DOING BUSINESS

IN KENYA

The network for doing business

CONTENTS

1 – INTRODUCTION

UHY is an international organisation providing accountancy, business management and consultancy services through financial business centres in around 90 countries throughout the world.

Business partners work together through the network to conduct transnational operations for clients as well as offering specialist knowledge and experience within their own national borders. Global specialists in various industry and market sectors are also available for consultation.

This detailed report providing key issues and information for investors considering business operations in Kenya has been provided by the office of UHY representatives:

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A detailed firm profile for UHY's representation in Kenya can be found in section 8.

Information in the following pages has been updated so that they are effective at the date shown, but inevitably they are both general and subject to change and should be used for guidance only. For specific matters, investors are strongly advised to obtain further information and take professional advice before making any decisions. This publication is current at March 2017.

We look forward to helping you do business in Kenya.

2 – BUSINESS ENVIRONMENT

POLITICAL AND LEGAL SYSTEM

Kenya enacted a new constitution on 27 August 2010, replacing the previous one drawn up at Kenya's independence in 1963.

The new constitution includes a greater separation of powers between the legislature, judiciary and the executive. In addition, the constitution:

- Introduces checks and balances on the executive
- Devolves power on local matters to 47 counties
- Creates a new senate to act as an upper house in parliament
- Lays down minimum quotas for women
- Sets up a new judiciary and screening system for the recruitment of judges and an expansive bill of rights.

There are three arms of government:

- The legislature – this includes the National Assembly and the Senate. The National Assembly controls national expenditure and revenue allocation between the two levels of government. The Senate represents the 47 counties and serves their interests and those of the county governments by debating and approving bills concerning the counties.
- The executive – this consists of the president, who is elected directly by all registered voters for a five-year term and can serve for a maximum of two terms, deputy president and the Cabinet. The president is the head of state and government, the commander in chief of the armed forces and chairs the National Security council.
- The judiciary – this consists of courts and tribunals with the Supreme court at its apex presided by the chief justice who is appointed by the president on the recommendation of the Judicial Service Commission.

The constitution provides for the devolved governments. These are the governments of the 47 counties, which consist of a county assembly, a county executive and a directly elected governor. County governments oversee a range of issues at the local level such as agriculture, health services, public amenities, county trade regulations and development, and county planning and development, among other services they are mandated to provide to local residents.

Kenya held general elections under the new constitution in March 2013 and is expected to go for another in August 2017.

DOMESTIC MARKET

PEOPLE

The current population of Kenya is approximate 48,043,877 as of February 27, 2017, based on latest United Nation estimates. This is equivalent to 0.64% of total world population. 26.9 % of the population is urban (13,029,800 people in 2017). The population growth rate is 2.65% according to World Bank.

Swahili is the national language, while English and Swahili are both official languages.

COUNTRY

Kenya occupies an area of 582,646 square kilometres (225,000 square miles) with a population density of 69.5 people per square kilometre.

The capital city is Nairobi.

The currency is the Kenya shilling (KES) which is equal to 100 cents.

THE ECONOMY

AGRICULTURE

Agriculture sector is the mainstay of the economy. As of 2013, the sector contributed 25% to GDP directly, forming 65% of Kenya's total exports and provides 18% of formal employment.
Agriculture sector

Agricultural sector is not only the driver of Kenya's economy but also the means of livelihood for the majority of Kenyan people. The sector comprises of crop production (industrial & food crops), horticulture, livestock, fisheries and forestry. Production of crops and horticulture contributes 76.5% of Agriculture GDP followed by livestock production at 4.9%.

Fishing and forestry contribute 05& and 0.7% of the total agriculture GDP respectively. Overall, the Agriculture output grew by 2.9% in 2013 as a result of depressed rainfall reducing production of maize, beans and sugarcane. Kenya's Agricultural exports are classified into traditional (tea and coffee) and non-traditional exports (horticulture – which increased to 213.8 thousand tonnes in 2013 from 205.7 thousand tonnes in 2012).

MANUFACTURING

This sector is mainly agro based at the moment and plays an important role in adding value to agricultural output by providing forward and backward linkages with agricultural sector. However, there is a shift to export oriented manufacturing as the main thrust of Kenya's industrial policy since the country aims to raise the share of products in the regional market from 7% to 15 % and develop niche products for existing and new markets.

Kenya is promoting development of Special Economic Zones (SEZs), Industrial Parks, Industrial Clusters, promotion of small and medium scale manufacturing firms, development of niche products, and commercialization of research and development results.

TOURISM

Tourism is one of Kenya's leading foreign exchange earner and third largest contributor to the GDP after agriculture and manufacturing. The sector has been growing fast as a result of various factors such as liberalization, personification of tourist markets and continued Government support and commitment to providing an enabling environment, coupled with successful tourism promotion and political stability.

TRANSPORT

Transport and communications are worth approximately 11 percent of GDP. Kenya envisages a massive upgrading and extension of the country's infrastructure. In this regard, the country has highlighted a number of infrastructure projects that present significant opportunities for investors in the coming years.

It is important to note that while the Government has put forward plans on how it would like to develop infrastructure, it is equally open to ideas and proposals from potential investors.

- Redevelopment of the Northern Corridor
- Development of a commuter railways system around Nairobi
- Building of a standard gauge line to replace the current Kenya-Uganda railway which will be commissioned in June 2017.

- Design and Construction of a new terminal at Jomo Kenyatta International Airport
- Development of a new corridor from Lamu to South Sudan and Ethiopia (LAPSET)
- Investments into these projects can either be through direct investments or through public private partnerships.

INFORMATION & COMMUNICATIONS TECHNOLOGY

The size of the local ICT market is estimated at US$ 500 million and it is of note that companies such as Spanco, followed Airtel into Kenya to continue servicing them. These companies are expected to expand into the region , given Kenya's its relative sophistication compared to neighbouring markets, and in order to service clients' expansion plans into the EAC and beyond.

BUILDING & CONSTRUCTION

Kenya has a well-developed building and construction industry with quality engineering, building and architectural design services being readily available. This industry is currently on an upward trend following re-habilitation and reconstruction of roads and bridges under the Kenya Urban Transport Infrastructure Program.

ECONOMIC PERFORMANCE

Kenya’s economy is estimated to have grown by 5.3% in 2014 , 5.6% in 2015 , 5.9% in 2016 and is projected to grow by 6% in 2017. This is attributed the positive outlook to low oil prices, good agriculture performance, supportive monetary policy, and ongoing infrastructure investments.

