

REPUBLIC OF KENYA

OFFICE OF THE DEPUTY PRIME MINISTER AND MINISTRY OF FINANCE

Improving Kenya's Performance on Doing Business (DB) Indicators

Summary Report

March 2008- March 2009

May 15, 2009

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List of Abbreviations

AG	Attorney General
BRRU	Business Regulatory Reform Unit
CBK	Central Bank of Kenya
CET	Common External Tariff
CMS	Customer Management System
CRB	Credit Reference Bureaus
CSD	Custom Services Department
DMS	Document Management System
DPC	Document Processing Centre
DTD	Domestic Taxes Department
EAC	East African Community
EACCMA	East African Community Customs Management Act
ECTS	Electronic Cargo Tracking Systems
EDI	Electronic Data interchange,
EFT	Electronic Funds Transfer
ERS.	Economic Recovery Strategy for Wealth and Employment Creation
ETR	Electronic Tax Register
FLSTAP	Financial and Legal Sector Technical Support Project of the World Bank
GoK	Government of Kenya
IT	Information Technology
ITMS	Integrated Tax Management System (ITMS)
KEBS	Kenya Bureau of Standards
KLRC	Kenya Law Reform Commission
KPLC	Kenya Power and Lighting Company
KRA	Kenya Revenue Authority
KWATOS	Kilindini Waterfront Operations system
MTEF.	Medium Term Expenditure Framework
NCC.	City Council of Nairobi
NCWSC	Nairobi City Water and Sewerage Company

NHIF	National Hospital Insurance Fund
NSSF	National Social Security Fund
OSBP	One Stop Border Post ,
OSS.	One Stop – Shop
PC	Performance Contracting
PIP	Project Implementation Plan
PSDS,	Private Sector Development Strategy
RADDEX	Revenue Authority Digital Data Exchange,
RARMP	Revenue Administration Reform and Modernisation programme
RBM	Result Based Management
RIA	Regulatory Impact Assessment
RRA	Rwanda Revenue Authority
RRI	Rapid Results Initiative
RTMS	Real Time monitoring System
S2005S	Simba 2005 System
SBP	Single Business Permit
SBP	Single Business Permit
SED	Single Entry Document,
ToT	Turn over Tax
URA	Uganda Revenue Authority
VAT	Value Added Tax
VAT	Value Added Tax
VMS	Vehicle Matriculation System

Foreword by PS/Treasury

In 2008, our economy suffered some shocks including post election violence, high oil, food and fertilizer prices, drought and the global financial crisis which, have threatened to reverse the gains we had achieved over the ERS period. These shocks impacted negatively on key sectors of our economy such as tourism, manufacturing, transport and agriculture. In 2009, recession in advanced countries is likely to reduce the demand for Kenya's main exports, including tea, horticulture and coffee. Amidst all these, it is our Government's responsibility and commitment to ensure that what happens in the world economy, and how it happens, is communicated clearly to Kenyans, and that in periods of global volatility, we have the tools to protect our economy and people — in particular our youth and the vulnerable poor.

Over the last six years, significant progress has been realized in implementation of reforms in public finance management as well as all other sectors of the economy, including aligning the allocation of public resources with national strategic objectives under the Medium Term Expenditure Framework (MTEF). These achievements, which reflect policy consistency arid continued adherence to the Government development strategy will be maintained for macroeconomic stability.

This report has therefore been prepared as part of the Government of Kenya's efforts to improve the country's indicators for Doing Business 2009, for purposes of international ranking against 181 economies of the world, as well as publishing the gains made and the investment opportunities open to local and international investors.

There have been significant improvements in the business environment in Kenya within the last year. This is attributed to the continued collaboration between the Government of Kenya (GoK) and the private sector in supporting several business reform initiatives aimed at improving the investment climate in Kenya. The improvements have been achieved mainly through increased efficiency in the relevant regulatory agencies largely due to the continued implementation of

Government Performance Contracting, currently under the leadership of the Prime Minister's office and the associated Rapid Results Initiatives. Further, all Government Ministries and Departments have developed and started implementing service charters with clear benchmarks and standards in order to enhance efficient and transparent service delivery and hence improve the image of the Government.

