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The Economic Diplomacy of Kenya's Regional Interests

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ABSTRACT

Increasing attractiveness of East Africa as a 'frontier market' has put Kenya in the spotlight as a gateway to the region. The country identifies six sectors and is currently implementing flagship projects to enhance its prospects. Existing research is mainly concerned with descriptive studies of economic and commercial subjects within the East African context in terms of content and implementation of policy. There are very few attempts at directly linking these topics with the act of diplomacy. This paper is an exploratory attempt at connecting relevant issues within Kenya's contemporary economic diplomacy in relation to its regional trade interests and the degree of political risk.

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ABBREVIATIONS AND ACRONYMS

ACP-EU	African Caribbean and Pacific-European Union
AEC	African Economic Community
Apsea	Association of Professional Societies in East Africa
BPRT	Business Premises Rent Tribunal
CET	Common External Tariff
Comesa	Common Market for Eastern and Southern Africa
DIT	Department of Internal Trade
DET	Department of External Trade
EAA	Eastern African Association
EAC	East African Community
EACU	East African Customs Union
EABC	East African Business Council
ECA	Economic Commission for Africa
EPC	Export Promotion Council
EPZ	Export Processing Zones
ERS	Economic Recovery Strategy for Employment and Weath Creation
FDI	Foreign Direct Investment
FKE	Federation of Kenya Employers
FPEAK	Fresh Produce Exporters Association of Kenya
FTA	Free Trade Area
ICAP	Investment Climate Action Plan
ICDC	Industrial and Commercial Development Corporation
ICT	Information, Communication and Technology
IGAD	Intergovernmental Authority on Development
IMF	International Monetary Fund
IOR-ARC	Indian Ocean Rim-Association for Regional Cooperation
ITC	International Trade Centre
KIA	Kenya Investment Authority
KNCC&I	Kenya National Chamber of Commerce and Industry
Lapsset	Lamu Port, South Sudan and Ethiopia Transport corridor
LDC	Least developed countries
MEAC	Ministry of East African Community
MFA	Ministry of Foreign Affairs
MoT	Ministry of Trade
NESC	National Economic and Social Council
NGO	Non-Governmental Organisation
NTP	National Trade Policy
REC	Regional Economic Communities
SADC	Southern Africa Development Community
TTRI	Trade Tariff restrictive Index
TFTA	Comesa-EAC-SADC Tripartite Free Trade Area
WTO	World Trade Organisation

INTRODUCTION

The Republic of Kenya is the regional hub for trade and finance in East Africa. Its economy, however, is constrained by effects of corruption and an overdependence on low-priced primary agricultural goods in world markets.[1] Its foreign policy is actively directed toward the region through economic diplomacy in pursuit of its domestic development goals. As set out in *Kenya Vision 2030: a Globally Competitive and Prosperous Country* ('Vision 2030'), the country seeks to achieve those targets within the next 18 years.[2] Through a comprehensive analysis of its global competitiveness, Kenya has identified six important sectors to deliver the 10% annual economic growth rate regarded as a central to its economic development policy.

This has necessitated co-operation with neighbouring states to mould regional organisations into more viable economic blocs in an increasingly liberal economic environment.[3] The country's susceptibility to political shocks, exemplified by post-election violence in late 2007 and early 2008, is its main challenge. Kenya is headed for a general election in 2013 under a new constitution that is being implemented by the current 'grand coalition' government. Meanwhile, uncertainty persists over outcomes of cases currently before the International Criminal Court (ICC). Charges against three high-level Kenyan officials and a journalist of alleged crimes against humanity in connection with the violence have been confirmed for hearing.[4]

Against this background, this study examines the nature of Kenya's economic diplomacy in East Africa. It will particularly scrutinise the role of foreign policy in advancing Kenya's commercial interests, offering a perspective on the country's contribution to the region's development and economic stability. The assessment explores how this form of diplomacy has become a mainstay of its foreign policy; how Kenya co-operates with neighbouring states within the framework of the new common market; its regional trade policy and the political risks it faces while pursuing its national vision.[5]

KENYAN FOREIGN POLICY IN EAST AFRICA

With the end of the Cold War in the early 1990s, Kenya's foreign policy began to centre on East Africa. The general aim is to maintain peaceful co-existence with other nations; while promoting regionalism. Kenya seeks integration and co-operation as a way to advance its own economic prosperity within the framework of international co-operation and multilateralism. Economic development through increased market access and enhanced technology has become a high priority. For instance, Kenya is increasingly investing in renewable energy to improve power generation, so as to give small and medium size enterprises (SMEs) greater access to electricity.[6] It is also investing heavily in the information, communication and technology sector (ICT).[7]

Regional integration forms a major component of its foreign policy and is pursued through various regional initiatives, such as the East African Community (EAC); Common Market for Eastern and Southern Africa (Comesa), African Caribbean and Pacific-European Union (ACP-EU), Intergovernmental Authority on Development (IGAD) and Indian Ocean Rim-Association for Regional Cooperation.[8] This position reflects realisation that Kenya's development is tied to that of its regional neighbours, as well as that of the global economic system.

Its regional initiatives are critical to Kenya's economic diplomacy.[9] As pointed out by former secretary general of the EAC, Ambassador Juma Mwapachu, regional economic communities (RECs) have become an increasingly desirable developmental path. Liberalised trade is a major component of RECs and a key driver of investment because an economic region becomes attractive to investors only if its economy allows free movement of goods and services; the real motivation for trade, therefore, are large markets, which is why regional integration is of such importance to Kenya.[10] RECs such as the EAC are working towards opening large internal markets governed by free trade. It is only by generating such large internal markets that a country such as Kenya can attract the right kind of investments and attain sizeable markets for its products.

The shared frontiers of states in the region, their cultural affinity; common colonial history; interdependence; and a potential market of close to 130 million people, together make the EAC a feasible scheme.[11] More recent developments aside, East African countries are also committed to integration through their agreements under the 1982 Lagos Plan of Action for the Economic Development of Africa 1980–2000. Other drivers include the example of integration by the EU and the re-emergence of South Africa as a possible continental economic hegemony, against the background of the declining fortunes of East African economies, particularly that of Kenya.[12]

Compared with its neighbours, Kenya enjoyed a good deal of political stability prior to the violence that followed the 2007 elections, and nationals from the region came to view Kenya as a safe haven from different forms or degrees of instability in their own countries.[13] Kenya has participated in prominent regional diplomatic initiatives and provided leadership in solving regional conflicts, as it did during the Sudan peace process that culminated in the formation of the new state of South Sudan and the establishment of a transitional national government – later the transitional federal government – in Somalia. The country also has high diplomatic standing arising from its hosting some of the largest diplomatic missions and international agencies in sub-Saharan Africa,[14] while maintaining a moderate profile in international politics by adopting a posture of 'silent diplomacy'. In most international controversies or crises, Kenya employs a 'wait and see' posture in accordance with its principles of non-interference in the internal affairs of other states.[15] Although the need for it to assume an overtly hegemonic position in the region is routine speculation in media and academic circles, the government instead opts for friendly relations to promote the expansion of its business interests across the region;[16] a stance taken especially since the increased involvement of the private sector under the national economic recovery strategy (ERS) reforms for Employment and Weath Creation of 2003–2007. This friendly posture has been aimed mainly at assuaging persistent fears attending negative sentiments – particularly from Tanzania – towards Kenya following the collapse of the original EAC in 1977.