Financial Services sector was expected to grow from about 6.5 per cent in 2013 to about 10 per cent by 2017. The sector will benefit from sustained growth in tourism, ICT, and related businesses such as Business Process Outsourcing (BPOs), and expansion of regional trade and transport services. In addition, the financial sector is expected to expand rapidly as business confidence improves and as new strategies to boost savings are implemented. The establishment of the Financial Services Center during the plan period is expected to further improve the sector’s growth, and to attract more local and international firms in the sector (according to Second Medium Term Plan, 2013-2017).

In August of 2016, the President of Kenya signed into law, an amendment to the 2015 Banking Bill which capped lending interest rates. The law caps the maximum lending interest rate at 4% above the base rate set by the Central Bank of Kenya. Interest rate spreads in Kenya in the past have been considered to be generally higher than that of its peers. The effects of the rate regulation remains to be seen and could vary from the intended affordable loans to the low income households and small businesses, to reduced profitability for the banking sector and increased charges on commercial bank products.

OVERVIEW OF ECONOMIC PERFORMANCE

GROSS DOMESTIC PRODUCT

According to Africa Development Bank GDP growth remained robust in 2014 at 5.3%. The expansion of construction, manufacturing, finance and insurance, information, communications and technology, and wholesale and retail trade buoyed GDP. The economy slowed in the first half of 2015, but growth is estimated to have reached 5.5% by year-end. The overall GDP growth prospects are 6.0% and 6.4% for the years 2016 and 2017 respectively.

INFLATION

Consumer Price Index (CPI) inflation projections remain at around 6.0% over the year 2015, 2016 and are expected to reduce further in year of income 2017 to approximately 5.2%.

The reasons for these projections are based on the assumptions of increased rainfall and enhanced agricultural production, a stable macroeconomic environment, continued low international oil prices, the stability of the Kenya shilling (KES), improved security boosting tourism and reforms in governance and justice

THE SMALL & MICRO ENTERPRISES

The small and micro enterprises (SMEs) play an important role in the Kenyan Economy. According to the Economic Survey (2006), the sector contributed over 50 percent of new jobs created in the year 2005. Despite their significance, past statistics indicate that three out of five businesses fail within the first few months of operation (Kenya National Bureau of Statistics, 2007). According to Amyx (2005), one of the most significant challenges is the negative perception towards SMEs. Potential clients perceive small businesses as lacking the ability to provide quality services and are unable to satisfy more than one critical project simultaneously. Often larger companies are selected and given business for their clout in the industry and name recognition alone. Despite all the above challenges the Small- and medium-sized enterprises (SMEs) have played a significant role in Kenya's economy. The SME sector is estimated to employ close to 80% of Kenya's total workforce and contribute 20% to GDP. However Measures to support Small and Medium-sized Enterprises, including increased funding to Uwezo (Sh850m), Youth (Sh300m) and Women's (Sh500m) funds and support for Buy-Kenya-Build-Kenya approach to procurement by State bodies are in place.

STOCK MARKET

The stock market in Kenya experienced some restructuring in 2011 with the Nairobi Stock Exchange transformed into the Nairobi Securities Exchange (NSE). This was done with the aim of introducing new financial instruments to the market, such as forwards and futures, adding to the equities and bonds. It is Africa's fourth largest capital market, with 64 listed companies, and has operated an electronic trading system since 2006.

Trading performance on the stock market over the year 2011 was negatively affected by reduced interest on the part of foreign investors, the high inflation rate and currency devaluation. However the 2012 performance of the NSE was commendable. The NSE 20 Share Index ended 2012 at 4,133.02 points and has been on an upward trend since crossing the 4,000 mark on October 15 2012. For 2012, the NSE 20 Share Index was up 28.64%. As of February 22 2013, the NSE 20 Share Index stood at 4,477.89, reflecting an 8.34% gain for 2013. In the same period, the FTSE NSE 15 and FTSE NSE 25 indices risen from 8.91% and 9.11% to 141.36 and 144.51 points respectively.

Market capitalisation also risen from11.08% to Kshs.1.41 trillion ($16.11 billion). The FTSE NSE Kenyan Shilling Government Bond Index went up by 1.00%. The Bond Index which was launched on 3 October 2012, was up 25.00% for the 12 months to 31 December 2012. In July 2014 the Nairobi Securities Exchange (NSE) received formal approval from the Capital Markets Authority (CMA) to operate as a demutualized entity. This is after the approval of the NSE's final application which met the regulator's requirements as stipulated in Section 5(3) of the Capital Markets (Demutualization of the Nairobi Securities Exchange) Regulations 20120.

In October 2014 Nairobi Securities Exchange launched a new system for trading corporate bonds and Government of Kenya Treasury Bonds allowing on-line trading of debt securities and is integrated with the settlement system at the Central Bank of Kenya. The system is more efficient, scalable and flexible, and can support trading in bonds that have been issued in foreign currencies. In March 2015, the NSE officially joined the United Nations Sustainable Stock Exchanges (SSE) initiative whereby they made a voluntary pledge to inform their stakeholders of the importance of integrating sustainability in their capital markets

The following are companies listed under Nairobi Securities exchange ;

AGRICULTURAL

Eaagads Ltd
Kakuzi Ltd
Kapchorua Tea Co. Ltd
The Limuru Tea Co. Ltd
Sasini Ltd
Williamson Tea Kenya Ltd

AUTOMOBILES & ACCESSORIES

Car & General (K) Ltd
Marshalls (E.A.) Ltd
Sameer Africa Ltd

BANKING

Barclays Bank of Kenya Ltd
CFC Stanbic of Kenya Holdings Ltd
Diamond Trust Bank Kenya Ltd
Equity Group Holdings Ltd
Housing Finance Group Ltd
I&M Holdings Ltd
KCB Group Ltd Ord
National Bank of Kenya Ltd
NIC Bank Ltd
Standard Chartered Bank Kenya Ltd
The Co-operative Bank of Kenya Ltd

COMMERCIAL AND SERVICES

Atlas African Industries Ltd
Express Kenya Ltd
Hutchings Biemer Ltd
Kenya Airways Ltd
Longhorn Publishers Ltd
Nairobi Business Ventures Ltd

Nation Media Group Ltd
Standard Group Ltd
TPS Eastern Africa Ltd
Uchumi Supermarket Ltd
WPP Scangroup Ltd

CONSTRUCTION & ALLIED
ARM Cement Ltd
Bamburi Cement Ltd
Crown Paints Kenya Ltd
E.A.Cables Ltd
E.A.Portland Cement Co. Ltd

ENERGY & PETROLEUM
KenGen Co. Ltd
KenolKobil Ltd
Kenya Power & Lighting Co Ltd
Kenya Power & Lighting Ltd 4% Pref 20.00
Kenya Power & Lighting Ltd 7% Pref 20.00
Total Kenya Ltd
Umeme Ltd