The Government continues in its commitment to deepening structural reforms to enhance private sector competitiveness as clearly spelt out in its economic policy documents; Medium Term Plan 2008-2012 and Vision 2030, Private Sector Development Strategy, and the Budget Speeches. This summary report elaborates these polices and efforts aimed at improving the Business environment and Investment climate; and in particular DB Indicators for the past one year. In addition to the current implementation of business regulatory reforms, crosscutting and comprehensive business licensing reforms initiated in 2005 set the pace for the country's top performance in Doing Business indicators.

Going forward, the Business Regulatory Reform Unit (BRRU) continues engaging regulators on the possible administrative and legal mechanisms to simplify and eliminate the deferred licenses as weU as consolidate multiple licenses, in an effort to make the licensing regime efficient and appealing to investors. Measures have also been undertaken to operationalize the e-Registry to curb creeping re-regulation. The Reform Unit is also planning to institutionalize a Regulatory Impact Assessment system within the Government Regulatory Authorities to ensure quality of new regulations and licenses. The implementation of these licensing reforms has, without doubt, had a number of significant crosscutting effects on other regulatory constraints as measured by the DB Indicators.

The Government of Kenya's medium term objective is to consolidate the gains made so far while at the same time deepen the reform agenda to ease doing business in Kenya. The Government has therefore expressed a commitment to improve Kenya's scores on these indicators. The reform initiatives we continue to implement are bound to contribute positively to a favourable business environment and we would expect better ranking in the DB 2010 World Bank Report.

Finally, I would like to express my gratitude to all those who participated in this year's process of fast tracking business regulatory reforms including the regulators who implemented short, medium and long term measures aimed at improving DB indicators; the private sector players who constructively engaged the public sector on various issues and validated the information provided in this report through a comprehensive consultative process; and the Doing Business (2010) Reform Team which conducted the preliminary investigative and analytical work based on invaluable inputs from various regulators, the private sector and other stakeholders and consequently drafted this report.

The DB 2010 Reform Team included membership from both the private and public sector (see Annex attached). The secretariat and coordination of the DB Indicators reporting, as well as the entire reform process is coordinated by the Business Regulatory Reform Unit, under the leadership of Justus Nyamunga (Director Economic Affairs), while the membership comprised of: Anne Waiguru (Head of Governance — Treasury), Josephine Kanyi (Head BRRU), Richard Gakunya, Jacob Gumba, Naomi Matheri, Denis Muganga, Peter Chacha, Kennedy Nanga, Joy Njuguna and Caren Akoth Gawo, Dorothy Akinyi Oluoch and Jane Wanjiku.

JOSEPH K. KINYUA, CBS
PERMANENT SECRETARY/TREASURY

EXECUTIVE SUMMARY

In stepping up business regulatory reforms, the GoK established a regulatory reform unit, the Business Regulatory Reform Unit (BRRU) in the Ministry of Finance. The Unit continues with the mandate of filtering all intended business licenses and improving the business regulatory environment as well as ensuring that only truly needed and the most cost-efficient licenses and other types of business regulation are being implemented. This ensures that unnecessary or unfriendly business licenses, fees and charges do not mushroom. The BRRU also liaises with regulatory agencies in conducting business regulatory impact assessments and ensuring that new business regulations conform to international best practice. Fast tracking and promoting the full implementation of the licensing reforms, and sensitization especially for local authorities and other stakeholders remain top priority for the Unit.

The GoK is in the final stages of fully operationalizing the Electronic Regulatory Registry (e-Registry), which will not only host all legally enforceable business licenses but also ensure scrutiny and transparency of license requirements. The e-Registry also encourages information disclosure for all licensing procedures and documents required to do business and ensure that they are updated.

As part of the Performance Contracting (PC) and Result Based Management (RBM) principle that the Government has embraced, the PS/Treasury set up a Regulatory Reform Working Committee to oversee the monitoring and fast tracking of the implementation of regulatory reforms and to drive initiatives to improve Kenya's business regulatory performance.

The Committee's mandate include to oversee the: institutionalization of Regulatory Impact Assessment (RIA) system among regulators in order to be able to screen quality of new licensing regulations; driving the reforms of existing business regulations; capacity building in line ministries and regulators on all aspects of Better Regulation; developing and regularly updating the regulatory reform strategy; fast tracking Doing Business 2010 related reforms; fast tracking the enactment of the Business Regulation Bill; advocacy and outreach to stakeholders; and conducting regular studies on the impact of regulatory reforms in Kenya; and developing monitoring and evaluation benchmarks to support effective implementation of reforms.