EAC stakeholders remain anxious over the failure of previous regional initiatives during the early post- independence period, as a result of an underlying pessimism widespread at that time. Scholars such as Agrippah T. Mugomba[17] noted that previous integration initiatives took place at the height of the Cold War; hence the collapse of 1977 can be attributed mainly to ideological differences: the right- and left-wing ideological positions taken at the time by Kenya and Tanzania respectively and the ideological somersaults performed by Uganda, that undermined unity of purpose needed for the EAC to work. Mugomba also points to a number of other factors that led to the collapse: long harboured fears of one or the other partner; resentment by Kenya of the need to 'carry' poorer members; longstanding strained relations between Uganda and Tanzania resulting from Tanzanian president Julius Nyerere's refusal to recognise Idi Amin's regime; markedly different foreign policy concerns and approaches; and the concentration of foreign capital in Kenya, the industrial and commercial 'core', which threatened to turn the two 'peripheral' states of Tanzania and Uganda into economic satellites and principle victims of Kenyan 'sub-imperialism'.[18]

ECONOMIC DIPLOMACY AS A PILLAR OF FOREIGN ENGAGEMENT

The thrust of Kenya's international politics has changed substantially, from the survival of the state and its leadership towards greater attention to trade and investment issues. According to the Kenyan High Commissioner to South Africa, Ambassador Tom Amolo, a process of greater democratisation helped shift the priorities of foreign engagement towards economic diplomacy, which became an important instrument in pursuing growth; hence its description by government officials as a principal pillar on which the country's foreign policy is grounded[19] in pursuit of its development objective of becoming a middle-income and industrialised economy by 2030.[20]

Economic diplomacy, in the Kenyan context, is not a notion that describes distinctions of policy and practice, but rather a reaction to changes in the global environment.[21] The main motivation for conducting foreign policy in this way is the search for increased capital flows into the country – and the region, given Kenya's commitment to integration initiatives – through exploring alternative sources of development assistance and by promoting itself as a favourable destination for foreign direct investment (FDI), tourism and conferencing. Secondly, the necessity to support Kenyan investment within the region and beyond is motivated by a need to expand access to established markets worldwide. Economic diplomacy is therefore an avenue through which to promote impartial rules of international trade while strengthening RECs, especially the EAC and Comesa, to serve as competitive springboards to emerging and global markets. Lastly, it is a mechanism that supports the search for traditional and renewable sources of energy through enhanced technology, and by seeking sources of finance for associated projects such as the extraction of geo-thermal resources.[22]

Sound economic policies and a record of pragmatism in foreign policy and regional affairs have brought Kenya to a position of relative leadership that makes it highly adaptable to global changes. Since independence in 1964 this pragmatism has taken the form of 'positive neutrality' in foreign relations. Initially, this was seen as a means to safeguard Kenya's national integrity in a world where great power domination of weaker states was the main characteristic of international affairs. Subsequently, it became a position through which Kenya seeks to preserve that character in an environment in which global events have significant national and regional repercussions.[23] In following this policy the country has eschewed ideological and geopolitical alliances; pursuing peaceful non-aligned co-operation without regard for other nations' political or economic inclinations, while avoiding open military confrontation.[24]

This posture expresses itself particularly in Kenya's economic dealings. At independence, it acknowledged the difficulty of separating itself from the economic and political ties arising out of its colonial past. Now, however, it must recognise shifts in the global economic power structure. Hence despite dependence on foreign markets for its primary exports, sources of imports or aid, and the rapid changes taking place in the international arena, Kenya always avoids any form of external pressure from any one country or group of nations. It has traded with former members of the USSR, with Asia; and with European and North American countries, in order to create an economy not wholly reliant on any one bloc.[25] In this way Kenya maintains its objective of preserving the structure it built to its own design, based on the precepts of African socialism and drawing on whatever influences it considered appropriate to its particular circumstances.[26] This is especially true of its assumption of free market policies. Ultimately, Kenya has not experienced any kind of paradigm shift; its emphasis on economic diplomacy seems rather to be a consequence of domestic political interests that are keen to ensure their continued survival and standing.

Sound economic policy

Since independence, Kenya has achieved regional leadership thanks to resilient policies and an emphasis on economic considerations when tackling national challenges. This pragmatic mindset helped to create a mixed economy that enabled the country to evolve a 'managed capitalism' system that improved agricultural productivity, developed the manufacturing sector to serve the EAC, and led to increased growth in the service sector.[27] Its success facilitated rapid growth in manufactured exports to Tanzania and Uganda – reflecting industrial imbalances stemming from the first REC initiative[28] – and unlike neighbouring states that went through more serious economic trials as well as periods of political instability, enabled Kenya to survive the oil crisis of 1973 and the collapse of the first EAC.[29]

In the 1980s and 1990s, the emphasis in economic policy moved from import substitution to export promotion, on the realisation that a more interdependent world of increasing trade barriers would require more diversity in its export products and markets. Under structural adjustment programmes from 1986 to the early 1990s Kenya embarked on liberalising trade and expanding its markets in Africa.[30] A 2005 economic survey by the ministry of planning and national development, and *Kenya Vision 2030*, published in 2008, both noted that by 1995 more than 50% of Kenya's exports went to Comesa countries, the bulk to Tanzania and Uganda; which explains why half of Kenya's 14 commercial offices have been established within the Comesa region.[31] In addition, the second half of the 1980s was characterised by the development of export incentives such as manufacturing under bond in 1988, export processing zones in 1990, and value added tax exemptions. Furthermore, institutions such as the Export Promotion Council (EPC) facilitated support for manufactured exports. Nevertheless, as established by Maureen Were *et al.*,[32] such initiatives have continually been hindered by poor implementation and co-ordination of promotional schemes.[33]

Comprehensive trade reforms followed rapidly in the early 1990s, but Jeffrey Sachs and Andrew Warner point out that it was only in 1993 that Kenya opened itself up in earnest.[34] By 1995 economic growth had restarted but progress towards a more liberal and outwardly orientated economic regime was inconsistent.[35] With the advent of a new government in 2003 the economy began to recover, its outward orientation exemplified by the adoption of the EAC common external tariff (CET) in 2005 that harmonised the tariff structure and reduced its dispersion.[36] Kenya implemented the ERS from 2003 to 2007. Its main aim was to develop an investment strategy in which the private sector became the main channel for generating employment and wealth, putting the country on a firm development path. The success of the ERS led to the formulation of Vision 2030, the first goal of which is economic prosperity. It seeks to revitalise the stagnant levels of private investment that are the principal cause of Kenya's disappointing economic performance. In considering structural changes in the economy, Eyakuze and Gitau observe that the manufacturing sector has demonstrated good growth only from 2004 onwards.[37]

Collectively, economic policies since independence have positioned Kenya as a prosperous regional economy. It has the largest economy in the region and the most important stock market (the Nairobi Stock Exchange); Table 1 illustrates real gross domestic product (GDP) in 2009 and real GDP growth projections for EAC member states for 2010 and 2011.

Table 1: The EAC, GDP and projected growth rates for 2010 and 2011.

Country	Real GDP 2009 ($ million)[a]	Estimated annual real GDP (%) growth rate (2010)[b]	Estimated annual real GDP (%) growth rate (2011)[b]
Burundi	866	3.9	4.5
Kenya	17 970	5	5.3
Uganda	9 809	5.1	5.6
Rwanda	3 852	6.5	6.4
Tanzania	11 907	6.8	6.9

Source: a = EAC (East African Community), *Facts and Figures 2010*, http://www.eac.int/, accessed 24 August 2012. b = AEO (African Economic Outlook), *Country Profiles*, http://www.africaneconomicoutlook.org/en/, accessed 24 August 2012

Kenya is also widely considered to be the most efficient entry point to East Africa. This is in part due to its early orientation towards free market policies, but in addition, the existence of facilities such as the port of Mombasa is of strategic significance because a number of countries in the region are landlocked. Kenya has developed relatively efficient communications and is regarded as the financial and investment capital due to the availability of skilled and competent indigenous staff, and fairly good transportation links through Nairobi's international airport and the Kilindini deep water harbour, which are the busiest and largest of their kind in the region.