INSURANCE
Britam Holdings Ltd
CIC Insurance Group Ltd
Jubilee Holdings Ltd
Kenya Re Insurance Corporation Ltd
Liberty Kenya Holdings Ltd
Pan Africa Insurance Holdings Ltd

INVESTMENT
Home Afrika Ltd
Centum Investment Co Ltd
Kurwitu Ventures Ltd
Olympia Capital Holdings Ltd
Trans-Century Ltd

INVESTMENT SERVICES
Nairobi Securities Exchange Ltd

MANUFACTURING & ALLIED
A.Baumann & Co Ltd
B.O.C Kenya Ltd
British American Tobacco Kenya Ltd
Carbacid Investments Ltd
East African Breweries Ltd
Eveready East Africa Ltd
Flame Tree Group Holdings Ltd

Kenya Orchards Ltd
Mumias Sugar Co. Ltd
Unga Group Ltd

TELECOMMUNICATION & TECHNOLOGY
Safaricom Ltd

REAL ESTATE INVESTMENT TRUST
STANLIB FAHARI I-REIT.

NATURAL RESOURCES

Kenya's most valuable natural assets are rich agricultural land and a unique physiography and wildlife. The highly diversity of wildlife is a key draw for the tourism industry.

The country is not well-endowed with mineral resources. Mineral resources currently exploited are gold, limestone, soda ash, salt, rubies, fluorspar and garnets. At present, only 3% of the land is forested, a reduction by half over the past three decades. Kenya's water resources are similarly under pressure. Kenya relies to a significant extent on hydropower.

Environment law requires the National Environmental Management Authority (NEMA) to conduct annual environmental audits and to prepare and submit a State of Environment (SoE) report every year to parliament. The report documents environmental issues and potential interventions to be undertaken by various sectors towards enhancing the status and quality of the environment.

UNEMPLOYMENT

Unemployment is a major challenge that affects youth across Kenya. Approximately 800,000 young Kenyans enter the labour market every year and youth unemployment is estimated to be as high as 35%, compared to the overall national unemployment rate of 10%. Furthermore, 80% of unemployed Kenyans are below 35 years old.

The cabinet secretary also noted that corporations could help young graduates boost their skills by providing internships, apprenticeships, on-the-job training and mentoring.

Maria-Threase Keating, the UNDP country director, urged the private sector to create inclusive business models that contribute to the empowerment and employability of Kenya's youth. She cited two inclusive businesses – Centurion Systems, Ltd. and Digital Divide Data – both of which joined the Business Call to Action in 2014 with commitments to provide skills training and employment opportunities for low-income youth.

Kenyan technology firm Centurion Systems Limited committed to increasing the employability of 465 low-income youth with industry-relevant skills training and apprenticeship programs by 2017. The company will also integrate a life skills and employability module into its existing technical training programmes to ensure a comprehensive, demand-based and practical training course designed to build capacity and entrepreneurship skills. To help accomplish its goals, the company will train 110 lecturers across various industries including food and beverage, industrial automation and motion control.

Digital Divide Data, an internationally acclaimed social enterprise that delivers high-quality business process outsourcing (BPO) services to clients worldwide, is providing motivated low-income youth with skills training, followed by employment opportunities for successful graduates. By 2018, the company plans to employ 600 youth from poor families living in the slums of Nairobi. In addition, the company is committed to ensuring that 300 of its work-study graduates receive college degrees, work experience and have secured professional jobs by 2018.

The Youth Enterprise Development Fund, operational over the last five years as the main intervention agency, has disbursed some funds to youth enterprises, organised youth trade fairs, built an infrastructure to support young people and started pre-finance training. The fund will be expanded in the coming years to ensure increased employment for the young.

CURRENCY AND RATES

Exchange rates between Kshs vs USD for the last five years;

MONTH	AVERAGE EXCHANGE RATE
2012	84.7
2013	86.2
2014	88.1
2015	98.7
2016	101.4

TABLE 2

Interest rates

Interest rates According to the CBK, lending rates in Kenya increased from 15.5% in February 2015 to 17.9% in February 2016 while deposit rates increased from 6.7% to 7.5% in the same period perhaps due to a move by Kenyan banks to maintain their interest spreads following the increase in the base lending rate by CBK by 300 basis points to 11.5% in July 2015.

INTEREST RATES	2012	2013	2014	2015	2016
Deposit Rate	7.9%	6.5%	6.6%	6.7%	7.1%
Saving Rate	1.6%	1.6%	1.5%	1.7%	2.9%
Lending Rate	19.7%	17.3%	16.5%	15.5%	16.6%

In August of 2016, the President of Kenya signed into law, an amendment to the 2015 Banking Bill which capped lending interest rates. The law caps the maximum lending interest rate at 4% above the base rate set by the Central Bank of Kenya. The Central Bank rate has averaged at 10%.

FOREIGN TRADE AND BALANCE OF PAYMENTS

Kenya has enjoyed steady export growth in the last six years. However this was punctuated by a fall across all export products in 2009 attributable to the global economic downturn.

The value of total exports grew by 21.6% in 2011 to USD 4.8 billion and declined by 19.8%,17.9% and 16.4% in 2012, 2013 and 2014 respectively , with the leading exports being tea, horticulture, coffee, tobacco and tobacco products.

The value of imports grew by 38.8% in 2011 to USD 11.3 billion and declined by 35.4% and 33.4% in 2012 and 2013 respectively. The value of imports however increased by 33.9% in 2014. Imports mainly comprised petroleum, industrial machinery and road motor vehicles.

According to the Kenya National Bureau of Statistics 2014 report, Kenya’s volume of trade fell by 2.2 percent in 2013. While Kenya’s domestic exports fell by 3.0 percent, imports grew by 2.8 percent mainly due to purchases of petroleum products, capital goods, food products and chemical fertilizers, which accounted for 58.4 percent of the total import bill. Kenya’s current account deficit grew from USD 4.31 billion in 2012 to nearly USD 4.495 billion in 2013.

3 – FOREIGN INVESTMENT

Kenya is one of the economic leaders in sub-Saharan Africa. Like many African countries, it is dependent on Foreign Direct Investment (FDI) for capital and employment.

Remittances are Kenya's single largest source of foreign exchange. According to the Central Bank of Kenya, the 12 month cumulative inflows to June 2015 increased by 10 per cent to USD 1,492 million from USD 1,357 million in the year to June 2014. The 12 month average flow also sustained an upward trend to USD 124.3 million from USD 113.1 million during the same period.