With specific regards to DB indicators, the Government of Kenya formed a Doing Business Reform Team, that has been paying special attention to fast tracking specific reforms in six out of the ten indicators viz: Starting a business, Registering Property, Getting Credit, Dealing with Construction Permits, Paying taxes and Trading across Borders. Performance improvements in these indicators are mainly as a result of the continued elimination and simplification of more licenses, administrative efficiency resulting in time savings, consolidation of procedures and the attendant reduction in administrative costs of compliance.

The information relating to improvements as recorded below was provided by the public sector regulatory authorities and validated in extensive consultations with the private sector representatives and other stakeholders including the Kenya Private Sector Alliance, Kenya Association of Manufacturers, Institute of Certificied Public Accountants of Kenya, among others. The relevant regulatory agencies where significant improvements have taken place in the context of the DB indicators include the State Law Office, the Ministry of Lands, the Judiciary, the Kenya Revenue Authority, Central Bank of Kenya, Nairobi City Water and Sewerage Company and the City Council of Nairobi. The details of achievements since the publication of Doing Business 2009 report are illustratated herein:

Starting a Business

The second Rapid Results Initiative (RRI) implemented at the State Law Office has been the primary reason for the improvements captured by this DB indicator. This has led to significant reductions in time spent on **procedure 5** of this indicator (file deed and obtain documents with Registrar of Companies in Attorney General's Office in Nairobi). Effective 16th March 2009, the Companies Registry rolled out a Document Management System for registration of companies. Using this system, the time taken to register a company will be reduced to 5days and it is envisaged that by end 2009 we will achieve a maximum of 3days. The ultimate goal under this new system is to issue a certificate of incorporation within 1day of presentation of documents. This system also eliminates several steps in the registration process. Automatic generation of certificates has also been attained. **Thus the number of days taken to start a business in Kenya has been reduced from 30days in DB 2009 to 25 days, a saving of 5days.** This has been achieved mainly because of elimination of some steps in the registration process such as typing of certificates. Certificates are now generated automatically from the system. Registration approvals are also now being done on the system without consulting physical files.

It is also notable the cost of obtaining a Single Business Permit (SBP) significantly reduce following the Gazettement of the SBP Rules (2008) on 14th November 2008. The Rules require that where a business is issued with a SBP by one local authority, such a permit shall be valid for distribution of goods or provision of such services within the area of any other local authority. Further the fees for SBP for cities have been restricted to columns 8, 9, and 10 of the SBP Fee Schedule.

Review of the Companies Act is in its final stages as the Draft Bill has been finalized by the Kenya Law Reform Commission and forwarded to the AG for legal drafting. This will impact procedures 4 and 12 of this Indicator.

The IT Department at the State Law office is also working on consolidation of 3 separate data bases which will make it faster to do name searches and reduce the time taken from 3days to only 1day.

The transparency and predictability of the business licensing requirements for Starting a business is set to improve following milestones in setting up of an e-Registry of licenses in Kenya. The Pilot phase of the e-Registry is set to be launched in early May 2009.

Kenya Investment Authority in collaboration with other Public Bodies is working on the modalities of setting up a one stop shop in Kenya. This will consolidate government approvals for starting a business at one access virtual point.

Other reforms in this Indicator – Starting a Business

- One Stop Shop (OSS) will be operational within the next financial year 2009/2010;
- E -Registry will be launched in July 2009;
- 3 heavy duty scanners to be secured from ICT Board – these will reduce time taken for business registration
- Need to have two sets of company laws has been realized and will be considered; one for the big firms and the other for small ones, to take into consideration Kenya's informal and small business economy;

- Stamp Duty Act to be amended to allow for stamping of deed documents at the Company Registry. But the best practice will be to eliminate the stamp duty completely. This is under consideration;
- Ministry of Lands to computerize their system to be able to link with that of KRA and Banks for purposes of paying for stamp duty;
- Document Management System to be implemented at the Company Registry - will enable downloadable forms, online name searches and online registration; and
- Registration for PIN is now online.

