AFRICAN PEER REVIEW MECHANISM

UPDATE

KENYA PROGRESS REPORT JUNE 2006-JUNE 2008 ON THE IMPLEMENTATION OF THE NATIONAL PROGRAMME OF ACTION

JULY 2008 – JANUARY 2009

LIST OF ABBREVIATIONS AND ACRONYMS

ADF	Agriculture Development Fund
APRM	African Peer Review Mechanism
AU	African Union
CBK	Central Bank of Kenya
CDF	Constituency Development Fund
CIPEV	Commission of Inquiry into the Post Election Violence
CMA	Capital Markets Authority
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COMESA	Common Markets for East and Southern Africa
EAC	Eastern African Community
EEAI	Environmental Education and Awareness Initiative
FTA	Free Trade Area
GDP	Gross Domestic Product
ICT	Information and Communication Technology
IRA	Insurance Regulatory Authority
IREC	Independent Review Commission
ITMS	Integrated Tax Management System
KENSUP	Kenya Slum Upgrading Programme
KEPSA	Kenya Private Sector Alliance
KNSB	Kenya National Bureau of Standards
KRA	Kenya Revenue Authority
KSH	Kenya shillings
MP	Member of Parliament
MSE	Medium Scale Enterprise
MTEF	Medium Term Expenditure Framework
NEMA	National Environmental Management Authority
NEPAD	New Partnership for Africa's Development
NPOA	National Program of Action
NSE	Nairobi Stock Exchange
PM	Prime Minister
PPAYE	Public Procurement Access to Youth Fund
SACCO	Cooperative Society
SADC	Southern Africa Development Cooperation
UNDP	United Nation Development Program.
USA	United States of America
VAT	Value Added Tax

INTRODUCTION

Kenya's APRM progress report covering the period June 2006 - June 2008 was submitted to the APRM Secretariat in September 2008. It was initially scheduled for discussion by the 9th APR Heads of State Forum in Sharm-el-Sheikh, Egypt. The report was, however, not discussed at that meeting and is now scheduled for discussion at the 10th APR Heads of State Forum in Addis Ababa, Ethiopia in January 2009. Since the compilation and submission of the report, a number of developments worth highlighting have taken place in Kenya. It is against this backdrop that the NEPAD Kenya Secretarial found it necessary to update the June 2006 - June 2008 report.

This update report incorporates the key events and activities that have occurred between the time the original report was compiled and the planned discussion of the report in January 2009. The report highlights the key events that have taken place in the four pillars, namely Democracy and Political Governance, Economic Governance and Management, Corporate Governance, and Socio-economic Development. It includes actions taken by the Government to address some of the issues in the APRM National Programme of Action. The people's voices regarding their expectations on the performance of the Grand Coalition Government are also included.

In preparing this update, the NEPAD Kenya Secretariat Kenya carried out desk research on new developments in the implementation of the Kenya National Programme of Action. In addition, APRM Dissemination Forums were conducted in the period 17th-20th November 2008. These forums were held in about 20 districts carefully selected to represent the provinces. They provided the NEPAD Kenya Secretariat with the people's voices that are reflected in this update.

THEMATIC UPDATES

1.0 POLITICAL GOVERNANCE

1.1 Reforms Initiated after the Post-election Violence

The aftermath of the December 2007 post-election violence in Kenya heralded a period of intense national scrutiny and dialogue among the key stakeholders culminating in a firm resolve by the Kenyan people to create a conducive environment for sustainable peace both in the short and long term. This is in line with the APRM's key recommendation that Kenya identifies mechanisms for reducing/preventing both intra and inter-state conflicts, which have been particularly incessant.

In this regard, the Government is hosting a major conference titled "***One Kenya One Dream; The Kenya we want***" from 2nd – 4th February 2009 at which a widely representative array of stakeholders will converge to chart a way forward on how to build a more united country driven by values of justice, fairness, equity, peace, love and unity as enshrined in the Kenyan Constitution. In addition, the Government has set out to enact a number of legal mechanisms that would promote good governance and the rule of law, peace, security, and sustainable socio-economic development. This is through reforms that would guarantee justice, and equality for posterity.

These measures include;

1.1.1 The Truth, Justice and Reconciliation Commission Bill

The passage of the Truth, Justice and Reconciliation Commission Bill 2008 by Parliament on 23rd October, 2008 was a step in the right direction. The Bill is expected to help deal with historical injustices, although the challenge for the government is to address potential overshadowing of the process by partisan interests. The Bill will culminate in the establishment of the Truth, Justice and Reconciliation Commission that will be mandated to broadly examine historical injustices that have plagued the Kenyan nation over the years and define appropriate measures for reconciliation and restitution for the victims of such incidences. This is expected to end the culture of impunity and to set the country on a path of sustainable peaceful co-existence.

1.1.2 The National Cohesion and Integration Bill 2008

This Bill emanated from the deliberations of the National Dialogue and Reconciliation Committee on managing diversity. It seeks to establish a National Ethnic and Race Relations Commission as a body corporate that will be charged with the responsibility of facilitating and promoting equality of opportunities, good relations, as well as harmonious and peaceful co-existence among the various Kenyan ethnic communities.

