaza, Mama Ngina St 7th Floor
P. O. Box 73100-00200, Nairobi, Kenya
Tel: +254 (20) 221-704 / 217-757; fax: +254 (20) 221-792 / 219-520:
Email: kba@kenyabankersassociation.com
Website: www.kenyabankersassociation.com

Law Society of Kenya
Professional Center, 1st Floor, Parliament Road
P. O. Box 72219-00200, Nairobi, Kenya
Tel: +254 (20) 311-337; fax: +254 (20) 223-99
Contact: Mr. Tom Ojienda
Email: lsk@lsk.or.ke
Website: www.lsk.or.ke

Kenya Private Sector Alliance
P.O. Box 3556 00100, Nairobi, Kenya
Bishops Garden Towers, 1st Floor
Tel: +254 (20) 273-0371/2; fax: +254 (20) 273-0374
Contact: Mr. Samuel Mwaura, Chairman
Email: info@kepsa.or.ke
Website: www.kepsa.or.ke

Institute of Certified Public Accountants of Kenya
CPA Center, Off Ruaraka Rd.
P. O. Box 59963-00200, Nairobi, Kenya
Tel: +254 (20) 856-2011 / 6; fax: +254 (20) 856-2206
Contact: Ms. Lucy Kamar, Human Resource Manager
Email: icpak@icpak.com
Website: www.icpak.com

Fresh Produce Exporters Association of Kenya
P. O. Box 40312, Nairobi, Kenya
Tel: + 254 (20) 445-1488; fax: +254 (20) 445-1489
Contact: Mrs. Cecily Kariuki, Chief Executive
E-mail: info@fpeak.org
Website: www.fpeak.org

Kenya Flower Council
Muthangari Gardens Off Gitonga Road
P.O. Box 56325-00200, Nairobi, Kenya
Tel: +254 (20) 576-597; fax: +254 (20) 560-612
Contact: Jane Ngugi, Managing Director
Email: kfc@wananchi.com
Website: www.kenyaflowers.co.ke

Kenya ICT Federation
P. O. Box 79324 - 00200, Nairobi, Kenya
Tel: +254 (20) 444-0102/3 +254 (722) 517-067; Fax: +254 444-0104
Contact: Kezit Desai, Managing Director
Email: info@kif.or.ke / kezit@centurionsystemsltd.com
Website: www.kif.or.ke

Kenya Association of Hotel Keepers & Caterers
P. O. Box 46406-00100, Nairobi, Kenya
Tel: +254 (20) 604-419 / 602-538; Fax: +254 (20) 602-539
Contact: Kabando wa Kabando, Managing Director
Email: info@kahc.co.ke
Website: www.kahc.co.ke

Kenya Tourism Foundation
Hurlingham, Argwings Kodhek Road

P. O. Box 10711, Nairobi, Kenya
Tel: +254 (20) 271-4572 / 272-4823; +254 (722) 518-500
Fax: +254 (20) 571-369
Email: info@visitkenya.com
Website: www.destinationkenya.com

Kenya Association of Tourism Operators
Longonot Rd. (Off Kilimanjaro Ave.) Upper Hill
P.O. Box 48461-00100, Nairobi, Kenya
Tel: +254 (20) 271-3348 / 271-3386 / 272-2401 / 271-2401
Fax: +254 (20) 719-226; +254 (722) 434-845 / (733) 226-932
Contact: Fred Kaigua, The Chief Executive
Email: info@katokenya.org
Website: www.katokenya.org

Kenya Tourism Board
Kenya-Re Towers, Ragati Road
P.O. Box 30630, Nairobi, Kenya
Tel: +254 (20) 271-9924 / 26 / 28; Fax: +254 (20) 271-9925
Contact: Mrs. Betty Buyu
Website: www.magicalkenya.com

4. COUNTRY GOVERNMENT OFFICES

Ministry of Agriculture
Kilimo House, Cathedral Road,
P.O. Box 30028, 00100 Nairobi, Kenya
Tel: +254 (20) 271-0817 or 271-9013; fax: +254 (20) 271-1149
Contact: Dr. Romano Kiome, Permanent Secretary
Email: psagric@wananchi.com
Website: www.agriculture.go.ke
Customs and Excise Department
Ministry of Finance
P.O. Box 40160, 00100, Nairobi, Kenya
Tel: +254 (20) 271-5540; fax: +254 (20) 341-217
Contact: Ms. Wambui Namo, Commissioner of Customs,
Email: customs&excise@kra.go.ke
Website: www.revenue.go.ke