Dealing with Construction Permits

There has been significant deepening of the administrative reforms regarding this indicator and these have had cross-cutting positive impacts on several DB indicators including; Starting a Business among others.

Specifically, there has been substantial improvement in the procedures applicable to construction of a warehouse at the municipal level due to improved efficiency and reduction of red tape at the City Council of Nairobi. This has led to a reduction in the total time for this indicator as explained below:

- The time taken for procedure 1 (request and obtain building permit), is now confirmed to be 14days, down from 50days recorded last year, a saving of 36days. This resulted from the second phase of the Performance contracting initiative at the Nairobi City Council.
- For procedure 2 (seek approval of project plans and architectural drawings from municipal authority), time has also been saved on this procedure, as outlined in the second phase of the Rapid Results Initiative conducted in February 2008, which enables this procedure to be carried out simultaneously with the 1st procedure. This saves 25days.
- Procedure 3 (Receive on-site inspection…) can now be done in only 2days, as opposed to the 5days indicated in last year's findings.
- Time taken to obtain occupancy certificate (procedure 4), is now 7days from the initially reported 14days as a result of the completion of the second phase of RRI, saving 7days.
- At the Nairobi City Water and Sewerage Company (NCWSC), improvements in administrative procedures have enhanced the efficiency

of the company in service provision, leading to a drastic reduction in time taken to pay for water and sewerage installation costs and obtain connection (procedure 6). This now takes 22days, down from 30 days recorded in DB2009, saving 8days. There is a target of 14days clearly stipulated in the customer service charter of the NCWSC, which also measures the performance of the company employees.

- The Kenya Power and Lighting Company (KPLC) also enhanced its service delivery through performance contracting and consolidation of administrative procedures. The time taken to obtain electricity connection is now 17 days, down from 21 days recorded last year, a saving of 4days.

These improvements, measured against total time recorded in DB 2009, represent a total time of 69days as opposed to last year's 100days, thus saving 31days.

Other reforms in this indicator - Dealing with construction permits;

- The National Environment Management Authority (NEMA) is coordinating with lead agencies in regulations to streamline clearance (approval requirements) on environmental impacts of developments such as constructions;
- The NCWSC is liaising with banks to help increase the number of pay-points thus take services to the people;
- Also working with the Arthi River Services Board to automate their systems. This is likely to have a positive effect on the time and cost of connecting and supplying water to business premises;
- The NCWSC is also piloting a Customer Management System that traces processes of water connection from the time of application to the time of full connection. This therefore monitors the process in real-time and the company is able to fast-track in case or delays or establish best-time for purposes of increasing efficiencies;
- NCWC also plans to implement remote meter reading system;
- NCWSC is also planning to provide facilities such as pipes and other equipment which is supposed to be purchased by customers, to hasten the connection process;
- At the Kenya Power company; a lot of improvements have been made on technology and computerisation. Staff can now provide quotations to clients in the field without having to get to the offices; procurement of

equipment and materials has also been improved and is now faster; branch business units have also been established to provide better services closer to the people.

Registering Property

Specifically, the reforms below have been achieved at the Ministry of Lands, towards improving this indicator;

- Procedure 3 (seller's lawyer's obtain rates clearance certificate, land rent clearance certificate and consent). This procedure takes 5days at a cost of Ksh. 250 (down from 30days reported last year). This is clearly stipulated in the Registered Land Act (cap 300).
- Procedure 4 (file the transfer document at the Lands office). This takes only 1day, as opposed to the 8days reported in DB 2009.
- Payment of stamp duty at a commercial bank (procedure 5) takes only 1day, at a cost of Ksh. 100. This is an improvement from the 7days reported last year.
- Procedure 6 (inspection by lands officer) takes 5days as opposed to the 30days captured in DB 2009.
- Procedure 7 (valuation of property) takes 21days, up from 7days reported last year.
- Procedure 8, lodging transfer documents with lands office, takes 5days, down from the 6days reported last year.

This is expected to result in a significant saving of 24days (down from 64 in DB 2009 to 42 in DB 2010).

Other reforms on this Indicator – Registering Property

- A provision is being made for the issue of demand note using receipts as evidence of last payment for land rent clearance certificate to be issued. This is to eliminate unnecessary delays arising from missing or misplaced files at the lands registry;
- A database of payment slips is being created to provide easy access to them for reference purposes;

- A valuation database will also be created for all properties being valued. This is a step towards a standardised valuation system across the country that will enable uniform rates to be charged based on location of the premises;
- Previously, about 64 Acts of Parliament were in force, all affecting the registration of land. These have now been consolidated into only 2 Acts.