This Bill was borne out of the realization that lasting peace and co-existence in Kenya cannot prevail unless the various communities cultivate goodwill among each other and have equal access to various opportunities that may arise without discrimination on the basis of ethnicity.

The National Assembly passed this Bill in November 2008, and it is currently waiting to be assented to by the President before it becomes law after which the aforementioned Commission will be set up. It is envisaged that this will provide the country with a clear framework on how to enhance equality in distribution of resources, deal with the problem of ethnicity in the public sphere, and manage diversity.

1.1.3 The Commission of Inquiry into the Post-election Violence [CIPEV]

The Commission of Inquiry into the Post-election Violence (CIPEV) is one of the commissions established by the National Dialogue and Reconciliation Committee which was brought about by the political crisis ensuing from the disputed Presidential elections at the end of 2007. CIPEV's terms of reference, published in the Kenya Gazette dated 23rd May 2008, were to investigate the facts and surrounding circumstances related to acts of violence that followed the 2007 Presidential Election and to investigate the actions or omissions of State security agencies during the course of the violence, and make recommendations as necessary. The Commission was initially given three months to complete its work, but was granted a number of extensions after which it submitted its final report to the President, the Prime Minister and to the Panel of Eminent African Personalities on 16th October, 2008.

The report's key recommendation was to form a local tribunal to charge individuals suspected of funding, participating in, and inciting, the violence, failure to which the list of the suspected individuals would be forwarded to the special prosecutor of the International Criminal Court, at The Hague. Towards this end, the Government is finalizing a legal mechanism to establish a Special Tribunal to try the suspects behind the post-election violence.

Citizens' Voices on the Grand Coalition Government

- *While a large majority of Kenyans support the Grand Coalition Government, and*

Coalition Government works effectively and will not be derailed by selfish political interests.

Citizens' Voices on Post-Election Violence

Citizens were happy with the initiatives to address the post-election crisis.

- *Most of the participants at the APRM Dissemination Forums agreed that all the perpetrators of the post- election violence, including the state organs such as police should be tried locally.*
- *The people even recommended for the courts to be fashioned along the lines of the **Gacaca courts in Rwanda**. This would help expedite the cases and steer the country towards large scale reconciliation.*
- *The people expressed hope that the Government will demonstrate commitment to the trial of the suspects behind the post-election violence.*
- *They were particularly unhappy that cabinet ministers often disagree in public over government policy, particularly on the issue of post-election suspects.*

Recommendations

During the APRM Dissemination Forums, people spoke out and made the following recommendations on how to build sustainable peace and cohesion among Kenya's diverse communities.

- *Historical injustices relating to land, distribution of resources including inequitable development should be comprehensively addressed;*

- *The government should encourage the use of one official language in public places including all government offices; and the redrawing of current administrative boundaries (especially provincial boundaries) so that they cease to be based on ethnic considerations. This would address the problem of ethnicity.*

1.1.4 Independent Review Commission (IREC)
The Independent Review Commission [IREC] was set up on 14 March 2008 by the President in line with the resolutions of the National Dialogue and Reconciliation Committee. This Commission was mandated to investigate all the aspects of the December 2007 Presidential Elections and make findings and recommendations to improve the electoral process. Like the CIPEV, this commission submitted its report to the President, the Prime Minister and the Panel of Eminent Persons in which it declared that the 2007 Presidential Elections were 'irredeemably flawed' such that identifying who actually won was impossible. This report clearly outlined the process towards complete constitutional and electoral reforms.

It is important to note here that significant progress has been made in implementing the key recommendations of the IREC report. In this regard, the National Assembly passed the Constitution of Kenya (Amendment) Bill, 2008, setting the stage for the implementation of the crucial reforms recommended by the Independent Review Commission (IREC) on the 2007 elections.
This Bill was assented to by the President, thereby disbanding the Electoral Commission of Kenya and defining modalities of establishing an Interim Independent Election Commission of Kenya to oversee electoral reforms. In addition, an Independent Boundary Review Commission was also set up to review current constituency boundaries for improved representation. The government recognizes that this reform agenda is imperative for building a more stable and democratic Kenya.

1.1.5 Implementation of the Political Parties Bill
The APRM Country Review Report for Kenya recognized the vital role that political parties play in a dynamic democracy but called on the Government to institute measures to instill good governance in the operations of political parties. The Political Parties Act 2007 responded to this requirement by providing legal mechanism for the registration, regulation and funding of political parties. The implementation of the Political Parties Act has officially commenced with only 38 political parties being formally registered by the Political Parties Registration as at 31st December, 2008. The rest of the parties stand de-registered until they comply fully with this law.

1.2 Constitutional Reforms in Kenya

The Constitution of Kenya Review Bill 2008
In Vision 2030, the Government's blue print for Kenya's development, it is clear that the events associated with the 2007 post-election violence are going to always have a firm bearing on the Kenya's development. This has rekindled determination to review the current constitution. Towards this end, the Constitution of Kenya Review Bill 2008 was passed by Parliament and assented to by the President on 11th

December 2008. This Bill responds to the National Dialogue and Reconciliation Committee's recommendation that a review of the constitution of Kenya be completed within a period of 12 months.