Kenya also serves as the East African business hub for many international companies. General Motors, Proctor & Gamble, Microsoft, Ogilvy and Mather, Coca-Cola and Citibank are a few examples of international companies with a presence in Kenya. A third of Kenyan banks are foreign owned, controlling 51% of total banking assets in the country. Safaricom for example, is 40 percent owned by Vodafone of the U.K. and Airtel Kenya is 60 percent owned by Airtel of Netherlands.

Kenya is a prime choice for foreign investors seeking to establish a presence in Eastern and Southern Africa. According to Snapshot Africa, a World Bank study benchmarking FDI competitiveness:
[Kenya] is reported by foreign investors to have a well-developed port system with cold storage facilities and computerized port procedures, and a motivated work force. It is also a member of the East African Community (EAC) of 93 million people, where trade is envisaged to flow freely across Uganda, Tanzania and Kenya by 2013. Add to this Kenya's membership in the Common Market for Eastern and Southern Africa (COMESA), with nearly 385 million people, and it is easy to see why a number of international companies have chosen the country as a regional business hub."

Kenya is a desirable investment destination due to a number of key strengths:

- Excellent connectivity to major world-wide hubs that make it easy to work with most continents. Nairobi is the transportation hub of Eastern and Central Africa and the Port of Mombasa supplies the shipping needs of more than a dozen countries
- An educated and skilled workforce has made the country the manufacturing, commercial and financial hub in Eastern and Central Africa
- A liberalized economy without exchange or price controls, and no restrictions on domestic and foreign borrowing by residents and non-residents
- The Nairobi Stock Exchange is the leading stock market in the Eastern and Central African region
- A strong infrastructure, in fact Africa Investor voted Kenya as the region's best infrastructure regulator
- Membership to regional trading blocs, COMESA and (EAC). A preferential trading country under the U.S. legislation, African Growth and Opportunity Act (AGOA), the ACP-EU Cooperation and various other bilateral cooperation agreements
- Potential for exploration of mineral resources. Kenya is a potential source of valuable materials such as titanium and there is current exploration of oil off the Indian Ocean Coast and other parts of the country.

GOOD REASONS TO INVEST IN KENYA

A Range of Tax Treaties and Investment Promotion and Protection Agreements.
Kenya has a number of tax treaties and investment promotion and protection Agreements. Exports from Kenya enjoy preferential access to world markets under a number of special access and duty reduction programmes. Kenya is signatory to various agreements aimed at enhancing trade amongst member states.

Multilateral Trade System (MTS)
The World Trade Organization (WTO) is the only international organisation dealing with the global rules of trade between nations. The overriding objective of the WTO is to ensure that trade flows as smoothly, freely and predictably as possible. Kenya has been a member of the WTO since its inception in January 1995.

ACP/Cotonou Partnership Agreement

Exports from Kenya entering the European Union are entitled to duty reductions and freedom from all quota restrictions. Trade preferences include duty-free entry of all industrial products as well as a wide range of agricultural products including beef, fish, dairy products, cereals, fresh and processed fruits and vegetables.

African Growth and Opportunity Act (AGOA)

Kenya qualifies for duty free access to the United States of America (USA) market under the African Growth and Opportunity Act enacted by USA. Kenya's major products that qualify for export under AGOA include textiles, apparels, handicrafts, etc.

Generalised System of Preferences (GSP)

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

Investment Protection Guarantee

The constitution of Kenya guarantees protection of life and private property. The Foreign Investment Protection Act guarantees against expropriation of private property by government. Kenya is a signatory to and Member of the Multilateral Investment Guarantee Agency (MIGA) an affiliate of the World Bank which guarantees investors against loss of Investment to political problems in host countries.
Kenya is also signatory to International centre for Settlement of Investment Disputes which is a channel for settling disputes between foreign investors and host governments

Infrastructure
The construction of superhighway in city of Nairobi is a leading link for investors for transportation renovation of Kenya Railways, Kenya Airways (Pride of Africa) and Lamu Port has made Kenya a hub of International Transportation Centre

Bilateral Trade Agreements
Kenya has signed bilateral trade agreements with several countries around the world. Some of the countries are already members of existing schemes offering market access/duty reduction preferences as above.

Kenya has a number of tax treaties and investment promotion and protection Agreements to encourage foreign direct investment. Exporters from Kenya enjoy preferential access to world markets under a number of special access and duty reduction programs.

Exports from Kenya entering the European Union are entitled to duty reductions and freedom from all quota restrictions. Trade preferences include duty-free entry of all industrial products as well as a wide range of agricultural products including beef, fish, dairy, cereals, fresh and processed fruits and vegetables.

Kenya qualifies for duty free access to the United States market under the African Growth and Opportunity Act. Kenya's major products that qualify for export include textiles, apparels and handicrafts. Under the Generalized System of Preferences, a wide range of Kenya's manufactured products are entitled to preferential duty treatment in the United States, Japan, Canada, New Zealand, Australia, Switzerland, Norway, Sweden, Finland, Austria, and other European countries. In addition, no quantitative restrictions are applicable to Kenyan exports on any of the 3,000-plus items currently eligible for GSP treatment.
Kenya is a signatory to and member of the Multilateral Investment Guarantee Agency (MIGA), an affiliate of the World Bank, which guarantees investors against loss of Investment to political problems in host countries. Additionally, Kenya is signatory to International Centre for Settlement of Investment Disputes, which is a channel for settling disputes between foreign investors and host governments
Kenya has signed bilateral trade agreements with more than 20 countries around the world, including Argentina, China, Egypt, India, the Netherlands, Poland, Thailand, Tanzania, South Korea and Pakistan. Kenya is currently negotiating agreements with nine additional countries including Belarus, the Czech Republic, Mozambique and South Africa.

FOREIGN DIRECT INVESTMENT	2012	2013	2014
FDI Inward Flow (million USD)	259	505	989
FDI Stock (million USD)	2,876	3,381	4,370
Number of Greenfield Investments***	56	73	62
FDI Inwards (in % of GFCF****)	2.4	4.5	7.2
FDI Stock (in % of GDP)	5.7	6.1	7.2

Source: UNCTAD - Last Available Data.

Besides Kenya being a hub for investments there factors that may discourage investment in the country. These include: corruption, slow judicial system, high unemployment and poverty, uncertainty over land ownership, recent security issues related to terrorism and crime, interethnic tensions, costly skilled labor, high cost of energy, poor infrastructure and administrative difficulties in obtaining work permits, However the Government of Kenya is working hard to eradicate them.

To reduce bureaucracy in relation to licensing requirements, immigration and negotiating tax incentives and exemptions, companies are advised to register potential investments with the Kenya Investment Authority.