Getting Credit

The Indicator has two main components

- Availability and extent of sharing credit information, captured in a ***credit information index***
- Protection of creditor and debtor rights in collateral and bankruptcy laws captured by a ***legal rights index***

The ***credit information index*** reflects the fact that even though Kenya has enacted best in class credit reference bureau regulations under the Banking Act these are currently in the final stages of operationalisation. The law provides for a commencement date that was set by the Minister for Finance as 1 February 2009. CBK is currently in the process of reviewing applications for licensing private CRBs. CBK is receiving technical assistance and support from Financial and Legal Sector Technical Support Project of the World Bank (FLSTAP) towards this process. The Banking Industry through Kenya Bankers Association (KBA) is in the process of engaging a Project Manager funded by FLSTAP to assist in fast tracking the implementation process.

The ***legal rights index*** reflects Kenya's good legal environment at present. There are however, opportunities for improvement in the enforcement of collateral; through the Judiciary.

The Kenya Law Reform Commission (KLRC) has drafted a number of landmark Bills awaiting parliamentary approvals that would significantly improve the legal environment and extend creditor and debtors rights while bringing local laws into line with world-class legislation.

Important to note is that since the last DB report 2009, the Government of Kenya has put in place several Laws, which are currently pending approval through the Parliamentary process. The main pending bills cover the following:

- Banking Amendment Act
- Companies Bill
- New insolvency Bill
- Personal Securities Bill

Upon enactment, later this year, the regulatory environment in Kenya for credit information sharing as well the general credit issuing process will be comparable to the best international practise.

Other reforms in this Indicator – Getting Credit

- The efficiency of the judiciary is crucial in the improvement of this indicator. With the reforms outlined in this report, being underway to improve operation in the Judiciary, a lot of improvements are expected to be achieved in this area;

Paying Taxes

Although the DB 2009 indicates that there is no improvement in the "Paying Taxes" indicator from DB 2008, the Government has continued to pursue successful implementation of tax modernization programmes including the Electronic Tax Register[1] (ETR), and the Simba system (among many other reforms). This has led to greater efficiency in processing tax payments. In deed, the number of hours spent in paying taxes in Kenya has reduced by 168 hours – from 432 hours per year in DB 2008 to 264 hours in DB 2009. The DB 2008 report recognized the joint payments on petroleum taxes at the point of importation, reducing the number of payments by three, but failed to capture the following improvements:

- that the number of hours for paying Value Added Tax had reduced from 300 hours to 192 hours per year – an improvement of 108 hours; and

[1] The electronic tax register (or electronic cash register) is a device with a fiscal memory able to capture amount of sale and VAT payable to KRA at the point of sale and its memory lasts for at least 5 years un-interrupted.

- The time taken for making National Social Security Fund deductions had reduced from 72 hours to 12 hours – a saving of 60 hours per year. These reductions still stand.

In addition, the two (2) payments documented on account of Turnover Tax are not applicable to TaxpayerCo in Kenya. This is because; the company's turnover per annum-as per the DB assumptions - is above the required threshold to fall into the Turn over Tax (ToT) category[2]. This means that the number of payments drops from 41 to 39 per annum- a saving of 2 payments.

Other reforms in this Indicator – Paying Taxes

- The implementation of the Integrated Tax Management System (ITMS) at KRA has enabled online payments of VAT, Cooperate tax etc, and also KRA to connect to all ETR devices (registers) of their customers, thus enabling the simplification of VAT declarations;
- On social security contributions, the NSSF and NHIF are pursuing various reforms including high end computerisation (which can track clients who have paid); sensitisation of clients on the need to make early returns; all cheques must be attached to list of employees covered in the payment; compliance with the Retirements Benefits Authority (RBA) Act which stipulates the need to hold an AGM for members to air their views and contribute ideas towards improving operations of the Funds; remittances can now be done through EFT; online in all branches; NHIF is now issuing swipe cards for all customers to be used in any hospital; coverage has now been extended to the informal sector and payments can also be made via Telephone money transfer - Mpesa (Safaricom) and Zap (Zain).