In the wake of this Bill becoming law, the Parliamentary Select Committee [PSC] on the Constitutional reforms has been established. The PSC has already initiated the process of establishing a Committee of Experts to carry out the following functions;
[a] Identifying the issues already agreed upon in the existing draft constitutions
[b] Identifying the issues which are contentious or not agreed upon in the existing draft constitutions;
[c] Soliciting and receiving from the public written memoranda/presentations on the contentious issues
[d] Undertaking thematic consultations with caucuses, interest groups and other experts;
[e] Carrying out or causing to be carried out such studies, researches and evaluations concerning the Constitution and other constitutions and constitutional systems;
[f] Articulating the respective merits and demerits of proposed options for resolving contentious issues;
[g] Making recommendations to the Parliament Select Committee on the resolution of the contentious issues in the context of the greater good of the people of Kenya;
[h] Preparing a harmonized draft Constitution for presentation to the National Assembly;
[i] Facilitating civic education to create public awareness of constitutional issues
[j] Liaising with the Electoral Commission of Kenya to hold a referendum on the draft Constitution; and
[k] Doing such things as are incidental or conducive to the attainment of the objects and principles of the review process.

Citizens' Voices
- *Enact a **new constitution** based on the Bomas draft*
- *Clearly define the roles of the PM and those of the Head of the Public Service*

1.3 Protection and Promotion of the Rights of Children and Young Persons
Within the period under review, the Youth Fund signed a contract with the International Organization for Migration to assist Kenyan youth secure employment abroad. This is in line with the Youth Fund's mandate to facilitate employment for over 10 000 young people abroad, converting the country into a vibrant labor market for the global economy.

In order to further empower the Kenyan youth economically, the Ministry of Youth Affairs and Sports will be seeking an expanded budgetary allocation in the next financial year as it seeks to address the problem of youth unemployment in Kenya. In pursuit of this, the Ministry is planning a retreat with MPs to sensitize them on the plight of youth in Kenya, and the need to maximize resources to support youth development. The Youth Fund has so far paid out over 1.4 Billion Kenya Shillings to entrepreneurial youth with over 68 percent of successful applicants being young women. This has enabled the funding of over 42, 000 youth enterprises, forcing the Ministry to actively look for more financing

2.0 ECONOMIC GOVERNANCE AND MANAGEMENT

The Economic Governance and Management pillar seeks to examine progress made in the implementation of the National Programme of Action, as regards this thematic area. It shows the accomplishments made between July 2008 and December 2008. It highlights key challenges that Kenya is facing in implementing the National Programme of Action, and further incorporates the voices of the people, as far as economic growth and development is concerned.

2.1 Achieve Compliance with Best practices in the Financial Sector

The Government plans to table a supplementary budget seeking to balance development and increased spending for subsidizing food, education, health care and energy. This is in response to the manner in which increased food subsidies and reprieves on tax levied on fuel affected the Government's financing, leading to some significant deficits in the 2008 budget. In actual fact, the budget deficit stood at 127 Million in June 2008 when the budget was read but due to improved tax revenue collection by the Kenya Revenue Authority this deficit has been substantially reduced.

Nonetheless, the Government has instituted measures aiming at enhancing stability, efficiency and competitiveness of the financial sector. Various key measures were introduced during the period under review i.e. June 2006 – June 2008, and are still on-going.
They include:

- Operationalisation of the Insurance Regulatory Authority (IRA),
- Review of the Capital Markets Authority (CMA) Act to strengthen its regulatory role,
- Publishing of a Modern Banking Bill (2007) to benchmark local commercial banks to international standards.

In addition, on 13th November 2008, Parliament passed the SACCO Bill which will regulate the 170 Billion savings and credit co-operative societies. SACCOs will now be in direct competition with commercial banks after Parliament allowed them to offer banking services.

2.2 Enhance Kenya payments systems

The Kenya payments system strategy aimed at ensuring that the payments system in the country complies with the ten core principles for systematically important payments system is being implemented within the current review phase. Within the 2008/09 budget, the Government has pledged to enact the National Payment System Bill 2008. The CBK has already put in place the necessary policy framework on oversight of payments systems.

2.3 Recent Macroeconomic Developments

[a] Economic Growth

After growing by 7 percent in 2007, real GDP is expected to slow down in 2008 following economic disruptions in the first quarter and high food and fuel prices. Real GDP recovered to 3.2 percent in the second quarter of 2008 from a decline of 1 percent in the first quarter of 2008. The effects of the recent global financial turmoil are yet to play out, but they are likely to affect growth prospects. With expected continued recovery in the second half of 2008, the target of 4.5 percent growth still seems achievable, albeit with downside risks.

[b] Inflation

According to the Quarterly Economic and Budgetary Review, First Quarter 2008/2009, the month-on-month overall inflation was at 28.2 percent in September, 28.4 in October and 29.4% in November 2008. The high inflation continued to reflect increased prices of food and fuel following developments in the global commodity prices and supply and distribution constraints of staple food. It is important to note, however, that there is an upward bias in the computation of the index, which the Kenya National Bureau of Standards [KNBS] is in the process of addressing in line with international standards.