For more information and to find the relevant registration/application forms, go to:

Kenya Investment Authority www.investmentkenya.com

Other useful websites for foreign companies interested in investing in Kenya are:

Central Bank of Kenya www.centralbank.go.ke
Kenya Revenue Authority www.kra.go.ke
Nairobi Stock Exchange www.nse.co.ke

4 – SETTING UP A BUSINESS

An investor in Kenya has various options to choose from for the form his/her business enterprise will assume.

The main types of company are set out below.

LIMITED LIABILITY COMPANY

A limited liability company is a company whose registered capital is divided into a certain number of shares of a specific nominal value.

A company's authorised capital is made up by par values of its members' equity stakes.

If the company is incorporated by more than one person (individuals or legal entities), the authorised capital is divided into equity stakes of a certain size. A company's authorised capital determines a minimum size of company property, which guarantees the interests of its creditors.

Members of limited liability companies are not liable for its obligations beyond the size of their capital contribution and any unpaid amounts on issued capital.

A limited liability company is the legal form preferred by state authorities for joint ventures. It is also the form into which former state enterprises undergoing privatisation, have been converted. A joint-stock company can be established by one or more entities, including a state or business entity.

The registered capital of the company must be subscribed by the shareholder(s) and at least 30% of monetary contributions and all in-kind contributions must be paid up before the company is registered by the Registrar of companies.

Any company profit gained as a result of its business activity should be distributed among members in the proportion to their equity stakes in the authorised capital. The distributable profit is subject to withholding tax.

A limited liability company may either be a private or a public company.

PUBLIC LIMITED COMPANY

This is formed by a minimum of 51 members and has the power to invite public subscription for its shares.

Subscription of shares must be made upon incorporation of the company. To this end, a general meeting must be held by the subscribers on the establishment of the company, unless the founder(s) agree in the memorandum of association to pay the total registered capital of the company themselves to a certain ratio.

If the shares of the company are subscribed through a public offering of shares, then a prospectus (in accordance with the Companies Act) must be approved by the Capital Market Authority prior to publication of the announcement on the public offering. This must be published concurrently with the public offering. Where the company is listed in the securities exchange (Nairobi Securities Exchange), the approval of the securities exchange is also needed.

The payment of dividends or profit shares is not restricted, provided the company has sufficient distributable profits.

PRIVATE LIMITED COMPANY

In contrast to a public company, a private company must have a minimum of two shareholders but should not exceed 50 shareholders.

A new bill was assented by the President in September 2015 that allows for companies to have one shareholder; however this has not been published at the date of this report.

Furthermore, it cannot invite public subscriptions for its shares; the transfer of shares is restricted in that the consent of other shareholders is required before the transfer of private subscriptions is allowable.

GENERAL PARTNERSHIP

A general partnership is a commercial company, the members of which, in accordance with the agreement concluded between them, carry on the business on behalf of the partnership and are liable for its obligations with their property.

The partners of a general partnership are called members and conclude transactions on behalf of the partnership and carry on its business.

A general partnership is incorporated and operates under the partnership deed, which establishes the size and composition of the capital and size of the members' contributions.

Any profits and losses of a general partnership are divided amongst its members in proportion to their capital contribution as stipulated by the deed.

FUNDS

A fund is a not-for-profit organisation without membership.

It is founded by citizens and/ or legal entities on a voluntary basis by the contribution of money or properties. The aim is to pursue social, charitable, cultural and educational goals, or other such purposes.

The founders or trustees are not liable for the obligations of the fund. The income derived from any economic activities carried out by the fund and contributions received can only be used for the purposes set out in the articles of the association.

ASSOCIATIONS AND UNIONS

Associations and unions are not-for-profit organisations set up to co-ordinate the activities of members and to represent and defend their common rights and interests.

They are separate legal entities independent of the members composing them. They have limited liability status.

The constitutions of the individual associations spell out the obligations of members, which may be in terms of the contributions required from the members.

Associations and unions must be registered with the Registrar of societies, whereupon they acquire a legal status. Their legal status ceases upon being struck off this register.

STARTING A BUSINESS

Underlying the indicators below show a set of specific procedures—the bureaucratic and legal steps that an entrepreneur must complete to incorporate and register a new firm. These are identified by *Doing Business* through collaboration with relevant local professionals and the study of laws, regulations and publicly available information on business entry in that economy. Following is a detailed summary of those procedures, along with the associated time and cost. These procedures are those that apply to a company matching the standard assumptions (the “standardized company”) used by *Doing Business* in collecting the data (see the section in this chapter on what the indicators measure).

TABLE 4
Summary of time, cost and procedures for starting a business in Kenya

NUMBER	PROCEDURE	TIME TO COMPLETE	COST TO COMPLETE
1.	**Reserve a unique company name at the Companies Registry** The company name reservation lasts 30 days but can be renewed for a similar period. *Agency: Companies Registry*	1 day on average	KES 100 per name reservation
2.	**Stamp the memorandum and articles of association, and a statement of the nominal capital** As of January 2005, the Kenya Revenue Authority (KRA) took over the stamp duty collection from the Ministry of Lands and Housing. As an administrative requirement, the KRA now requires the personal identification numbers (PINs) of all parties on whose behalf duty-stamped documents are submitted. Documents are first assessed by the Stamp Duty Office before payment can be made at the KRA-designated banks. The process has initially lengthened to about 2 weeks because the Stamp Duty Office waited to receive confirmation of bank payment after clearance of funds. However, the time was reduced to 5-10 days in 2008 as a result of better communication between the Ministry of Lands and Housing and the Kenya Revenue Authority (KRA). A fee of KES 100 is payable as Bank handling charges. Under the Stamp Duty Act (Cap. 480), the stamp duty on the nominal capital of the company is KES 20 for every KES 2,000 or part thereof. The stamp duty on the memorandum and articles of association is	5 Days	1% of nominal capital (KES 20 for every KES 2,000 or part thereof of capital) + KES 2,000 for stamp duty on Memorandum and Articles of Association
3.	**Pay stamp duty at a designated bank** The entrepreneur pays the stamp duty at the National Bank of Kenya which is the designated Bank for the collection of stamp duty revenue on behalf of Kenya Revenue Authority. *Agency: Bank*	1Day	KES 100 for bank commission
4.	**Sign the Declaration of Compliance before a commissioner of oaths or a notary public** According to the Companies Act (Cap. 486), an advocate engaged in the formation of the company or a director or company secretary named in the articles of association must sign the declaration of compliance (Form 208). This form is submitted to the Registrar of Companies along with the registration documents. *Agency: Commissioner of Oaths /notary public*	1Day	KES 200
5.	**Register with the Registrar of Companies at the Attorney General Chambers in Nairobi** The entrepreneur must submit the incorporation deed and the following to the Registrar of Companies:	12 days on average	KES 7,360