Trading Across Borders

GoK has continuously implemented a number of reforms in order to improve Trading Across Borders. It replaced the paper-based customs administration with an electronic data interface system. The programme has enabled importers

[2] Note that the turnover threshold for ToT in Kenya is below Kshs. 5m, much lower than TaxpayerCo turnover in Kenya estimated at about Kshs. 47m. That is 1,050 times the country's income per as at 2006).

and exporters to lodge their documentation online. **Time to export reduces from 29 to 16, thus saving 13 days and time to import reduces from 26 to 19, thus saving 7.** The improvement is explained by KRA's process of selective post clearance verification and risk analysis. KRA also authorised an Economic Operators Scheme for importers, exporters, transporters and clearing agents whose cargo are green channelled and allowed direct release. These have significantly reduced delays on cargo clearance. Further, KRA has implemented a reward scheme aimed at motivating employees based on specific performance targets on cargo clearance at boarder points. In order to facilitate quick inland cargo transportation and handling, KRA, the Ministries of Transport and Roads reduced the number of inspection points to two, namely, at Mariakani and Malaba, reducing the number of days to 2 - thus saving 2 days. The Revenue Authority also introduced a cargo tracking system to monitor inland cargo transit.

Summary of Broader Reforms - Judicial Reforms;

- The provision in the Constitution of Kenya for a ceiling in the number of judges was a major cause of the backlog of cases and Bills that are crucial to the reform agenda of this country. Parliament has however accented to make provisions for the judiciary to hire 20 more judges. This will ease the congestion and also enable the faster operations in dispute resolution at the commercial courts as well as other sectors of the judiciary.
- Expansion of infrastructure is currently a high priority and plans are in the process to have more/new court buildings as well as renovate old ones. By July 2009, more space will be ready for occupation. Attention is being given to commercial courts to enhance dispute resolution. A commercial division is also being established at the High Court in Nairobi as well as at the Law Courts in Mombasa.
- Court proceedings are now being recorded using specialised equipment and opposed to the manual capturing. This has been piloted in the High Court and will soon be expanded to all courts.
- The ICT Board, Ministry of Information and Communication and the e-Government are partnering with the Judiciary to automat their systems. This will help to sort out the tracking of files manually and delays associated with it.

- Towards financial management reforms in the judiciary, banks have been identified to receive payments on behalf of the court system on all issues related to the courts. This will go along way in reducing opportunities for corruption and rent seeking in this sector.
- The Judiciary has opened Judicial Training Institute to provide continuous education for its staff on emerging issues such as environmental law, cyber crimes, economic crimes, etc. Various training programes have also been carried out through the support of the GJLOS Basket Fund, leading to improvement in service delivery.
- A new set of rules (improving on the Single Procedure Rules) has been set up to enhance delivery of justice and dispute resolution to help in mediation and settling of disputes out of court.

1.0 INTRODUCTION

The Government of Kenya has been implementing important reforms aimed at improving the opportunities for the private sector to contribute in Kenya's economic prosperity. Over the past 5 years, the Government implemented the Economic Recovery Strategy for Wealth and Employment Creation (ERS). The strategy comprised three pillars, namely, rapid economic growth against the backdrop of a stable macro-economic environment; enhanced equity and poverty reduction; and improved governance. The primary role of the private sector as the driving force of the economy was clearly articulated in the ERS while that of the Government was confined to being a facilitator for private sector activities and to intervene where there was market failure. The ERS ended in December 2007 and the successor, the Vision 2030 builds on the substantial achievements made under the ERS.

The key overarching objective of the Vision 2030 is for Kenya to become a globally competitive and prosperous nation with a high quality of life by 2030. As with the ERS, the Vision 2030 has three pillars, namely: (i) the economic pillar; (ii) the social pillar; and (iii) the political pillar. Under the economic pillar, the Government will target accelerating economic growth to a sustainable rate of 10% per year over the medium-to-long term.

To achieve our Vision 2030 growth objective, the Government was of the view that apart from maintaining macro-economic stability, many of our regulations were inefficient, ineffective and increased the cost of doing business and therefore hampered the growth and competitiveness of our private sector. The Government, therefore, embraced bolder and more aggressive reforms to ease the legal, regulatory and institutional bottlenecks necessary to create an enabling environment for private sector activities, and to arrest the decline in our global and regional competitiveness. To reduce the administrative barriers to private sector development, the Government seeks to ensure a future business-licensing regime that is simple, more transparent and less costly to both the regulating agencies and businesses.