Actors, activities and instruments

The 1963 constitution established foreign policy as an executive function under the office of the president;[38] the incumbent president thus bears overall responsibility for the function.[39] In August 2010, however, Kenya adopted a new constitution which maintains the presidential system but establishes additional checks and balances on executive power: their implementation, along with other changes, will take place progressively through the passage of further legislative measures over coming years.[40] It is anticipated that the conduct of foreign relations will evolve as the constitutional changes are implemented; nevertheless, during the transitional period the authority established through the old constitution remains in force. Since 2003, however, parliament has made positive strides in its own oversight role – a function entrenched in the new constitution – and the national assembly will now review executive budgets, appointments and decisions relating to foreign policy.[41]

Traditionally, Kenya's presidents have cultivated personal relationships with individual African leaders that helped advance the nation's interests by enhancing Kenya's prestige while achieving legitimacy for its actions. The current president, Mwai Kibaki, is firm in his emphasis on foreign policy as an essential aspect of the nation's economic diplomacy, made evident through his promotion of government projects in the construction of developmental infrastructure at local and regional level.[42] For instance, President Kibaki's close working relationship with the late Ethiopian premier Meles Zenawi and President Salva Kiir of Southern Sudan greatly advanced the $25 billion Lamu Port, South Sudan, Ethiopia Transport (Lapsset) corridor project. The country's biggest post-independence development scheme,[43] Lapsset is a combined highway, railway, oil pipeline and airports corridor stretching from Manda Bay, Lamu on the Kenyan coast north of Mombasa, to Nakodok on the South Sudan border. When completed, it will have the potential to directly affect the livelihoods of 166 million people in Kenya, Ethiopia and South Sudan.[44]

The ministry of foreign affairs (MFA), co-ordinates foreign policy under the direction of the president,[45] in consultation with other government ministries and agencies in an advisory capacity, as complementary participants in the co-ordinated implementation of foreign policy.

Economic diplomacy involves public and private sectors. Government ministries, primarily the MFA; the Ministry of East African Community (MEAC); and the ministry of trade (MoT), endeavour to harmonise the conduct of economic diplomacy. The MEAC was formed in 2006 following an EAC summit recommendation for the establishment of fully fledged ministries responsible for EAC affairs.[46] Before that, however, in 1998 the earnest of Kenya's intentions in the region had been demonstrated through the establishment of the Ministry of East African and Regional Cooperation, charged with co-ordinating the affairs of the EAC, Comesa and IGAD. In 1999, that ministry's functions were relegated to a department within the ministry of tourism, trade and industry. Following the election of President Kibaki in December 2002, under Presidential Circular No. 1/2003 (on the 'organisation of government'), these functions were transferred to the MFA. In July 2004, the Kibaki administration initiated the return of East African affairs to full ministerial status and established MEAC in 2006.

The MFA provides overall foreign policy direction and orientation while the MEAC is responsible for official diplomatic engagement and co-ordination within the EAC.[47] The

MoT implements national trade policy at regional and international level.[48] Its mandate is executed through state agencies such as the EPC; Kenya Institute of Business Training; the Business Premises Rent Tribunal; the Kenya National Trading Corporation; Kenya Wine Agencies Limited; the Industrial and Commercial Development Corporation; the Export Processing Zones Authority; and the Kenya Investment Authority (KIA). Lastly, a government think tank, the National Economic and Social Council (NESC), is charged with providing timely, accurate and independent socio-economic advice to improve management of the economy.[49]

Private sector interests can be classified as either domestic or regional. The main domestic organisations include the Kenya Private Sector Alliance, the Federation of Kenya Employers and the Kenya Association of Manufacturers. Others include the Kenya National Chamber of Commerce and Industry, the Fresh Produce Exporters Association of Kenya and the Kenya Flower Council. Regionally the main private sector organisations include the Eastern African Association, the East African Business Council (EABC) and the Association of Professional Societies in East Africa (Apsea).[50]

Traditionally, Kenyan economic diplomacy has mostly centred on export promotion. In this regard, the government assists the private sector by providing information about opportunities in world markets and giving specialised assistance in the design and implementation of market programmes and sales campaigns abroad. The EPC is the major agency in promoting Kenya's exports. Its mandate is to co-ordinate and harmonise export development and promotion activities by providing leadership to all national export programmes. As the lead institution in the development and promotion of exports, the EPC gives an outward orientation to an economy in which exports face stiff global competition. The agency aims to consolidate existing export markets; enlarge the export supply base by assisting new exporters; and increase the competiveness of Kenyan exports.[51]

The growing need for investment promotion is exemplified by the formation of KIA, in the mould of the EPC. This investment promotion agency seeks to encourage and facilitate private investment for local and foreign investors.[52] Incentive packages concerning facilitation, production and competitiveness currently target foreign investors and those producing for export. Consequently, the task of diplomats and government officers charged with promoting these activities is to provide Kenyan representation at trade forums; foster friendly relations that enhance trade; engage in trade negotiations; and lobby for acceptance of the government's objectives in order to promote exports and investments.

CO-OPERATION AND THE EAC COMMON MARKET

Economic diplomacy in East Africa

From 2000, East Africa has increasingly become an attractive economic prospect. Despite persistent high levels of poverty in the region the EAC has been rated as including some of the world's fastest growing economies. It is regarded by the Economic Commission for Africa as the only regional bloc to have recorded positive steps towards integrating the three pillars necessary for the creation of wealth for its member states: respectively economic development, social inclusion and environmental protection.[53] The EAC's current standing may be attributed mainly to economic integration initiatives that have led to the formation of the East African Customs Union (EACU) and more recently brought about a common market that aims to strengthen a region that already contains an estimated middle class consumer base of 30 million people.[54] Secondly, the region is experiencing a peace dividend due to relative calm following an end to most civil wars or at least the lessening of hostilities, which in turn has encouraged substantial investment in the region from a range of international actors. Lastly, EAC governments have invested heavily in infrastructure and telecommunications in order to boost the service industry and to make the region more attractive to multinational corporations.[55]

The next, immediate step for the EAC is to achieve full implementation of the common market protocol.[56] East African central banks are already working on modalities for an integrated economic policy to establish a monetary union, as the EAC moves towards its goal of an East African political federation under fast-track mechanisms already in place.[57] Regional interactions in Africa are peculiarly complex due to memberships in a multiplicity of RECs with varied obligations and time frames. EAC members are no exception and such multiple commitments are bound to slow progress towards the broader objective. Kwame Owino, chief executive of Kenya's Institute of Economic Affairs, points out that the pooling of economic sovereignty is an inevitable adjunct to the development of regional economic, investment, trade and monetary policy.[58]

This is especially true of relations between Comesa, the EAC and the Southern African Development Community (SADC). These RECs constitute building blocks in the formation of an African Economic Community and are intricately tangled into a 'spaghetti bowl' because of the multiple memberships of their constituent states. A co-ordination mechanism led to the formation in 2005 of Comesa-EAC-SADC Tripartite Free Trade Area (TFTA), an umbrella organisation comprising the three RECs.[59] The aim of the TFTA is to contribute to the broader objective of the African Union (AU): that is, accelerating economic integration and achieving sustainable economic development, thereby alleviating poverty and improving the quality of life for the people of eastern and southern Africa. As such, the TFTA works toward integrating various programmes of the REC. Its focus is on expanding trade by establishing FTAs, customs unions, monetary unions and common markets, as well as by developing infrastructure projects in transport, ICT and energy sectors.

Despite the strides made in pursuing regional integration, Makerere University's Professor Mahmood Mamdani has questioned East Africa's adoption of the European integration model.[60] It seems likely that the introduction of an East African currency without first creating a common political framework and solving the question of sovereignty would invite difficulties on the lines of those now facing the EU. This is especially so in the African context of a weak political class overly preoccupied with its political survival, which has resulted in an inclination to borrow solutions from the West. While the jury is still out as the TFTA goes through the motions of setting itself up, a move from reactive responses to more aggressively addressing the challenges of changing world events would do much to help secure the economic wellbeing of East Africa.