The underlying rate of inflation, as measured by excluding food and fuel items, rose beyond the 5% target to reach 8.6% in September and 8.7% in October 2008. This is mainly due to the pass-through effect of higher food and fuel prices, strong expansion in money supply as well as the recent depreciation of the shilling.

During the course of the Dissemination Forums held in November 2008, it was noted by the various stakeholders that the inflation rate was still increasing, affecting food prices and yet the income levels have stagnated. This has in-turn reduced the purchasing power of the 'ordinary' citizens.

[c] Exchange rate

Since June 2008, the Kenya shilling has depreciated partly due to increased demand for foreign currency to finance the rising importation of petroleum and food. From a level of Ksh. 62.2 against the US dollar in April 2008, the shilling depreciated to Ksh 64.7 in June and Ksh.75 in October 2008. The Kenya shilling has, however, strengthened against other major currencies due to the weakening of these currencies against the US dollar in the international currency markets.

[d] Interest Rates

Interest rates for the 91-day Treasury bill rose from 6.9 percent in March 2008 to 7.3 percent in April and 7.7 percent in June 2008. By September 2008, the 91-day Treasury bill rate was still at the level of 7.7 percent, mainly due to the tight liquidity situation in the banking system. Average commercial bank lending rates have increased marginally to 16%, up from 14% in 2007, due to the rise in inflation.

2.4 Maintaining a stable and predictable domestic borrowing

According to the CBK Monthly Economic Review Journal, public debt as a percentage fell from 42.8% to 41.7% in August 2008, while the domestic debt to GDP ratio fell from 21.1% to 21.0% during the same period. Within the 2008/09 financial year, the Government is looking to issue a sovereign bond to raise Ksh. 33.6 Billion, mainly to finance infrastructure.

2.5 Increase budgetary allocations social sectors, especially health and education

Analysis of ministerial expenditure shows that the Government continued to shift budgetary resources toward priority social sector projects/programs. In the first quarter of the 2008/09 fiscal year, the ministries of Basic Education, Higher Education, Science and Technology, Medical Services and Public Health and Sanitation, accounted for 42.6 percent of total recurrent expenditure.

In the agriculture sector, the Government's spending is at around 4.5 percent of total expenditures, but the President promised to increase it to 8% in the next fiscal year. The promised increase, however, still falls short of a declaration by AU Heads of States in Mozambique in 2003, where they committed to allocate at least 10% of budgetary resources to the sector.

The Ministry of Agriculture is also preparing a Bill which will set up an Agriculture Development Fund (ADF). The legislation will complement the existing financing schemes.

2.6 Increased stakeholder participation in policy, planning and budgeting, at national and sub-national level and Public Private Partnerships

The Medium Term Expenditure Framework [MTEF] Budget – Public sector hearings were done and this is still a continuous process, which will be done again for the 2009/10 budget.

Voices of Citizens on Participation

- *There is still need according to the citizens, to institutionalize participation and to even extend the consultation to sub-national level.*

Partnerships in policy formulation, budgeting and planning have been formed with KEPSA. The Office of the Prime Minister has also initiated various partnerships with the private sector, including quarterly roundtable talks.

2.7 Promotion of Sound Public Finance Management

The Government recognizes the importance of strengthening the link between budgeting and planning. In this regard, all ministries and public agencies have been developing and implementing strategic plans, in line with their various performance contracts which are currently being streamlined with the Vision 2030 and Medium Term Strategy (2008-2012). A Draft Local Government Bill has been developed by the Ministry of Local Government and is currently being reviewed by the Attorney General's chambers.

Citizens' Voices on Corruption

- *The Government has made concerted efforts to fight corruption at all levels, though the slow judicial system has been seen as an impediment to prosecution of corrupt officials.*
- *The citizenry still feel that the Government has not been dealing with senior Government officials who are mentioned as being corrupt, and there has still been a growing list of corrupt deals in the Grand Coalition Government.*

2.8 Acceleration of Regional Integration

In an effort aimed at accelerating regional integration in the region, Kenya participated in a historic COMESA, EAC and SADC Tri-partite Summit on 22nd October, 2008 in Kampala, Uganda. This Summit took unprecedented decisions in these extraordinary times by defining the new social, political and economic geography of the Eastern, Northern, Southern and Indian Ocean region; the decision to immediately begin the merger of COMESA, EAC and SADC and to establish, within twelve months, a timetable for a pan-regional Free Trade Area (FTA) from Cape to Cairo. In the medium term, a Customs Union, for the entire region was agreed upon.

In addition, the Government's implementation of the Protocol on the Establishment of the East African Community Customs Union entered its 5th year on 1st January 2009, thus spelling out measures for reduced rates for importing amongst the EAC member states.