In this regard the effort to improve DB scores is complementary to progress on the licensing reform and related regulatory reform initiatives in Kenya, including the establishment of a Business Regulatory Reform Unit (BRRU) and the e-Registry.

Further, to drive the reform process forward, we have the Private Sector Development Strategy (PSDS), which was developed between 2005 and 2006 through a participatory process involving the public and private sectors and supported by key development partners. It was finally launched by His Excellency the Vice President in February 2007. Subsequent to the formal launch, the Private Sector Development Implementation Plan (PIP): 2008 – 2012 was formulated.

The PSDS is a 5 year programme designed to stimulate the growth and development of the private sector. It provides a mechanism through which the Government of Kenya will leverage and catalyze the implementation of strategic actions to enhance private sector growth and competitiveness. This will, in turn, contribute to the achievement of the country's medium-term objectives, towards the attainment of the Vision 2030. The PSDS also provides an opportunity to meet broader development aspirations, including the Millennium Development Goals.

1.1 Kenya's Performance in DB 2008 and DB 2009 Indicators

Doing Business (DB) is an annual report published by the World Bank Group, which includes objective measures of business regulations and their enforcement. The 10 DB indicators are comparable across all economies and are increasingly used as an international benchmark for countries' regulatory quality and reform. Kenya is using the DB scores to compare itself against her economic comparators and best practice countries with an aim of improving the business environment. In DB2008 Kenya attained position 78 while in DB2009 it attained position 82 out of 181 economies. Its ranking therefore, dropped by 4 places to as indicated in table 1 below.

Table 1: Kenya's Overall DB 2008 and DB 2009 Ranking and on Specific DB Indicators.

Ease of...	DB 2008 rank	DB 2009 rank	Performance Improvement
Doing Business	**78**	**82**	
Starting a Business	112	109	+3
Dealing with Construction Permits	9	9	-
Registering Property	114	119	-5
Getting Credit	13	5	+8
Paying Taxes	154	158	-4
Trading Across Borders	148	148	-

Source: World Bank Doing Business Database (2008, 2009); Authors' Own Computations (2009)

1.2 Recent Doing Business Related Reform Activities in Kenya

Recent reforms in business regulations in Kenya were informed by the realization that growth and competitiveness of the private sector was being hampered by many inefficient, ineffective and costly licenses, permits, and certifications.

Long delays, complex and costly procedures to establish a new business entity are some of the obstacles to new investment and entrepreneur activities. Many governments have introduced reforms to quicken and simplify the process of starting a new business in order to remain competitive in attraction and retention of investment. One common approach to this challenge has been establishment of a one-stop –shop (OSS).

A "One stop Shop" is where an investor deals with a single entity to obtain all the necessary approvals, licenses and permits in a streamlined and coordinated process. Key departments that constitute the OSS are brought together under one roof to provide services to investors. This also enables an investor to access pertinent information on the necessary steps to conveniently start and operate a business.

The Kenya Investment Authority (KenInvest) has requested the assistance of UNIDO to fast track the implementation process. An expert has been identified to provide experience and best practices internationally and advise on the way forward in relation to already existing systems. He will train KenInvest senior staff, hold discussions with key regulators and facilitators, and provide expert advice through training workshops.

The Government established the BRRU in the Ministry of Finance whose mandate as spelt out in the yet to be enacted Business Regulation Bill, is to keep track of all regulatory regimes, review the quality of all new licenses, liaise with regulators to conduct regulatory impact assessments and ensure that new regulations, licenses, fees and charges do not create unnecessary burden on businesses.

Building on the experience, expertise, recommendations, and positive results of the Business Licensing Committee, BRRU has ensured that the Regulatory Reform Strategy is embedded in the Private Sector Development Strategy (PSDS) and the Unit is continuously steering the implementation of the licensing reform including the enactment and operationalization of the Licensing Laws (Repeals and Amendment) Act 2006 which eliminated 110 and simplified 8 licenses. Further, 205 licenses have been eliminated and 371 simplified by the enactment of the Licensing Repeals and Amendment Act 2007. Measures have been undertaken to operationalize the e-Registry to curb creeping re-regulation and thus ensure quality of new regulations and licenses. The implementation of the licensing reforms has had a number of crosscutting effects on other regulatory constraints as measured by the DB Indicators.