Kenyan trade structures under EAC protocols

Despite its advantageous position due to its history, policy orientation and strategic location within the EAC; Kenya's economic growth can be described as sluggish when set against its potential. Its GDP is about $34 billion (2011 estimate); in comparison to smaller economies in the region, such as Tanzania and Uganda that are close to $24 billion and $17 billion respectively. Rwanda and Burundi are the smallest economies with the former at $6 billion and the latter at $2 billion.[61] The establishment of the EACU in 2005 precipitated an increase in intra-community trade. In a study of the distribution of costs and benefits in East Africa, Nairobi University's Walter Odhiambo draws attention to the fact that the regional trade policy is influenced by growing intra-regional trade between EAC countries since the customs union began.[62] Even so, trade in the region remains largely weighted in favour of Kenya, which accounts for the majority of intra-EAC exports. The country has carved out a niche within the regional market, with the highest percentage of its exports going to Uganda (see Table 2).[63] In the EAC's early days there was a slump in Kenya's exports to other EAC member states[64] due to enforcement of an asymmetry arrangement under the CET that laid down a phased reduction over five years in import tariffs applied by other EAC members on various Kenyan goods, whereas goods from other states were allowed into Kenya on a zero import tariff.[65] This additional protection for other EAC members was attributed to Kenya's classification as a developing country under ACP-EU and World Trade Organisation standards, in comparison to its partners which are all classified as Least Developed Countries.[66] Kenya recovered from this slump: its exports to East Africa now exceed pre-custom union figures.

Table 2: Total values of Kenya's exports to the EAC ($'000) 2006–2011

State	2006	2007	2008	2009	2010	2011*
Tanzania	215 158	262 657	343 811	353 960	39 072	491 099
Uganda	327 204	394 952	497 473	543 999	613 030	893 576
Rwanda	56 059	68 250	105 332	112 188	123942	159 469
Burundi	25 697	28 517	40 935	54 084	64 212	69 456
Total EAC	624 118	754 376	987 551	1 064 231	840 256	1 613 600

* Provisional figures as reflected in the *Economic Survey 2012*.

Source: KNBS (Kenya National Bureau of Statistics), *Economic Survey 2011* and *Economic Survey 2012*, Nairobi Government Printer pp 142 and 136

Table 3 illustrates how the customs union has resulted in increased Kenya's imports from EAC countries, especially in the past five years. This reflects greater openness of trade in the region. The commodity composition of Kenyan intra-EAC trade shows manufactured products as well as food and agricultural products dominating Kenyan exports to EAC countries.[67] Table 4 shows the nature of Kenya's EAC exports.

Table 3: Total value of Kenya's imports from the EAC ($'000) 2004–2011

Country	2006	2007	2008	2009	2010	2011*
Tanzania	53 109	78 564	85 472	91 873	124 105	184 358
Uganda	11 786	70 340	61 426	52 074	108 549	121 614
Rwanda	2 473	1 043	298	2 824	5 060	4 968
Burundi	3 985	1 797	920	1 090	1 704	5 516
Total EAC	71 353	151 744	148 116	147 861	239 418	316 456

* Provisional figures as reflected in the *Economic Survey 2012*.

Source: KNBS (Kenya National Bureau of Statistics), *Economic Survey 2011* and *Economic Survey 2012*, Nairobi Government Printer pp 142 and 136

Table 4: Commodity composition of Kenya's intra-EAC exports, 2008

Commodity	Total value ($)	% of total
Food and live animals	23 892 093	1.76
Beverages and tobacco	225 537 306	16.61
Crude materials, inedible, except fuels	25 488	0.00
Mineral fuels, lubricants and related materials	111 571 909	8.22
Animal and vegetable oils, fats and waxes	48 584 322	3.58
Chemical and related products	3 283 999	2.75
Manufactured goods classified chiefly by material	665 804 050	49.04
Machinery and transport equipment	121 106 388	8.92
Textiles, fibres	60 300 133	4.44
Miscellaneous manufactured articles	58 568 925	4.31
Commodities and transactions not classified elsewhere	1 492 986	0.11
Total	**1 320 167 599**	

Source: Odhiambo W, *The distribution of Costs and Benefits in Trade in the Context of the East African Regional Integration Process*, Nairobi, SID, 2011 p. 15

Kenya's competitiveness is relatively high by regional standards, according to the most favoured nation Trade Tariff Restrictive Index (TTRI), computed by the World Bank to assess levels of openness. According to 2009–2010 world trade indicators the sub-Saharan African TTRI averages 11.42. Tanzania is seen as East Africa's most open economy, with a TTRI of 7.8 and a ranking of 131 out of listed countries; Kenya is second with an index of 8.2 and a ranking of 95. Burundi has an index of 12.4 and is ranked 176 while Uganda has an index of 14.6 and ranks 112th. Rwanda was found to be the EAC's least open economy with an index of 16.2. Kenya remains competitive, however, because it maintains real growth in its total trade, whereas positive growth in Tanzania. Burundi and Uganda is attributable to the regional benefits of CET tariff bands – which encourage exports into Kenya – among the other factors seen in Table 3.[68] This contrast is illustrated in Table 5 which tabulates the TTRI and real growth in trade of EAC countries.

Table 5: Trade openness indicators for EAC countries

Country	Trade tariff restrictiveness index (TTRI)–MFN applied tariff All goods	Ease of doing business: ranking	Real growth in total trade (%) 2006–2009
Tanzania	7.76	131	-2.6
Kenya	8.21	95	2.1
Burundi	12.4	176	5.2
Uganda	14.63	112	2.9
Rwanda	16.18	67	-1.1

Source: IBRD (International Bank for Reconstruction and Development), *World Trade Indicators 2009/10*, Washington DC, World Bank, at http://info.worldbank.org/etools/wti/3b.asp?pillarID=1&indList=66&indList=152&indList=190&cList=31&cList=98&cList=160&cList=188&cList=197&regionID=a9&periodID=16

On the World Bank ease of doing business global rankings of respective EAC countries, Rwanda is the most competitive and improved business destination in East Africa, rising 22 places from 67 in 2009 to 45 (out of 183 in 2012). Kenya's business environment had the greatest loss by dropping 14 places over the period whereas Tanzania registered a slight improvement of four places. Burundi gained seven positions and Uganda dropped by 12 places. Table 6 shows the ease of doing business ranking from 2006 to 2012.

Table 6: Ease of doing business ranking 2006–2012

Country	Ranking (2006–2009)[a]	Ranking (2010)[b]	Ranking (2011)[b]	Ranking (2012)[c]
Tanzania	131	125	125	127
Kenya	95	94	106	109
Burundi	176	181	177	169
Uganda	112	129	119	123
Rwanda	67	70	50	45

Source: a = IBRD, 2009/10, *Ibid.*; b = IFC (International Finance Cooperation), *Reports*, http://www.doingbusiness.org/, accessed 24 August 2012

East African trade policy is largely defined by the customs union and common market protocols. These were developed from the EAC treaty, which under Article 5 expresses the common vision of integration and under Article 75 and 76 specifies how to achieve it through the establishment of defined stages in the integration process.[69] Early problems have not hampered the removal of the tariffs; there remains numerous non-tariff barriers that hinder the movement of goods across frontiers.[70] One major challenge has been the integration of the two newest members, Burundi and Rwanda, due to the weak state of their economies and lower levels of development after emerging from a period of civil conflict. Compounding this problem has been their use of French as the official business language, whereas the rest of the EAC uses English. Rwanda has, however, now introduced English as the main medium of instruction in schools.[71]

Co-operation for regional prosperity

High expectations have been placed on the formation of a common market to open up the region. The key institutions for its establishment are already in place; including the East African Legislative Assembly (EALA) and the East African Court of Justice. There is continued co-operation over a wide field and progression into a monetary union is under way involving private sector participants, especially the banking sector.[72] In addition, the threat of terror and the rise of regional crime rings have led to increased co-operation in defence and security matters.[73] The transition towards a common market is expected to be relatively smooth given that most of the required institutions are already in place. The challenge is to strengthen them sufficiently to effectively support market integration.