Export Processing Zones Authority
P.O. Box 50563, 00200, Nairobi, Kenya
Tel: +254 (045) 264-216; fax: +254 (045) 264-217
Contact: Mr. John Akara, Chief Executive
Email: info@epzakenya.com
Website: www.epza.go.ke

Kenya Electricity Generating Company
Stima Plaza, Kolobot Road
P.O. Box 47936, 00100, Nairobi, Kenya
Tel: +254 (20) 366-6000, 248-833; fax: +254 (20) 248-848
Contact: Mr. Eddy Njoroge, Managing Director
Email: comms@kengen.co.ke
Website: www.kengen.co.ke

Ministry of Energy

Nyayo House, Kenyatta Avenue
P.O. Box 30582, 00100, Nairobi, Kenya
Tel: +254 (20) 250-680; fax: +254 (20) 240-910 or 228-314
Contact: Mr. Patrick Nyoike, Permanent Secretary
Email: ps@energymin.go.ke
Website: www.energy.go.ke

Ministry of Finance
Treasury Building, Harambee Avenue
P.O. Box 30007-00100, Nairobi, Kenya
Tel: +254 (20) 240-051/252-299; fax: +254 (20) 219-365
Contact: Mr. Joseph Kinyua, Permanent Secretary
Email: psfinance@treasury.go.ke
Website: www.treasury.go.ke

Industrial & Commercial Development Corporation
Uchumi House, Aga Khan Walk
P.O. Box 45519, 00100, Nairobi, Kenya
Tel: +254 (20) 229-213 or 222-031; fax: +254 (20) 317-456
Contact: Eng. Joseph Munene, Executive Director
Email: icdc@icdc.co.ke
Website: www.icdc.co.ke

Kenya Investment Authority
National Bank Building
P.O. Box 55704, 00200, Nairobi, Kenya
Tel: +254 (20) 221-4014; fax: +254 (20) 243-862
Contact: Ms. Susan Kikwai, Managing Director
Email: ipckenya@nbnet.co.ke or info@investimentkenya.com
Website: www.investmentkenya.com

Ministry of Labour and Human Resource Development
P.O. Box 40326, 00100, Nairobi, Kenya
Tel: +254 (20) 272-9800 or 271-7799; fax: +254 (20) 272-6497
Contact: Amb. Nancy Kirui, Permanent Secretary
Email: pslabour@africaonline.co.ke
Website: www.labour.go.ke

Kenya Ports Authority
P.O. Box 96009, Mombasa, Kenya
Tel: +254 (041) 231-2211; fax: +254 (041) 231-1867/230-906
Contact: Mr.Abdulla Hemed Mwaruwa; Managing Director
Email: AMwaruwa@kpa.co.ke
Website: www.kpa.co.ke

Kenya Power & Lighting Company
Stima Plaza, Kolobot Road
P.O. Box 30099, 00100, Nairobi, Kenya
Tel: +254 (20) 3201-3201; fax: +254 (20) 310-336
Contact: Mr. Jasper Oduor, Managing Director
Email: comms@kplc.co.ke
Website: www.kplc.co.ke

Kenya Revenue Authority
NSSF Bldg., Block A, 18th Floor
P.O. Box 48240-00100, Nairobi, Kenya

Tel: + 254 (20) 310-900 / 315-553; fax: +254 (20) 316-872
Contact: Mr. Michael Waweru, Commissioner General
Email: cic@kra.go.ke
Website: www.kra.go.ke

Telkom Kenya
Telposta Towers, Kenyatta Avenue,
P.O. Box 30301, 00100, Nairobi, Kenya
Tel: +254 (20) 323-2000; fax: +254 (20) 251-071
Contact: Sammy Kirui, Managing Director
Website: www.telkom.co.ke

Ministry of Trade and Industry
Telposta Towers, Kenyatta Avenue
P.O. Box 30430, 00100, Nairobi, Kenya
Tel: +254 (20) 315-0015 / 252-950; fax: +254 (20) 310-983
Contact: David Nalo, Permanent Secretary
Email: dnalo@tradeandindustry.go.ke
Website: www.tradeandindustry.go.ke