3.0 CORPORATE GOVERNANCE

3.1 Promoting an enabling environment and effective regulatory framework for economic activities

The Government has been working at ensuring that the business climate in Kenya is transformed through improving its performance in the Doing Business Index. This is through cutting down licenses and other statutory requirements needed for starting, expanding or exiting from doing business in Kenya. In this regard, a call for consultancy proposals for the review of the environment of lease financing to increase the uptake of what is considered as cheaper borrowing option for businesses wishing to expand has been advertised. It is expected to be finalized by January 29th. Other measures include the demutualization of the NSE i.e. the separation of management from ownership, hence professionalizing and improving its general efficiency.

Key priorities of the Government in seeking to address the corporate governance challenges are efforts aimed at reforming the Capital Markets Authority and enhancing regulation of banking procedures. In addition, the Government has set in motion the process of reforming the Nairobi Stock Exchange, in order to protect the investors' money from being embezzled by dishonest stockbrokers and thereby boosting investor confidence in the stock market.

3.2 Creating an enabling environment for development of MSEs

It is critical for MSEs to adhere to tenets of good corporate governance without which attracting capital from outside sources like banks and investors would prove a difficult, even impossible task. It has been recognized within the Vision 2030 that Small and Medium Enterprises are the engines of Kenya's economic growth, providing 50 percent of jobs and 60 percent of wealth creation.

3.3 Provide affordable and accessible credit to the private sector including MSE's

In measures aimed at enacting a legal framework to guide public-private partnerships in funding public projects, the Government has already initiated the process of enacting a specific law on private public partnerships. Once enacted, the law will allow the private sector to directly invest in public projects in partnership with the Government, particularly in the infrastructural sector which is capital intensive.

3.4 Attract more Companies to list at the Stock Exchange

In the recent past, and with the ongoing global financial crisis, the Nairobi Stock Exchange [NSE] has remained a viable avenue for the acquisition of capital for both private and public companies and state owned enterprises [SOE]. For instance, the Co-Operative Bank Initial Public Offer that was concluded in December 2008 registered 80 percent subscription allowing the bank to raise the much required capital and share value. This particular IPO brought to two the number of successful capital markets stock exchange transactions that the Nairobi Stock Exchange had facilitated to date; as part of only 27 capital markets transactions in Africa. In recognition of this fact, the Global Competitive Index October 2008 ranked the NSE 25th worldwide as far as equity financing is concerned.

3.5 Reforms in the NSE

The NSE now has a new code of conduct to regulate dealings of the members in a deliberate effort to sustain investor confidence, particularly in the wake of the sudden collapse of a number of stockbrokers under mysterious circumstances. This code is meant to bolster NSEs membership rules and establish best practices between the stockbrokers and their respective clients.

Such reforms will only be successful if the clients are well informed about the operational aspects of the stock exchange. In an effort to create an informed and empowered client base, the NSE has also been engaged in a number of ventures aimed at boosting investor confidence through training and education by use of advanced ICT platforms. Some of these platforms include the Smart Youth Challenge which aims at educating the youth on practical investment opportunities in the stock exchange through online knowledge networks, the Exchange Magazine that provides an in depth analysis of the regional market.

The Capital Markets Authority [CMA] continues to execute its mandate of upholding market integrity and safeguarding the interests of all market participants. Through assistance from the Ministry of Finance, the Authority has completed a diagnostic review of its current supervision processes with a view to profile the risks of each of its licensees for effective monitoring. This will guide the CMA as it seeks to introduce more stringent oversight mechanisms and compliance rules. In this exercise, the CMA is expected to borrow heavily from its regulatory counterpart in the financial markets; the Central Bank of Kenya, by adopting a risk-based management approach.

3.7 Demutualization of the NSE

In addition, Demutualization of the Nairobi Stock Exchange is a key priority for the CMA in addressing potential corporate governance challenges within the capital markets. This entails conversion of the Exchange from a mutual, member-owned not-for-profit company limited by guarantee to company limited by shares where ownership will be through shareholding and there will be separation of trading rights from ownership rights. A demutualized stock exchange will result in improved governance; greater investor participation; and competition.

This will encompass far reaching measures that will include the classification of stock brokers and investment banks according to strengths of their financial position, ability of the management team, and market exposure in terms of products and client base. It is expected that such classification will enable the CMA to monitor the market effectively, by placing extra attention on more risky ventures/firms. Hence from now onwards, stockbrokers will be required to file monthly reports on their financial position and other important dealings.

3.8 The Finance Act 2008/2009

Generally though, the passage of the Finance Act 2008/2009 is expected to enable the CMA enforce good corporate governance credentials in the operations of business institutions, instilling discipline in the capital markets and thereby bolstering investor confidence in the stock market. This is because the Finance Act 2008/2009 contains important amendments to the CMA Act. Some of the fresh legal requirements on investment banks and stockbrokers include the need for these institutions to inject more capital and restructure their boardrooms to instill good corporate governance and professionalism in the management of their affairs.

Indeed, the Kenyan corporate world is not overly immune from the global financial turmoil that is prevalent today. Hence in an effort to cushion the Kenyan economy, the Finance Act would enable the CMA move to instill transparency in the fast growing collective investment vehicles, such as Unit Trusts and pension funds, as a way of forestalling irrational risk taking, a major contributive factor to the current global financial crisis.