For Kenya and its EAC counterparts, regional prosperity involves proper implementation of the common market protocol. This is a major challenge, bearing in mind the problematic decision-making that arises from sensitive social issues tied to the protocol. These issues may lead to restrictive interpretations of some of the principles of free trade nominally espoused; for example, there are fears of Kenyan domination in the region through skills displacement effects on other members, such as Tanzania.[74] Secondly, different national laws may hinder the harmonisation of policies between states that fear a loss of sovereignty to partner countries in the process of regional integration.

Nevertheless, using their observer status within the EAC, business groups such as Apsea and EABC are nurturing political goodwill. These two organisations have developed strong partnerships with government and non governmental institutions. Their status at the EAC enables them to attend and participate in all relevant EAC activities and deliberations, not only at the secretariat but also in other organs and institutions. This provides a much-needed link between government and professionals especially in cross cutting issues through the public-private sector partnership programmes and in promoting the case for professionalism in the region. The private sector, comprising multinationals, local companies and organisations that operate within the EAC, is increasing its cross-border ventures. Although most of them are engaged solely in the pursuit of business, a few have become involved in policy advocacy. They provide technical knowledge in sectoral councils relating to business interests and development; in the process becoming legitimate participants in governance.[75]

Notably, under the EAC, member states have developed and are articulating shared policy objectives in order to make the region attractive for investment. This is demonstrated by the enactment in 2006 of the Competition Policy and Law; and the Standardisation, Quality Assurance, Metrology and Testing Act Law. Initiatives to formulate and implement a policy to curb infringement of intellectual property rights and production of counterfeit goods in the region are under way, given that those two issues have proved major investment disincentives. A further significant step is the formulation of an investment code to guide member states in developing their national investment law. Unfortunately, as Odhiambo highlights in his study, in its current form the investment code is not binding and the development of an EAC investment policy and strategy is continuing.[76] Despite efforts to harmonise investment policies, EAC members at the moment retain their own institutions and regulatory mechanisms to deal with foreign investments,[77] including responsibility for investment legislation, entry and exit requirements, investment protection and incentives. This autonomy has resulted in disparate national investment environments: hence the need for a uniform investment code.

Implementation of gains such as the management of established institutions; and co-operation in the development of a monetary union, and in defence and security, may be slowed because of funding challenges facing the EAC in consequence of current global economic difficulties. To make its treaty fully operational the EAC needs about $70 million a year. Member states provide $25 million of this and the rest comes from donors. Countries such as Burundi have had trouble paying their subscriptions. Against the backdrop of inflation, currency fluctuations and reduced aid it is difficult to mobilise resources for regional integration and it is therefore unlikely that members will increase funding for EAC activities. Kenya had contemplated increasing its contribution in return for greater influence in the REC, but other members are willing to accept such assistance only on the basis that it is unconditional, because they already perceive Kenya as the biggest beneficiary of the integration initiative.[78] In any case, currently such an initiative is impossible because Kenya has a particular need to finance new governance structures under its revised constitution. An 'equality of burden' is therefore preferred, to obviate one country's carrying the bulk of the funding.[79]

KENYA'S REGIONAL TRADE POLICY

Economic overview

Kenya's macroeconomic performance improved significantly in 2010 compared with 2008 and 2009, when growth stood at 1.5% and 2.6% respectively. In its annual *African Economic Outlook*, estimates by African Development Bank attributed this improvement to good rains during 2010 and higher prices for many of its primary exports. In 2011, however, growth fell to 4.4% against 5.8% in 2010 – itself slightly more than double the figure for the preceding year. The decline resulted from high oil and food prices, unfavourable weather, and instability in the foreign exchange market in late 2011.[80] Nevertheless Kenya's growth was higher than world real GDP growth, which was estimated at 3.8% for the year.

Vision 2030 identified tourism; agriculture; manufacturing; wholesale and retail trade; business process outsourcing; and financial services as key sectors in Kenya's performance.

The national response to development challenges came about through a comprehensive consultative process involving stakeholders such as business leaders, top public sector officials, parliamentarians, non-governmental organisations and the public; as well as local and international experts who provided targets and set priority areas. Kenya now faces two key challenges. First, it needs to diversify its economy to increase manufacturing capacity. In order to do this, Vision 2030 seeks to strengthen local production capacity, raise the share of Kenyan products in the regional market, and develop niche products for agro-industrial exports. These aims are being pursued through development of industrial manufacturing zones and SME parks, enabling them to improve productivity and innovation skills on the way to becoming key industries of the future. Secondly, Kenya must plan for adverse climatic conditions that may affect its primary exports; it has, for example, prioritised investment in irrigation schemes to deal with the effects of drought on agricultural yields.

Nevertheless, the country's fortunes look promising, due to both domestic and regional factors. The promulgation of a new constitution that seeks to improve the rule of law, an increase in investment in infrastructure through public finance, and government policies fostering private sector development, are set to improve the domestic business environment. On the other hand, deepening integration through the East African common market has consolidated a single trading and investment environment in which Kenyan firms have access to a large integrated market.[81]

Studies such as the analysis of trade policies and trends carried out by Were *et al.* acknowledge that the high cost of trade has reduced Kenya's competitiveness in domestic and international markets.[82] Trade policy therefore has been identified as the main instrument of economic diplomacy[83] because a deepening in regional integration and bilateral trade agreements has increased opportunities for Kenyan business. The country is therefore keen to tap potential in agriculture, manufacturing and the emerging service industry, in order to become more competitive in the region and the world. It seeks to address factors that hamper its progress, such as poor policy co-ordination and implementation, in essence laying out strategies that will contribute to the pursuit of Vision 2030. Clearly, trade is a major driver of growth and development by creating markets for goods and services; it is also critical in poverty reduction through employment creation in informal, retail, and wholesale trade; and in providing opportunities for access to favourable prices in international markets to promote equitable income distribution.

In 2000, recognition of these factors resulted in a broad, draft National Trade Policy (NTP) to address these needs and spur investment. Previously, trade policy instruments were contained in different documents and laws administered by various institutions. Among the new instruments were those affecting import and export management; taxation; trade facilitation and promotion; licensing and registration; production and productivity; skills development and labour laws affecting trade, investment and privatisation incentives, government procurement, intellectual property rights, competition and consumer protection, financial services, ICT, trade in services, and governance that included areas such as arbitration and bankruptcy. Key legislation that established these policy instruments include: the Local Government Act and by-law; the Companies Act, the Customs and Excise Act, the EAC Customs Management Act, the Weights and Measures Act, the Trade Descriptions Act, the Hotels and Restaurant Licensing Act, the Investments Act, the Standards Act, the Environment Act, the Industrial

Property Act, the Liquor Licensing Act, and various consumer protection acts among many other trading laws.[84] The result of this diversity was ineffective policy co-ordination and harmony in decision-making that in turn led to conflicting rules, regulations and practices. The NTP was adopted in 2009 to create a consolidated policy framework and an environment conducive to facilitation of trade; analysing trade constraints; honouring multilateral and bilateral trade commitments; and keeping up with international best practices in trading activities.[85]

Structure of the trade sector

Despite the pursuit of an open trade policy, Kenya's trade structure remains concentrated in primary products and traditional markets, due to limited capacity for adding value in manufacturing and relatively underdeveloped intermediate and capital goods industries. Horticulture, tea, coffee, apparel and clothing accessories are Kenya's leading exports, together accounting for 49.7% of domestic earnings.[86] Nevertheless, the country's trade in non-traditional and manufactured goods is growing thanks to increased intra-EAC transactions. Africa is the largest destination for Kenyan exports, in part as a result of EAC and Comesa. Though the most developed and open by regional standards, Kenya's manufacturing output is nevertheless inward-orientated, although those parts of it targeting regional markets show the most marked increase in exports.