Ministry of Transport
Transcom House, Ngong Road
P.O. Box 52692, 00100, Nairobi, Kenya
Tel: +254 (20) 272-9200 or 313-060; fax:+254 (20) 272-6362
Contact: Mr. Gerrishon K. Ikiara, Permanent Secretary
Email: motc@sahannet.com
Website: www.transport.go.ke

Ministry of Tourism and Wildlife
Utalii House, Off Uhuru Highway
P.O. Box 30027, 00100, Nairobi, Kenya
Tel: +254 (20) 313-010 or 318-044; fax: +254 (20) 318-045
Contact: Mrs. Rebecca M. Nabutola, Permanent Secretary
Email: pstourism@wananchi.com
Website: www.tourism.go.ke

Ministry of Foreign Affairs and International Co-operation
Harambee Avenue
P.O. Box 30551, Nairobi, Kenya
Tel: +254 (20) 318-888 Fax: +254 (20) 240-066
Contact: Amb. Boaz K. Mbaya, Permanent Secretary
Email: mfa@.co.ke
Website: www.kenya.go.ke

Ministry of Justice and Constitutional Affairs
P.O. Box 56057, Nairobi, Kenya
Tel. +254 (20) 227-461
Contact: Ms. Dorothy Angote, Permanent Secretary
Website: www.justice.go.ke

Ministry of Water and Irrigation
Maji House, Ngong Road
P. O. Box 49720, Nairobi, Kenya
Tel: +254 (20) 271-6103, 229-261
Contact: Mr. Mahboub Maalim, Permanent Secretary
Website: www.kenya.go.ke

Ministry of Livestock and Fisheries Development
Kilimo House, Cathedral Road
P.O. Box 30028, Nairobi, Kenya
Tel: +254 (20) 2718-870
Contact: Dr. Jacob Ole Miaron, Permanent Secretary
Website: www.kenya.go.ke

Ministry of Environment and Natural Resources
Maji House, Ngong Road
P.O. Box 49720, Nairobi, Kenya
Tel: +254 (20) 254-020 / 271-6103; Fax: +254 (20) 271-0015
Contact: Dr. James L. ole Kiyiapi, Permanent Secretary
Website: www.kenya.go.ke

Minister of State for Provincial Administration & National Security
P.O. Box 30510, Nairobi, Kenya
Tel: +254 (20) 227-411; Fax: +254 (20) 242-579
Contact: Mr. Cirus T. Gituai, O .G.W
Website: www.kenya.go.ke

Ministry of Immigration and Registration of Persons
P.O. Box 57007, Nairobi, Kenya
Tel: +254 (20) 272-2526 / 222-022; fax: +254 (20) 271-6205
Contact: Mr. Emmanuel Kisome, Permanent Secretary
Email: principal.nrb@africaonline.co.ke
Website: www.kenya.go.ke

Ministry of Information and Communication
P.O. Box 10756-00100, Nairobi, Kenya
Tel: +254 (20) 250-475 / 250-517; fax: + 254 (20) 315-147
Contact: Dr. Bitange Ndemo, Permanent Secretary
Email: ncs@nbnet.co.ke
Website: www.information.go.ke

Ministry of Regional Development
P.O. Box 8846-00200, Nairobi, Kenya
Tel: +254 (20) 245-741; fax: +254 (20) 253-244
Contact: Mr. David Stower, Permanent Secretary
Website: www.kenya.org

Ministry of Local Government
P.O. Box 30004, Nairobi, Kenya
Tel: +254 (20) 217-475; fax: +254 (20) 217-869
Contact: Mr. Solomon Boit, Permanent Secretary
Website: www.localgovernment.go.ke

Ministry of Health
Afya House, Ngong Road
P.O. Box 30016, Nairobi, Kenya
Tel. +254 (20) 2717-077
Contact: Dr. Hezron Nyagito, Permanent Secretary
Website: www.health.go.ke

Ministry of Roads and Public Works
P.O. Box 30260, Nairobi, Kenya

Tel. +254 (20) 2723-101, 2723-188, 2723-155, 713-135
Contact: Mr. Mahamud Maalim, Permanent Secretary
Website: www.publicworks.go.ke