	• Stamped memorandum and articles of association • Statement of capital • Notice of Situation of Registered Office (Form 201) • Particulars of Directors and Secretary (Form 203) • Declaration of compliance with the Companies Act (Form 208) • Copy of the company name approval Fee schedule for registration under the Companies Act (Cap. 486): • For the first KES 100,000: KES 2,200 • For every KES 20,000 after the first KES 100,000 or part thereof: KES 120, subject to a maximum of KES 60,000 • Filing fee for three forms: KES 600 (KES 200 each) *Agency: Registrar of Companies at the Attorney General's Chambers*		
6.	**Register for taxes at the Kenya Revenue Authority** The personal tax identification number (PIN) and the company tax identification number are required to register for VAT, local service tax, and the Pay-As-You-Earn (PAYE) tax. The PIN certificates of at least two signatories (2 directors or 2 shareholders or a director and the secretary) of the company are required. To register for taxes, the entrepreneur must also file the certificate of incorporation and a copy of the memorandum and articles of association. Due to new online reforms, the application for a PIN number and the registration for VAT registration can now be done online. Unless the KRA has already received confirmation of the company incorporation from the Companies Registry, the entrepreneur must submit the certificate of incorporation and receive log-in details to proceed with online tax registration. *Agency: Tax Department*	1 Day	No charge
7.	**Apply for a business permit** Applicable permit fees fall within the following scales: - Large trader, shop, or retail service with 21-50 employees and premises of 300-3,000 square meters (or at a prime location): KES 30,000 - Medium trader, shop, or retail service with 5-20 employees and premises of 50-3,000 square meters (fair location): KES 15,000 *Agency: Nairobi City Council*	5 Days	KES 15,000
8.	**Register with the National Social Security Fund (NSSF)** The National Social Security Fund provides the employee with a lump-sum retirement benefit. Historically, the rate of return paid by the state is considerably less than that achieved by private schemes, but participation is mandatory. The employer pays a standard contribution of about 1% of salary, subject to a maximum of KES 400 per month. Half the contribution is deductible from the employee’s salary. The precise amount of the contribution (less than the maximum) is determined by reference to salary bands. As of June 2014, following the enactment of the new National Social Security Fund Act (2013), the pension contribution is 12% of the pensionable wages made up of two equal portions of 6% from the employee and 6% from the employer subject to an upper limit of KES 2,160. There is however a court injunction halting the implementation	1 Day	No charge

	of the new Act as at March 2017. *Agency: National Social Security Fund*		
9.	**Register with the National Hospital Insurance Fund (NHIF)** The employee contributes a fixed sum to the National Hospital Insurance Fund (NHIF), which must be deducted by the employer from the employees' salary. The minimum 150 and maximum contribution is KES 1,700 per month. Self-employed (special) rate is KES 500. The contributions are used to offset the costs of medical treatment, but they only cover a fraction of actual costs. Hence, most companies provide employees with medical insurance	1Day	No charge
10.	**Make a company seal** Seal makers request a copy of the certificate of incorporation in order to make a company seal. *Agency: Seal maker*	2 days	Between KES 2,500 and KES 3,500

5 – LABOUR

The provisions regulating employer-employee relationships are laid out in the Employment Act.

For factory workers, factory wages and conditions of employment, the Act is the binding law.

The employer-employee relationship stems from the agreement signed between an employer and an employee. A responsible officer of the company (e.g. the manager) may represent an employer in this agreement.

The agreement usually contains:

- The terms of reference for the employee detailing their specific duties and responsibilities
- The terms of employment, including hours of work, salary and other benefits, period of paid leave and other entitlements
- The respective rights and obligations of both employer and employee.

The minimum period of annual leave is 21 days per annum. Maternity leave is three months and paternity leave is two weeks. The employment agreement can, however, vary this upwards.

An employment agreement may either specify the period for which it's applicable or may set no period, but instead lay out the situations in which it may be terminated or deemed terminated.

Trade unions are formed to safeguard and champion the interest of either party. The employees' trade unions represent members in negotiating and concluding Collective Bargaining Agreements (CBA) with employers and in industrial disputes flowing from go-slows and strikes inter alia.

SOCIAL SECURITY

The only social security issues in Kenya are pensions and compensation for injuries sustained in the course of employment and loss of earning capacity.

Under the old NSSF Act which is still operational, an employer with more than four employees must make a monthly contribution of a maximum of KES 200 towards each employee's retirement. These are made to the National Social Security Fund (NSSF), a body established by statute. Failure to make contributions leads to penalties and interest being imposed on the company.

For injuries arising from the workplace, employees can only enforce a compensatory payment by instituting legal proceedings in the courts of law against the employer.

Article 43(1)(e) of the Constitution of Kenya provides that every Kenyan has a right to social security and article 21 of Constitution commits the State to take legislative, policy and other measures as necessary, including the setting the standard to ensure effective and efficient provision of social security.

NSSF ACT NO. 45, 2013

The National Social Security Fund Act No. 45 of 2013 was assented by the President of the Republic of Kenya on 24 December 2013 and came into force on 10th January 2014. The implementation of the Act was however halted by a court injunction that maintained a stay of the old rate as at August 2015.

The Act establishes that the National Social Security Fund provides Social Security for Workers and Self Employed Persons and their dependents.

For the purposes of the Act, the Upper Earning Limit (UEL) will be KES. 18,000 while the Lower Earnings Limit (LEL) will be KES 6,000. The pension contribution will be 12% of the pensionable wages made up of two equal portions of 6% from the employee and 6% from the employer subject to an upper limit of KES 2,160 for employees earning above KES 18,000.

The employee contribution shall be drawn directly from his salary and wages while the employers' contribution shall come directly from the employer.

The contributions relating to the earnings below the LEL of the earnings (a maximum of KES. 720) will be credited to what will be known as a Tier I account while the balance of the contribution for earnings between the LEL and the UEL (up to a maximum of KES 1,440) will be credited to what will be known as a Tier II account.