Table 7 shows the value of Kenya's exports to various destinations around the world, and the significance of increased trade in Africa is apparent. Over the past five years the volume of exports to African countries has increased by $640 million from 2006 to 2011. Table 8 illustrates how in 2011 the focus on trade with the East African region shows in the fact that the sum of exports to EAC countries was greater than all exports to Egypt, South Africa and the rest of the continent combined.

Table 7: Kenya's total world exports ($ Million)

Destination	2006	2007	2008	2009	2010	2011*
Total Africa	1 274	1 459	1 912	1 914	2 223	2 913
Total Europe	840	933	1 159	1 188	1 287	1 588
Total America	253	241	259	223	287	323
Total Asia	114	162	187	227	359	387
Total Australia and Oceania	446	544	673	697	960	1 123
Total of all other countries and aircraft and ship stores	131	39	39	25	55	53
Total Exports	3 058	3 378	4 229	4 274	5 171	6 387

* Provisional figures as reflected in the *Economic Survey 2012*.

Source: KNBS (Kenya National Bureau of Statistics), *Economic Survey 2011* and *Economic Survey 2012*, Nairobi Government Printer pp 140 and 133

Table 8: Kenya's total exports in Africa ($ million)

Destination	2006	2007	2008	2009	2010	2011*
South Africa	27	28	43	42	29	33
Rwanda	56	68	105	112	124	160
Egypt	116	107	182	140	213	276
Tanzania	215	263	344	354	391	491
Uganda	327	395	498	544	613	894
Burundi	0	29	41	54	64	69
Other	533	570	670	668	789	991
Total	1 274	1 460	1 883	1 914	2 223	2 914

* Provisional figures as reflected in the *Economic Survey 2012*.

Source: KNBS (Kenya National Bureau of Statistics), *Economic Survey 2011* and *Economic Survey 2012,* Nairobi Government Printer pp 140 and 133

The growth in Kenya's economy has spurred an expansion in sectors such as financial services, despite the country's dependence on primary products and goods from agricultural and manufacturing sectors respectively. Trade has consistently improved, with slight fluctuations between 2006 and 2011, as shown by the growth trends in Table 9. The increasing contribution of the trading sector is evident.

Table 9: Contributions to GDP (%) from selected sectors, 2006–2011

Sector	2006	2007	2008	2009	2010	2011
Agriculture	23.4	21.7	22.3	23.5	21.4	24.0
Manufacturing	10.3	10.4	10.8	9.9	9.9	9.4
Construction	3.9	3.8	3.8	4.1	4.3	4.1
Trade	9.3	9.7	10.2	9.8	10.2	10.6
Transport and communication	10.6	10.6	10.3	9.9	10.0	9.7
Financial Intermediaries	4.0	4.8	4.6	5.4	5.6	6.4

Source: MoT (Ministry of Trade), *Strategic Plan 2008-2012*, *op. cit,* p. 44

Lastly, the balance of trade figures indicate that the country is a net importer. Imports consist mainly of food items; crude petroleum and associated products; industrial machinery; motor vehicles; iron and steel.[87] Imports have invariably grown faster than exports, which has given prompted improvements in the competitive nature of export goods and services. Table 10 shows how this has taken place from 2006–2011.

Table 10: Balance of trade ($ million) 2006–2011

Exports & Imports	2006	2007	2008	2009	2010	2011*
Exports	2 953	3 231	4 058	4 058	4 821	6 012
Imports	6 135	7 119	9 067	9 272	11 144	15 479
Balance of Trade	-3 182	-3 888	-5 009	-5 214	-6 323	-9 467
Total Trade	9 088	10 350	13 125	13 330	15 965	21 491

* Provisional figures as reflected in the *Economic Survey 2012*.

Source: KNBS (Kenya National Bureau of Statistics), *Economic Survey 2011* and *Economic Survey 2012,* Nairobi Government Printer pp124 and 115 respectively

Economic planning for investment: stakeholder inclusion in policy and practice

East Africa's institutional framework for regional and international trade is evolving rapidly. If Kenya is to achieve the aim of Vision 2030, it will require an international trading environment that encourages the expansion of manufactured and non-traditional goods or services. In pursuing this end there are a number of trade policy challenges to deal with. First, the country has to design and implement a trade strategy and other, related domestic policies that facilitate growth and diversification in its export capacity. Secondly, it must formulate and negotiate effective trade strategies, at a regional and international level, that bring about deeper integration and improve market access for its exports, while gaining access to globally competitive inputs. Lastly, it has to increase the capacity of its economy to meet the challenges and opportunities arising from globalisation. Kenya has therefore developed an NTP that recognises existing policies and the need to develop a coherent growth path, with a view to creating a policy environment that facilitates development of the private sector. The NTP highlights constraints and challenges in international and domestic trade within the context of existing trade policies, while identifying strategies and programmes to sustain the economy within the parameters of Vision 2030.[88]

While the conduct of its economic planning, development and diplomacy is bound to change with the recent discovery of oil in Turkana, Kenya presently suffers from a lack of revenues from high-value natural resources; and a scarcity of land.[89] Njuguna Ndung'u, governor of the Central Bank of Kenya, and Oxford University's Paul Collier, among others, have pointed out that economic growth is widely accepted as a necessary condition for social peace, in the aftermath of the violence that followed the elections in 2007. Kenya aims to achieve sustained, rapid economic growth by attracting higher levels of investment: to do so, it must mobilise extra resources and reduce the cost of business to promote its integration into global and regional investment markets. This perspective informs the kind of continuity in policy making, from the ERS through to Vision 2030, which also prompted the formation of the NTP.

By redefining the role of government and increasing participation from the private sector, the ERS fostered growth of up to 7% a year until the 2008 violence. Included in the strategy were an update of company law, and improvements to the customs and tax administration to enhance its regional competitiveness. The reform agenda was anchored on a reassessment of the role of the government as provider of an enabling environment for private sector growth and investment, and emphasised three key themes: first, strong economic growth supported by a stable macroeconomic environment; secondly, enhanced equity and poverty reduction; and thirdly, improved governance and effectiveness in the economy. The ERS also put in place structural reforms, in particular regulatory reforms in telecommunications, railway, and energy sectors. Trade openness improved with the reformation of the EAC and by 2009, Kenya had emerged as one of the most highly rated African business environments.[90]

In examining Kenya's growth opportunities, Vision 2030 seeks to capitalise on Kenya's strategic geographical position, and on the manufacturing sector; its potential as a trade and distribution hub make it key to unlocking the potential of the region as a whole. Its geographical location is central to the growth strategy: as a coastal, resource-scarce developing country, it is well placed to grow rapidly by exporting items, the production of which can be expanded without encountering natural obstacles. In the event of complete consolidation of the EAC into a political federation, Nairobi would probably be a major beneficiary. Vision 2030 notes that Kenya must achieve high levels of sustained growth for at least two decades by increasing savings and investment; transforming its wholesale and retail trade into foreign ventures within the region; and improving the competitiveness of the manufacturing sector through exploiting regional access. The vision, finally, hopes to spur financial sector strategies to enable massive infrastructure development and competiveness and identifies and develops targets for different sectors in the quest for the rapid growth and development embodied in national objectives.[91]