3.9 Infrastructure

[a] Launch of the Nairobi Metropolitan Development Program

The Ministry of Nairobi Metropolitan Development launched an ambitious program the 'Nairobi Metro 2030' on 15th December, 2008 seeking to establish a world-class business setting, recognized nationally, regionally and globally as a centre of business excellence. The program seeks to build on Nairobi's strengths of finance, trade and business services; tourism; human resource development as well as sports and leisure.

To ease the constant road congestion and traffic jams in Nairobi a large expansion area has been earmarked within the Nairobi Metro 2030. The proposed Nairobi Metro Region extends over some 3,000 square kilometers that substantially depend on the city for employment and social facilities. This has also been spurred by the rapid population growth registered in the surrounding areas such as Kiambu, Thika, Muranga, Machakos and Kajiado. It has thus become difficult to separate Nairobi City from this wider metropolitan region.

Planning for the Nairobi Metropolitan Region will initially cover a radius of 40 Kilometers despite the functional area covering approximately 100 Kilometers. The proposed Nairobi Metropolitan Region comprises of 15 independent local authorities including the City Council of Nairobi.

[b] Railway Network

The Government unveiled plans seeking to install a standard gauge rail line from the Port of Mombasa to most of the landlocked countries in the Eastern Africa region on 12th November, 2008. Officials from neighboring states had endorsed this proposal which was set to establish a rail network traversing and inter-linking nations in the Greater Lakes region including Uganda, Southern Sudan, Democratic Republic of Congo, Rwanda, Burundi through to Ethiopia.

[c] Fully integrate ICT in the economy

The Kenya Communications [Amendment] Bill was passed into law by Parliament and assented to by the President on 30th December 2008. It was envisaged that the proposed amendments would help streamline and introduce regulatory provisions in electronic transactions and broadcasting which are presently weak. This was to be done by transforming and empowering the Communication Commission of Kenya into a full fledged information and communications technology sector regulator. The Bill sought to address the following policy objectives;

(a) Create regulatory, advisory and dispute resolution bodies to support the implementation of the national information and communications technology policy;

(b) Provide a new regulatory framework for broadcasting stations and services;
(c) Provide for the licensing of certification service providers and country top level domain administers; and
(d) Provide for electronic transactions-related offences including cybercrime and reprogramming of mobile telephones.

Regarding Broadcasting, the Bill, *inter alia*, proposes for the empowering of the Commission to license, and regulate broadcasting services as well as promote the development of local content in addition to allocating frequencies. The Bill further sought to enable the Commission to set standards for the manner, time and type of programmes to be broadcast by licensees and sets up a mechanism for handling complaints by the public against broadcasters. In Electronic Transactions, the Bill provides for legal recognition of electronic records and signatures; creates new offences with respect to electronic records and transactions including cyber crime, destruction of electronic records and reprogramming of mobile telephones.

However, following the passage of this Bill into law, members of the media fraternity and a majority of stakeholders rejected the law on the basis of the regulation of broadcasting, which was considered injurious to the general vibrancy of the media industry and press freedom. The Government is re-considering the law in order to ensure that concerns raised by the media are taken care of, while appropriately integrating ICT into economic development.

In addition, two other mobile phone operators, Orange and Econet, have been licensed and have since commenced operations. This is expected to nurture healthy competition among telecommunication service providers hence easing communication costs for Kenyans.

3.10 Taxation

In the Financial Year 2008/09, the Kenya Revenue Authority (KRA) is expected to collect Kshs. 492.9 Billion representing a growth of 13.6% over the Kshs. 433.9 Billion collected in 2007/08. The KRA continues to register impressive returns despite the less than promising economic environment leading into the second quarter. This progress can be attributed to sound administrative measures put in place by the KRA including taxpayer audits, recruitment of staff to enhance capacity, an effective debt management plan, the implementation of 24 hours a day operation at Mombasa and major border points, efforts at port decongestion, post clearance audits, mobile licensing and Transport Licensing Board production of security printed logbooks among others.

In addition, the Kenya Revenue Authority commenced piloting of the Integrated Tax Management System (ITMS) in December 2008 with the pilot run for e- registration of taxpayers. Preliminary analyses of the 44 taxpayers, who have been registered through the new system, indicate that the piloting has gone on smoothly. Piloting for this module will continue in a controlled environment with access available only to the pilot firms. After the pilot period, the system will be rolled out to other KRA regions. This is expected to enhance tax collection and to ease the operational aspects of tax payment, since tax payers will be able to file their returns and pay their taxes from their offices from March 2009 when the system is expected to be formally commissioned. In addition, the new system will enable the speeding up of VAT refunds by the KRA.

3.11 Aggressive and sustained marketing of Kenya and its products internationally

In response to this need, in March 2008 the Government launched the Brand Kenya Program aimed at boosting the country's image abroad and carrying out sustained marketing of its products abroad. In this regard, plans to establish a new board to brand and market Kenya abroad are at an advanced stage. This new State Corporation, to be known as the Brand Kenya Board, will come up with strategies that will help improve the country's profile and reputation abroad.

It will be the first time that modern marketing techniques will be used to sell the country and its products.