Ministry for Gender, Sports, Culture and Social Services
P.O. Box 16936 – 00100, Nairobi, Kenya.
Tel: +254 (20) 272-7980-4; Fax: +254 (20) 273-4417
Contact: Ms. Rachel Dzombo, Permanent Secretary
Email address: prgendersports@nbnet.co.ke
Website: www.culture.go.ke

Ministry of Lands and Housing
P.O. Box 30450, Nairobi, Kenya
Tel. 254 (20) 271-8050;
Contact: Mr. Stephen Mwero, Permanent Secretary
Website: www.ardhi.go.ke

Ministry of Co-operative Development and Marketing
P.O. Box 30547 - 00100, Nairobi, Kenya
Tel. +254 (20) 339-650/9
Contact: Mr. Patrick Khaemba, Permanent Secretary
Website: www.co-operative.go.ke

5. MULTILATERAL DEVELOPMENT BANK OFFICES

African Development Bank
BP 323, 1002 Tunis Belvedère, Tunisia
Tel: (216) 713-33511/7110-3450; fax: (216) 713-51933
Email: afdb@afdb.org
Website: www.afdb.org

International Finance Corporation
P.O. Box 30577, 00100, Nairobi, Kenya
Tel: +254 (20) 272-0467; fax: +254 (20) 322-6383
Contact: Jean-Philippe Prosper, Manager, Eastern Africa
Email: j.prosper@ifc.org
Website: www.ifc.org

World Bank
Hill Park, Upper Hill Road
P.O. Box 30577, 00100, Nairobi, Kenya
Tel: +254 (20) 322-6000; Telex: 22022; fax: +254 (20) 322-6380
Contact: Mr. Colin Bruce, Country Director
Website: www.worldbank.org

6. TRADE DIRECTORIES

The Kenya Association of Manufacturers Directory
P.O. Box 30225, 00100, Nairobi, Kenya
Tel: +254 (20) 374-6005/7/21/22; fax: +254 (20) 374-6028/30
Contact: Ms. Betty Maina, Chief Executive
Email: info@kam.co.ke
Website: www.kenyamanufacturers.org

Nation Business Directory

Nation Marketing & Publishing Ltd
Nation Center, Kimathi Street
P.O. Box 49010, 00100, Nairobi, Kenya
Tel: +254 (20) 520-88589/91/64/75; fax: +254 (20) 249-976
Contact: Jennifer Wambua, Ag. Manager
Email: nbdirectory@nation.co.ke
Website: www.nation.co.ke

7. TRADE EVENTS

African IT Exhibitions and Conferences Kenya (AITEC)
P.O. Box 13891, Nairobi, Kenya
Tel: +254 (20) 374-9771; fax: +254 (20) 375-1438
Contact: Andrew Karanja, General Manager
Website: www.aitecafrica.com

Nairobi International Trade Fair
P.O. Box 21340, 00505, Nairobi, Kenya
Tel: +254 (20) 573-804/13; fax: +254 (20) 573-838
Contact: Mr. Sam Gitonga, Chairman
Email: nitf@ask.co.ke
Website: N/A

8. OTHERS

Sameer Industrial Park
Off Enterprise Road, Road C, Industrial Area
P.O. Box 30429-00100, Nairobi, Kenya
Tel: +254 (20) 559-958, 650-058/9; Fax: +254 (20) 650-069
Email: info@sameerepz.co.ke
Website: www.sameer-group.com

Market Research

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To view market research reports produced by the U.S. Commercial Service please go to the following website: www.export.gov/marketresearch.html and click on 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, but free of charge.

Trade Events

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Please click on the link below for information on upcoming trade events.

www.export.gov/tradeevents.html

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Chapter 10: Guide to Our Services

The U.S. Commercial Service offers customized solutions to help your business enter and succeed in markets worldwide. 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

For more information on the services the U.S. Commercial Service offers U.S. businesses, please click on the link below.

www.buyusa.gov/kenya

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U.S. exporters seeking general export information/assistance or country-specific commercial information should consult with their nearest **Export Assistance Center** or the **U.S. Department of Commerce's Trade Information Center** at **(800) USA-TRADE**, or go to the following website: www.export.gov