After the UK, Kenya is the second largest investor in Tanzania.[92] In Uganda, Kenya maintains pole position as the country's largest investor.[93] This has made neighbouring countries such as South Sudan eye Kenya as a potential source of their own FDI. As various regional blocs begin to take shape, a number of leading Kenyan companies are positioning themselves to take advantage of emerging markets. Strategies range from setting up distributorships, agencies or subsidiaries to establishing entire processing plants. The firms are seeking access to raw materials and markets in the EAC and Comesa region, while building a platform to gain a position within SADC. Notable Kenya-based companies that already have a regional presence include Bidco Oil Refineries, Fina Bank and East African Cables. Also in this league are East African Breweries, Kenya Commercial Bank, Jubilee, Athi River Mining, East African Portland Cement, Steadman Group, Kenol Kobil, Mabati Rolling Mills and UAP insurance. Bidco Oil Refineries set up a palm oil farm and plant in Uganda; other companies have moved into regions previously affected by conflict, including Rwanda, Burundi and Southern Sudan, all of which are undertaking substantial reconstruction programmes, including rebuilding infrastructure. In consequence there is heavy demand for goods and services ranging from consumables to commercial, financial and industrial goods – demand that is prompting Kenyan enterprises to move into other countries in the region. Another company seeking to use the EAC as a springboard into wider regional blocs on the African continent is Fina Bank, which is a specialised SME commercial bank, that is focusing on regional markets; Kenya is overbanked, with more than 42 banks, of which only six control 80% of the business, hence Fina is looking elsewhere in the region to attract more customer revenues and set itself apart from its competitors.[94]

Kenya has an energetic private sector that includes a strong foreign investment component, largely concentrated on agro-processing for domestic and regional markets. FDI is important to horticultural products for export to the EU; and to service areas, mainly transport, tourism and mobile phone services. Kenya hosts more than 900 manufacturers and over 200 multinational corporations, mainly from the UK, France, US and Germany. Many foreign companies invest indirectly by acquiring an interest in Kenyan companies; for example, Britain's Diageo has a substantial stake in East African Breweries. Others, such as General Electric, Microsoft, Ericsson, Vodafone and Biersdoff, come into the country under their own flag. This substantial presence is one outcome of a number of government initiatives designed to support the private sector through the MoT, including the Private Sector Development Strategy; the Investment Climate Action Plan; the National Export Strategy Implementation Action Plan; and regulatory licensing reforms for business activities.[95]

Private and public participants alike play a part in the formulation of regional trade policy, helping to provide information on markets, foreign buyers and suppliers, exporters and importers from Kenya, and competitive incentive programmes. Under the MoT the Department of Internal Trade support includes forming, implementing, harmonising regional trade agreements and bringing them into Kenyan's legal structures; and helping indigenous entrepreneurs take advantage of export opportunities created through bilateral, regional and multi-lateral trade agreements.[96]

The MoT Department of External Trade is responsible for policy development and implementation. The department promotes trade between Kenya and regional or international parties by helping reduce its cost;[97] it also gathers and disseminates external trade information to the business community and co-ordinates training on trade issues.[98] Nevertheless there is a glaring lack of awareness of the country's rights, obligations and mechanisms under different international trade agreements and a conspicuous absence from international trade processes of non-governmental entities such as agricultural producers, farmers' unions, trade unions, professional organisations and private sector actors.[99] This may be attributable to the structure of government negotiations and consultations which, although they allow limited involvement, do not provide for sufficiently broad stakeholder participation.

Diplomacy for investment promotion: the management of foreign policy

The extension of economic diplomacy on the whole has had a positive effect on FDI flows over the past few years. The Kenya Bureau of Statistics Foreign Investment Survey for 2010 shows an increase in Kenya's foreign liabilities from about $4 million in 2007 to $5 million in 2008. FDI increased by 21.5%, from roughly $2.5 to $3 billion, while FDI inflows fell to $500 million. In the same period the total stock of Kenya's investments abroad declined by 35%, from $7.2 billion to $4.7 billion. Europe accounted for 69.7% of this and the EU, 67.1%. Asia, America and Africa made up 18.5%, 6.2%, and 5.6% respectively. In 2008 Europe was the source of 59.6% of FDI inflows (the EU accounting for 56.6%) and East Asian countries 30.3%. The manufacturing sector had the highest stock of FDI liabilities (28.4% of total). Private sector external debt (PSED) increased by 39.4%, from $1.8 billion at end–2007 to $2.3 billion by the end of 2008. In 2008 the EAC region was the destination for 86.2% of Kenya's total stock of FDI abroad.[100]

In support of export market development, the EPC has organised and facilitated participation by Kenya's exhibitors in international trade fairs and exhibitions in Zambia, Malawi, Tanzania, Uganda, Egypt, Rwanda, Sudan, Democratic Republic of Congo, Zimbabwe, Mozambique, China and the US. Such events consolidate and expand business in existing markets while helping product diversification for improved access into emerging markets. Kenyan exhibitors could use the events to gauge the competitiveness of their products, appoint agents and distributors, study consumer trends and identify joint venture opportunities.[101]

Tourism has continued to perform well despite various problems. The government has committed itself to an enabling environment including promotions aimed at attracting tourists from emerging economies. In 2011 earnings from tourism reached $1.1 billion, from $820 million in 2010. Despite security threats and travel advisories by foreign governments in 2011, international visitor arrivals increased by 13.3%, from 1.6 million in 2010 to 1.8 million in 2011. Over the same period the number of international conferences rose from 254 to 309 and the number of delegates attending local and international conferences grew by 6.6% and 9.9 % respectively. Overall conference occupancy rose from 11.6% in 2010 to 12.6% in 2011, partly due to the increase in local conferences in the latter year.

Nevertheless, the country's diplomatic resources require further change. As economic consultant Ivan Mbirimi has pointed out, African countries must embrace the basic tenets of economic diplomacy when embarking on major economic development. For Kenya this involves setting targets; consulting stakeholders; exploring the boundaries of difficult issues in order to define ultimate state objectives; researching agendas of negotiating parties; and identifying future world economic scenarios to assess their effect on its own economy.[102] This in turn requires review of the roles, initiatives and conduct of diplomacy; by officers and government agencies, in the negotiation and advancement of the state's interests.

To do this it is necessary to understand Professor Makumi Mwagiru's maxim that there is a clear distinction between the management of diplomatic services on the one hand and foreign policy on the other.[103] Both are mainly administrative functions, but the former entails dealing with the resources necessary for ensuring efficient implementation of foreign policy, whereas the latter is concerned with effective implementation of a strategy that facilitates external relations. The latter aspect requires astute co-ordination of consultations and negotiation with different, interested parties such as elected representatives, ministries, academia, NGOs, the media and the public.

Kenya's constitutional changes are in part aimed at eliminating partisan political considerations from the creation of ministries by forcing the amalgamation of ministries. Nonetheless, comprehensive reforms are still necessary to deal with problems such as those arising from secondment of officers to other ministries, which can cause friction and hamper harmonious working relationships. The reforms should be revised to recognise the interdependency of issues highlighted by Raymond Saner and Lichia Yiu.[104] Any restructuring should instigate the recruitment of personnel familiar not only with questions of international economics but also with international developments – diplomacy in the modern world requires versatile actors capable of dealing with a wide variety of issues. This knowledge should be deployed to attract inward investment through growth-orientated external relations.