In doing so, Kenya will be joining the ranks of countries such as South Africa, Egypt, the US, Uganda, Australia and the Bahamas, which are branded and sold abroad as commodities. The State Corporation will step up efforts of repairing the country's image abroad dented by the post-election violence.

In addition, the Government through the Kenya Tourism Board and the Kenya Wildlife Services has embarked on such missions worldwide. This can be attributed to the fact that tourism earnings in the first half of 2008 were substantially reduced as a result of the post-election violence.

4.0 SOCIO-ECONOMIC DEVELOPMENT

Introduction

Government efforts to promote socio-economic development have continued during July 2008-January 2009. Most importantly, Kenya remained peaceful during that time, after the wake-up call of the post-election violence in the first months of 2008.

The "*Well Being in Kenya*" Report, launched in November, 2008, sought to provide a detailed socioeconomic profile of Kenya based on the Kenya Integrated Household Budget Survey 2005/06. The analysis shows that Kenya experienced rapid socio-economic development in the last few years, which will, however, be difficult to sustain in the face of rapid population growth and high poverty levels in some regions. The Report warns that large household sizes especially for the poor, relatively low levels of education and high dependency on agricultural incomes may trap the poor in a vicious cycle of poverty, unless targeted programmes are designed and implemented.

4.2 Promoting self-reliance in, and building capacity for, self-sustaining development

In the first quarter (July – September 2008), the Kenya Revenue Authority had, for the first time since 2002, been collecting less taxes than estimated. However, in the second quarter (October to December 2008), tax collection surpassed the target of KSh 120.4 billion by 1.8 billion. The Kenya Revenue Authority is confident it will meet the annual target of Ksh. 463 billion in 2009. Expectations had been that the half year target could be met, but the fact that Members of Parliament rejected a proposal by the Treasury to have their allowances taxed, contributed, among other factors, to the failure to meet the half year target. This refusal will also make it more difficult to educate the public on the benefits of paying taxes.

Voices on the refusal of MPs to have their allowances taxed:

- *Citizens expect a Parliament that considers the payment of taxes a civic obligation, rather than an act of 'charity' or 'philanthropy'.*
- *Most of the participants at the APRM Dissemination workshops wondered why they were being taxed on their meager earnings while the MPs who earn hundreds of thousands were not being taxed.*

4.3 Accelerate socio-economic development to achieve sustainable development and poverty eradication

The most acute threat to further reducing poverty in Kenya has been a marked rise in food prices as well as pronounced food insecurity. The Government intervened by releasing maize from the strategic grain reserve to reduce the price of flour, especially for the poor, and by importing maize.
Allegations of corruption have been made regarding both measures, which the Kenya Anti-Corruption Commission is investigating. The President declared the food shortage a national emergency.

After the post-election violence, the food shortage is this time also affecting regions that in the past generally had a food surplus, so that a total of 10 million, or one in three Kenyans, are affected. The declaration of an emergency allows international aid agencies to step in. Relief food is already being distributed to the areas most hit by food shortages, i.e. Coast, North-Eastern, and parts of Eastern Province.

4.3.1 Initiate programmes for poverty alleviation

Most of the programmes to alleviate poverty are ongoing, in particular the ones under the First Medium Term Plan to implement Vision 2030. Regarding the Kenya Slum Upgrading Programme KENSUP, eight sanitation blocks have been constructed as part of efforts to improve sanitation.

An important milestone has been reached for microfinance. Kenya Women Finance Trust has at the beginning of this year become the first microfinance institution to be allowed by the Central Bank to start accepting customer deposits under the Microfinance Act. This means that more funds are available for loans to women. Before the Microfinance Act came into force in May 2008, microfinance institutions were prohibited from taking deposits. This new measure will ensure that more funds are available for loans to women.

4.3.2 Enhance Youth Employment

The Youth Enterprise Development Fund has developed a three year strategic plan to address the needs and aspirations of the youth, as well as past challenges. The strategic plan was launched on 10th December, 2008 by the President. The Fund also signed a Leverage Financing Partnership with four commercial banks that will increase the funds available for onward lending to the youth by Ksh 2.5billion. In another move, the Government intends to commit at least 10% of its procurement expenditure, amounting to almost Ksh. 15 billion in financial year 2007/08, to youth owned enterprises. To assist in implementation, the Youth Enterprise Fund Board started a Public Procurement Access to Youth Enterprises (PPAYE) initiative, under which it is requesting expressions of interest from youth enterprises by mid-January 2009.

Voices of Citizens on Women and Youth Enterprise Funds

- *There is lack of awareness about the Funds themselves and how to access them. Rules about collateral should be made less stringent, the repayment grace period increased, interest rates lowered and monitoring and evaluation by the Government improved.*
- *Members of the Muslim community complained that because of their faith, they cannot access the Funds.*
- *Voice of a woman: "Whenever we get the money from the Women Enterprise Fund, our husbands take advantage of that and don't go to work. All they want is to misuse the money on alcohol."*

4.4 Strengthening policies, delivery mechanism and outcomes in key social development areas.

4.4.1 Improve the quality of education

In January 2008, the Government waived tuition fees at secondary schools and thus was successful in increasing access. However, due to destruction of classrooms and other school facilities during the post-election violence, the number students admitted to secondary schools is expected to drop by about 10 percent in 2009. The Ministry of Education reached an agreement with one of the teachers' union about salaries for secondary school teachers, amounting to pay increases between 35 and 168 percent, a move that could boost morale of teachers and thus quality of education.