EMPLOYER OBLIGATION

- under the new National Social Security Fund (NSSF) Act, every employer who engages one or more employees is required to promptly register with NSSF as a contributing employer
- Ensure prompt registration of all employees as members of NSSF
- Promptly deduct and remit contributions in full by the 15th day of the following month. Late payments of mandatory contributions shall attract a penalty at the rate of 5% of the total contributions for each month or part of the month that is remitted late
- Promptly submit accurate monthly returns in the prescribed format by the 15th day of the following month
- Maintain proper and up to date records of employees' earnings and particulars
- An employer who fails to comply with the above commits an offence

MEMBERS OBLIGATION

- Under the new National Social Security Fund (NSSF) Act, every employee upon employment is required to furnish his/ her employer with accurate personal details
- Register only ONCE as a member of NSSF
- Where previously registered, produce his/her membership card as evidence of registration to a new employer
- Furnish to the Fund and regularly update his/her particulars and their dependents
- Keep membership card in safe custody

Under the National Social Security Fund (NSSF) Act, employers are required to remit contributions by:

- Cheques
- Bankers cheques
- Real Time Gross Settlement (RTGS)
- Electronic Funds Transfers (EFT)
- Cash subject to a maximum of KSH 5,000
- Through the NSSF M-PESA business No. 333300

However the NSSF Act 2013 is not yet implemented following pending court case.

6 – TAXATION

The Kenyan tax system comprises both direct and indirect form of taxes. This includes include Income Tax, Customs and Excise Duties and Value Added Tax (VAT).

Personal Identification Number (PIN) and VAT registration
Every natural or legal person is required by law to register and obtain a Personal Identification Number (PIN). This is the tax registration document.

An application for pin is done to the Kenya Revenue Authority (KRA) and can be done online as follows;

Register a local company as a taxpayer
Register a local individual as a taxpayer
Register a foreign individual taxpayer
Register a branch of a foreign company as a taxpayer

Types of taxes
The Kenyan tax system comprises both direct and indirect form of taxes. This includes include Income Tax, Customs and Excise Duties and Value Added Tax (VAT).
New investors are advised to familiarize themselves with the tax regime in Kenya. Penalties and interest levied on non-compliance with tax legislation is punitive.

Brief description of varies taxes is given below;

Corporate tax

Is a direct tax on profits made by corporate bodies and it has its legal basis in the Income Tax Act (Cap 470). It's payable at the corporation rate by companies and unincorporated organisations and associations (excluding partnerships, sole proprietorships, and interest or dividend paid by a designated co-operative society) that have taxable income as defined by the Act.

The income of a partnership or a sole proprietorship is not taxable on the business entity but is taxed on the individual partner or the proprietor. The tax rates differ between resident and non-resident companies as outlined in the table below.

ITEM	% RATE
Resident Company	30%
Unincorporated entity with a turnover of up to Shs 5 million - on gross receipts	3%
Non-resident company operating as a branch under Certificate of Compliance	37.50%
Export Processing Zones Enterprises	
First 10 Years	Nil
Next 10 Years	25%
Newly listed companies following year of listing	
List at least 20% of its shares	27% for 3 yrs
List at least 30% of its shares	25% for 5 Yrs
List at least 40% of its shares	20% for 5 Yrs
Real Estate Investment Trusts	Exempt

Companies are required to pay instalment taxes on income as the year progresses. For non-agricultural businesses, there are four instalments to be paid by the 20th of the month as set out below:

- 1st instalment – 4th month
- 2nd instalment – 6th month
- 3rd instalment – 9th month
- 4th instalment – 12th month.

Agricultural instalments are payable by the 20th day of the 9th and 12th month in the year of income.

A failure to pay leads to penalties. A company is supposed to use the previous years' income as a guide and an error rate of 10% is allowed on underpayment. Underestimation leads to a penalty of 20% on the difference between the instalment tax payable (based on actual results) and the amount of instalment tax paid, multiplied by a factor of 1.1. Further, a 1% penalty per month is charged on tax unpaid plus the penalty.

Withholding tax

Is deducted on payment by a resident person or non-resident person with a permanent establishment on certain income deemed to have been derived from Kenya (irrespective of whether paid to resident or non-resident persons)

For rates of withholding tax are found in THIRD SCHEDULE HEAD B of Income Tax Act cap 470

Value Added Tax (VAT)

The operation of VAT has its legal basis in the VAT Act 2013. Value Added Tax is charged on supply of taxable goods or services made or provided in Kenya and on importation of taxable goods or services into Kenya. Taxable goods and services are contained in the various schedules of the VAT Act. All goods and services are taxable except those excluded through the second and third schedules respectively.

The VAT Act constitutes the following schedules: -

1st Schedule -Specifies the exempt goods supplies, Exempt goods on transition and exempt services

2nd Schedule – Specifies Zero rated supplies

Excise Duty

Excise duty is imposed under the excise duty Act 2015 of laws of Kenya. The tax is levied on various products including alcoholic beverages, tobacco products, petroleum products, motor vehicles, carbonated drinks and mineral water, cosmetics, jewellery, bank charges and cell phone airtime.

1st schedule of the act provides rates of excise duty and 2nd schedule on supplies exempt from excisable goods and services.

Finance Act 2016 introduced the following amendments to the Income Tax Act Cap 470.

Income tax

1. **Residential rental income below Kshs. 12,000 is now tax free**

When this tax was introduced, landlords were not a happy lot. The government now wants to sweeten the deal by making the first Kshs.12,000 every month arising from rental income is now exempt from the Rental Income Tax.

2. **Expenses Incurred on sponsoring sports**

Expenses that are incurred in sponsoring sports activities by both individuals and corporates are now tax deductible. However, this requires prior approval by the sports Cabinet Secretary. This will act as an incentive to companies like Sportpesa and Safaricom to continue sponsoring sports like football and athletics.

3. **Lower corporate tax of 15% for residential estate developers**

In a bid to provide an incentive for developers to build residential estates, the corporate tax rate has been reduced from 30%. This is a further reduction from the 20% that was proposed in the budget. However, to qualify for this rate the developer has to construct at least 400 units per year. This proposal is not limited to one project but can be applied to multiple projects.

4. **Capital Gains Tax**

Transfer of assets between spouses, former spouses as part of a divorce settlement or separation agreement, to immediate family or to a company where spouses and immediate family hold 100% shareholding shall be exempt from capital gains tax.

5. **Bonuses and overtime**

Bonuses, overtime and retirement benefits paid to employees earning a total income excluding these benefits amounting to Kshs.11,180 per month shall be tax free.

6. **Withholding Tax on Lottery Winnings**

Withholding tax that was previously payable by lottery winners has now been abolished. This follows implementation challenges.

7. **Individual Tax Rates**

The annual individual income tax bands have been widened after a very long time. This will be a welcome relief to employees.
first Shs.134,164 – 10%
next Shs.126,403 – 15%
next Shs.126,403 – 20%
next Shs.126,403 – 25%
income over Shs.513,373 – 30%

Betting, Lotteries and Gaming Act

1. **Betting tax**

There shall be a tax known as betting tax that will be charged at a rate of 7.5% of the gaming revenue. Gaming revenue here means gross turnover less the amount paid out to customers as winnings. The tax shall be paid on the 20th day of every month of collection to KRA.