POLITICAL INFLUENCES AND RISKS TO PROSPERITY

Economic growth is extremely sensitive to perceptions of political and macroeconomic risk because uncertainty undermines private investment.[105] Perceived political risk in Kenya can be reduced only through proper conduct of the 2013 general election and the implementation of the new constitution. The violence that followed the last election caused a slowdown in the economy, and heightened political risk;[106] the likelihood of a repetition of this in the next election constitutes a major concern, especially given the increased number of seats to be filled under a complex new electoral system.[107] Despite persistent squabbles between partners in the ruling coalition that hold up the pace of implementing new laws, there is need to develop credible institutions before the next election; election cycles tend to slow down government as officials turn their attention towards election campaigns.[108] Since 30 November 2011 Kenya has held the chair of the EAC,[109] but as it collectively focuses on the quest for peaceful and credible elections, the country's interest in EAC activities is bound to wane. Kenyan members of the East African Legislative Assembly have already voiced concern over the lack of direction from their government; two months after having been sworn in they were yet to meet the president for briefing on their responsibilities, during which time their counterparts from other EAC member countries had already completed the same procedures. Blame is being directed at the EAC minister, Musa Sirma, who has shown little interest in the matter.[110] Media reports indicate that much of his efforts are focussed on the Prime Minister Raila Odinga's presidential campaign and his personal political forays in the Rift Valley province whence he hails.[111] The new constitution is expected to put an end to such clashes between administrative and political interests, with the appointment by the president of technocrats or professionals – who will then be vetted by parliament – rather than politicians to head up ministries.[112]

During the violence of 2007–2008 Kenya's collapse was somewhat abated through a national dialogue and reconciliation initiative led by former UN secretary-general Koffi Annan. It set out a programme of reforms that led to the formation of a coalition government that facilitated the passage of a new constitution.[113] The constitution will harmonise foreign policy with trade policy, and reduce the number of ministries when the constitution is fully implemented. President Kibaki has already stated that under the new dispensation international trade issues will fall under foreign affairs, so diplomats can now give even more prominence to the promotion of foreign trade.[114]

Implementation of the new constitution, however, involves its own complexities. Debates over the supremacy of the Kenyan constitution over the EAC treaty have been played out in public, as they were in the budget announcement of July 2011. The new constitutional provisions almost held back the parliamentary budget reading, which according to the EAC treaty should be done simultaneously by EAC member governments.[115] In addition, although a merger between the MoT and the MFA is expected to take place, questions arise over the fate of MEAC which was created to meet the need for all EAC members to facilitate out their integration functions.[116] Compounding this problem is the question of how to include Kenya's newly formed county governments in integration efforts, so that they will not hamper progress by exercising the constitutional powers they enjoy to make their own rules.[117]

Another issue that raises the level of Kenya's political risk is the uncertain outcome of cases at the International Criminal Court (ICC) at The Hague, where six suspects, including senior politicians, face charges of crimes against humanity. Four of the six had their charges confirmed during September and October 2011.[118] The judicial process is expected to continue hand in hand with the election cycle of 2012–2013. It is to be hoped that a recurrence of heightened political tension that engulfed the country prior to the suspects' facing charges will not be repeated. Nevertheless, two of the defendants are currently running for the presidency and insist that they will still seek high office, despite the standard of personal integrity demanded of such candidates under the new constitution and the Leadership and Integrity Bill that is now under stakeholder review.[119] Remarks by US Secretary of State Hillary Clinton in private meetings with top Kenyan officials alluded to the possibility of sanctions if either of the two suspects became president.[120]

These events, together with debates attending the implementation of the new constitution, have raised fears among both foreign donors and domestic interests concerning the overall integrity of Kenya's elections.[121] The process seems to have battered Kenya's international image as a result of the government's attempt to win AU support for postponement of the ICC cases – diplomatic forays that served as a distraction from the economic thrust of its diplomacy.[122] By internationalising its factional in–fighting Kenya has become diplomatically 'hobbled'; it has a weak and divided government as a result of the circumstances that led to the formation of its 'grand coalition'.[123]

Questions over delays in implementing the constitution and fears of a repeat of violence at the next general election provide a serious challenge to diplomats, and officials of promotional agencies, tasked with assuring investors of the country's stability.[124] For a country seeking to promote itself as an investor- and tourist-friendly destination over the long term, fears about political instability compounded with the increasing threat of terror attacks – before and after the country's military engagement in Somalia – could have a negative impact on economic growth.[125] These issues have a tendency to raise political temperatures through ethnic–based rhetoric and other disruptive activities that together may shake investor confidence.[126]

Beyond these issues, the challenge of improving Kenya's business environment still remains. East African countries are engaged in reducing the regulatory burden of businesses, reducing bureaucracy, facilitating the formation of new business enterprises and other similar measures that reduces corruption and facilitate business. In a comparative examination of the World Economic Forum's Global Competitiveness Index; the Heritage Foundation's Index of economic Freedom; Transparency International's Corruption Perception Index and the World Bank's Doing Business Report, by the Institute of Economic Affairs (IEA) Kenya is noted as a mixed performer whose economy mainly suffers from high corruption.[127]

Tackling the vice is therefore very important in improving the business environment. While the appointment of commissioners for the new Ethics and Anti-Corruption Commission (EACC) has gone through a great deal of political gamesmanship that, aroused negative perspective over the authenticity of the fight against corruption; a newly reconstructed judiciary has rejuvenated this struggle with its defence of the constitutional chapter on integrity. So far this institution has criticised the executive and parliament for not making appointments accordingly and trying to hinder EACC operations through restrictive legislation.[128] This stand to protect and uphold the constitution, while engaging in reforms that seek to expeditiously deliver justice is increasingly being viewed as a welcome assertion in the improvement of the rule of law.

CONCLUSION

Debates on the implementation of the new Kenyan constitution place great stress on changes in the established legal framework. More action is needed because while these changes may reinforce an existing external relations orientation towards regional integration, the initiatives may bring only limited benefits due to a lack of a clear economic and commercial diplomatic framework within the overall foreign policy structure. Increased democratisation has brought with it a multiplicity of participants in the conduct of diplomacy at domestic and regional levels while increasing the complexity of issues to tackle. This post-modern environment, characterised by fragmented relationships and socio-economic intricacies, demand sharper definition if a concise paradigm on diplomatic relationships, negotiations, and mediation in conflicts is to emerge.[129] Kenya's balancing of export and investment promotion, in trade or foreign policy that facilitates new growth, can be efficiently managed only with the application of precise standards.

First, an archetype of this nature must be clear on meeting the challenges arising from the global financial crisis. For African countries, this situation is not simply one of 'market failure' that merely needs the intervention of strong state to regulate the bazaar and control the provision or acquisition of development finance. It also concerns developing countries inasmuch as, increasingly, they are under pressure to open their markets although they do not yet have stable and democratic institutions.[130]

Secondly, this exemplar offers an ideal avenue for interdisciplinary engagement in the development of sound economic policies and practices for future external relations, particularly given the changing nature of the Kenyan state. While the constitution now guarantees checks and balances in the practice of government, it is evident that there is resistance to the reality of the new order among the executive, legislature and judiciary. Mamdani, among others, has voiced concern over the perpetuation of information asymmetry by the state in the management of public resources, and over the blocking of civic debate and participation in policy and practice. The Chief Justice of Kenya has described this resistance as resulting from a failure to adapt to new ways due to socialisation and regime benefits associated with an old retrogressive culture; and the absence of skills, appetite or inclination by the political class to thrive in a new environment.[131] This mindset stems from a previous environment of lacking accountability, and the prevalence of bureaucratic elitism accustomed to patronage and insularity within diplomacy; it can be broken only by observing basic principles of economic diplomacy that prize broad consultation between stakeholders at different levels.

Lastly, the development of an economic and commercial diplomacy agenda presents an opportunity for creative imagination: to look to integration beyond the European formula; and seek solutions to prevailing challenges within the EAC. Exploring the effects of continued dependency on the Eurozone, which is in a state of crisis, is of utmost importance because problems in the EU are affecting millions of dollars in trade, aid and investments for East African countries. Studies by Business Monitor International (BMI) show that the impact of the Eurozone crisis depends on the level of economic linkage to Europe. Analysts such as Razia Khan, head of Standard Chartered Bank regional research in Africa, expect Kenya to weather the storm better than its neighbours because compared with many African economies it is less directly affected by risks in mature economies, due to the relatively small share of the Eurozone in Kenya's total trade and its higher regional trade, which together make it slightly more resilient than other Sub-Saharan countries.[132] Considering the previous failure of East African integration initiatives and the lack of a common regional political framework; might it be possible that there would be a repeat of doubts, suspicions, antipathy and stressed relations that could result in a second collapse?

Such questions will continue to emerge and can be best discussed in Kenya under the prism of an economic diplomacy framework that makes plans for regional interactions in the promotion of its growth.

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