Voices of Citizens on Education

- *Parents rushed to schools last year to enroll their children in secondary schools, but the subsequent rise in the number of students per class, problems in making tuition money available to schools, rise in fees other than for tuition created problems and lowered the quality of education, especially in boarding, less in day schools.*

4.5.1 Improvement on alternative education models

Even after the introduction of free primary education in 2003, enrolment of girls in nomadic areas has been lagging behind. As part of a wider effort to address the problem, the government has established five mobile schools in Garissa, mostly close to water points, which move with the nomadic families. Operation of ten more such schools has been approved.

4.5.2 Improved Capacity of National Environmental Management Authority [NEMA]

NEMA offices have now been decentralized in 140 districts. As part of the recommendations of the Environmental Impact Assessment Review Taskforce, NEMA has, as of December 1, 2008, started a decentralization programme regarding the processing of EIA reports for low risk/low impact projects at the provincial level.

The Education for Sustainable Development Implementation Strategy has been finalized and adopted by the National Environment Council. NEMA drafted an Environmental Education and Awareness for Sustainable Development Implementation Plan at the Provincial and District Levels, which is being rolled out at district level in five provinces. The Ministry of Environment and Mineral Resources has launched an Environmental Education and Awareness Initiative (EEAI) in all provinces.

In September 2008, Parliament passed the Biosafety Bill, which lays out a framework for dealing with genetically modified organisms. The Bill, formulated by the Ministry of Higher Education, Science and Technology, *inter alia* creates a National Biosafety Authority. It domesticates the provisions of the Cartagena Protocol, one of the protocols concluded under the Convention on Biological Diversity, to which Kenya is a signatory.

4.5.3 Improve quality and access to health services

As part of a public-private partnership between a multinational drug company (Pfizer), the ministry of Health and Population Service International, a five year pilot project to educate mothers and health-care workers on how to detect malaria in a child and on the importance of seeking medical diagnosis has been launched in Nyanza.

Voices of Citizens on Health

- *People commended the Government for their efforts to improve health facilities. Among the problems cited were corruption, poor service delivery, unqualified doctors especially at private health centers.*

4.6 Ensuring affordable access to water, sanitation, finance (including micro finance), markets, ICT, shelter and land to all citizens, especially the poor.

4.6.1 Accelerate the energy sector reform programme to ensure an adequate supply of energy

In November 2008, the Rural Electrification Authority which came into operation in July 2007 was officially launched. Its first project was supplying energy to two schools and several homes. Additional 223 projects will be carried out in the

2008/09 financial year, and a total of 200,000 rural households are expected to be connected. The goal is to provide power to all public institutions by 2012.

4.6.2 Articulate a comprehensive ICT strategy for human resource development

With the undersea fibre optic cable expected to be completed by mid-2009, the Kenya ICT Board hosted a conference in November 2008 to discuss the Local Content Development Programme. The Kenya ICT Board will invest USD 4 Million to support content development and generation for both government and the private sector through a grant facility. Applications will be sought through advertisements in the daily papers.

4.7 Encouraging broad-based participation in development by all stakeholders at all levels.

4.7.1 Foster effective participation of stakeholders at the grass roots

The District Focus for Rural Development Strategy has been implemented for 25 years, and revised three times. In July 2008, a new revision was started, informed by the Public Sector Reforms to achieve results for Kenyans and by key government policies on poverty reduction, corruption and improved governance. This revision is still ongoing with participation from various stakeholders. The revision is aimed at enhancing coordination of development initiatives at the district level for improved public service delivery as well as deepening the level of citizen engagement in district development and promoting greater equity and efficiency in the allocation of resources to reduce poverty across the board. District Focus for Rural Development has been renamed Constituency Development and Resource Management Framework

Under a project funded by the African Development Bank, the Ministry of State for Planning, National Development and Vision 2030 will soon be implementing a Community Empowerment and Institutional Support Programme aimed at empowering communities in project programming from selection to implementation to monitoring and evaluation. Under the 'Mainstreaming MDGs in the Planning and Budgeting Process' project funded by the Finnish Government and UNDP, the Ministry of State for Planning, National Development and Vision 2030 has sensitized communities on their role in development in the nine Millennium Districts and 17 additional districts through engagement of locally active Civil Society Organizations.

The Ministry of State for Planning National Development and Vision 2030 is now in charge of the Constituencies Development Fund (CDF). CDF Committees at the constituency level have membership drawn from members of that community, who are pivotal in the decision making process.

Voices of Citizens on Participation in Development

- *People feel they are able to contribute to development activities in their own small ways and that government is seeking their views. However, they hardly receive feedback, and implementation takes too much time.*
- *People appreciate the Constituency Development Fund, and are able to see the development it has brought to the region. However, problems of corruption, nepotism, and lack of transparency and of proper Monitoring and Evaluation as well as funding of irrelevant projects were cited.*