2. **Lottery Tax**

This tax will be chargeable at a rate of 5%. The tax shall be paid by a person authorized to promote a lottery on the 20th day of the month to KRA.

3. Gaming Tax

This tax will be chargable at a rate of 12% of the gaming revenue. The tax shall be paid out on the 20th of every month to KRA.

Companies Act

In the past there has been a local shareholder's requirement. This requirement stated that a foreign company had to have atleast 30% local shareholding held by Kenyan citizens by birth before registration. This has now been removed due to the fact that it acted as a disincentive for foreign investors.

Special Economic Zones Act

Convention and conference facilities can now register as Special Economic Zones (SEZ). In the recent past Nairobi has played host to a number of global conferences like TICAD, UNCTAD. These have raised Kenya's profile but came at a great inconvenience to Nairobians. This incentive is aimed at encouraging investment in such facilities in areas outside the Nairobi CBD.

Excise Tax

There are some new items that are now subject to the tax and they include;

1. Excisable goods removed from a SEZ for sale in the local market.
2. Kerosene which has been used by some unscrupulous dealers to adulterate fuel. This will result in it being expensive for the poor but will be mitigated by the VAT zero rating of LPG cooking gas in the hope of boosting uptake.
3. Cosmetic and beauty products, this will have an effect on ladies' wallets.

Items exempted from the tax include;

1. Locally assembled motor vehicles.
2. School buses intended for public schools.
3. Locally assembled motor cycles
4. Goods imported for direct use in the manufacture of sanitary towels.
5. All goods including material supplies, equipment, machinery and motor vehicles for the official use by the Kenya Defence Forces and the National Police Service.

Value Added Tax

Items exempted from this tax include;

1. Any service charge paid in lieu of tips is now exempted from VAT.
2. Goods and services imported or purchased locally for use by the local film producers and local filming agents, upon recommendation by the Kenya Film Commission subject to approval by the Cabinet Secretary to the National Treasury. This is a boon for the local film industry.

3. Goods for use in the assembly, manufacture or repair of clean cooking stoves approved by the Cabinet Secretary upon recommendation by the Cabinet Secretary for the time being responsible for matters relating to energy.
4. Items used in the manufacture of sanitary towels.
5. Taxable good for the direct and exclusive use for construction of specialized hospitals with accommodation facilities upon the recommendation by the Cabinet Secretary responsible for health.
6. Entry fees into the national parks and national reserves.
7. The services of tour operators, excluding in-house supplies.
8. The Fuel VAT exemption has been extended by a further 2 years from 1ST September 2016. This must be related to 2017 being an election year.
9. Liquefied petroleum gas has been moved from the exempted items list to zero rated items. This will result in a further reduction in cooking gas prices.

Tax Procedures Act

1. Amnesty will be given in respect to taxes, interest and penalties arising from taxable income earned from outside Kenya for any year of income ending on or before 31st December 2016 by a person who files the returns and accounts for the year 2016 on or before 31st December 2017.
2. Refund of overpaid tax. The period for a refund of overpaid tax has now been extended from 1 year to 5 years. However, this shall not apply to refunds relating to VAT which still have to be applied for within 12 months.
3. Tax refunded in error to attract interest. Any tax refunded to a tax payer in error shall attract an interest of 1% if payment is not made within 30 days of the date of service demand by the commissioner. Interest chargeable shall however not exceed 100% of the tax originally due.

double tax treaty
Kenya has double tax treaties with the following countries:

Ratified & in force:
- United Kingdom
- Germany
- Canada
- Norway
- Denmark
- Sweden
- Zambia

- India.

Signed but not in force:
The following DTA's have been signed but have not been ratified by all the Contracting States and are therefore in NOT in force.

- Italy - 15.10.1979
- Tanzania & Uganda - 31.3.1999 L/N no. 45/1999 (Re-negotiated by EAC States on 23rd November 2005 in Arusha, Tanzania

DRAFT AGREEMENTS UNDER NEGOTIATION:
The following DTA's are at different stages of negotiation. For those that are in force, but under review, the existing DTA's continue to operate until the review is complete. This will be intimated through a Legal Notice revoking the existing one.

- Tanzania & Uganda (re-negotiatiated 23rd November 2005)
- France (2nd round negotiations, Nairobi, 3rd February 2006)
- Thailand {1st round negotiations, Bangkok, 7th July 2006}
- India {review 1st round, New Delhi, 14th July 2006}

DRAFT AGREEMENTS FOR NEGOTIATION:

The following draft DTA's are under discussions by the Task Force on Double Taxation & Investment Agreements under the chair of Ministry of Finance.

- Seychelles
- Nigeria
- South Africa
- Mauritius
- Finland
- Russia
- United Arab Emirates
- Islamic Republic Of Iran

7 – ACCOUNTING & REPORTING

All commercial enterprises are required to prepare accounts for the determination of corporate taxes payable.

The income of not-for-profit organisations is not taxable. However, these organisations have a requirement (set out in their constitutive documents) to prepare accounts, showing funds received and their application.

The Companies Act also lays out requirements which must be met in order for organisations to satisfy reporting requirements. In this regard, accounts must comprise the following:

- Balance sheet
- Profit and loss account
- Cash flow statement.

In addition, financial statements must comply with International Financial Reporting Standards (IFRS). This means that, in addition to the three requirements above, companies must prepare:

- A statement of changes in equity
- Explanatory notes to the financial statements
- Disclosures as required by the IFRS and International Auditing Standards (IAS).

Financial statements are required to be prepared every 12 months.

AUDIT REQUIREMENTS

An individual asked to sign an audit opinion should meet the requirements laid out by the Institute of Certified Public Accountants of Kenya (ICPAK).

Only registered auditors with the Registrar of Accountants Board (RAB) can express audit opinions on any set of accounts required by legislation or regulation for audit.

Audit examinations are either obligatory or initiative in nature. Obligatory audit examinations are established by law and are conducted for:

- Joint stock companies
- Bank, insurance companies and investment institutions.

Obligatory audit examinations should be conducted in accordance with standards approved by the IFRS and sector-specific regulations.

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8 – UHY REPRESENTATION IN KENYA

LET US HELP YOU ACHIEVE FURTHER BUSINESS SUCCESS

To find out how UHY can assist your business, contact any of our member firms. You can visit us online at www.uhy.com to find contact details for all of our offices, or email us at info@uhy.com for further information.