As part of compiling this report, the BRRU Secretariat, organized wide-ranging and extensive consultations with government regulatory authorities and private sector representatives to determine the reforms that are underway, those that would have significant impacts on the selected indicators, and those that could be fast tracked in the short term. An integral part of the work was documenting the inputs from stakeholders which form the basis of this report. The consultations were attended by representatives of public and private sector organisations.

2.0 PERFOMANCE IMPROVEMENTS IN SELECTED DB INDICATORS

2.1 Starting a Business

The Rapid Results Initiative (RRI) at the Companies' Registry

RRI continues to be part of the positive outcome of Performance Contracting. The State Law Office, in particular the Companies Registry, is among the Government departments which implemented RRI whose completion resulted in the refurbishment of the Companies Registry, elimination of duplicate registrations, automation, and business process re-engineering with a well defined work flow and job specification which improved efficiency and reduced the time taken to register a business. The Department has now completed the second phase of RRI which entailed the operationalization of a document management system (DMS) that enables electronic name searches and hosts downloadable forms for company registration. The DMS also streamlines business approval systems.

Specifically, the RRI has led to the improvement in the following:

- Faster clearance of business names, as a result of an updated names index and instant name searches;
- reduction in time of issuance of certificates of business registration; and
- Elimination of duplicative approval stages.

Baseline findings for Starting a Business

The baseline data for the DB2009 as regards starting a business in Kenya is as follows:

- Rank: 109 out of 181 economies
- Number of procedures: 12
- Time (days): 30
- Cost (% of GNI per capita): 39.7

Since the DB 2009 publication, **the number of days taken to start a business in Kenya has been reduced from 30days in DB 2009 to 25 days, a saving of 5days.** This has been achieved mainly because of elimination of some steps in the registration process such as typing of certificates. Certificates are now generated automatically from the system. Registration approvals are also now being done on the system without consulting physical files.

Table 2: Procedure improvements in Starting a Business DB indicator for Kenya

Procedure	Quantitative improvement	Source of assertion	Cost to complete	Planned improvements
Procedure No. 5 (file deed and documents with the Registrar of Companies)	Time taken 5 days.	Ministry of Lands, Kenya Revenue Authority and private practitioners. The Companies Registry Service Charter attests to the commitment to register a	Registration fees (Based on the Nominal share capital) Ksh 2200 for the first 100,000 and Ksh 120 for every 20,000 after the first 100,000 subject to a maximum of 60,000. Filing fee for 3 forms is Ksh 600	Effective 16th March 2009, the Companies Registry rolled out a Document Management System for registration of companies. Using this system, the time taken to register a company will be reduced to 5days and it is envisaged that by end of 2009 we will achieve a maximum of 3days. The ultimate goal

Procedure	Quantitative improvement	Source of assertion	Cost to complete	Planned improvements
		company within 5 days.		under this new system is to issue a certificate of incorporation within one day of presentation of documents. This system also eliminates several steps in the registration process. Automatic generation of certificates has also been attained.

2.2 Dealing with Construction Permits

Since the publication of the Doing Business 2009 report, there have been significant improvements in Dealing with Construction Permits. The improvements have been achieved mainly through increased efficiency in the relevant regulatory agencies largely due to the implementation of Government Performance Contracting and associated Rapid Results Initiatives and also due to the deepening business licensing reforms[3].

Deepening Business Licensing Reforms

The Government, in October 2007, in an effort to further reduce the cost of doing business in the country, enacted and operationalized the Licensing Laws (Repeals and Amendment Act) which eliminated an additional 205 licenses and

[3] Note that Out of the 1325 licenses that were in existence in Kenya, 110 were eliminated and 8 simplified in 2006.

simplified another 371. It's also notable that regulatory authorities whose licenses were deferred undertook internal administrative and legal reforms that have so far resulted in consolidation of many licenses, reducing on administrative procedures and thus reducing the cost of compliance for businesses. A case in point is the Communication Commission of Kenya (CCK) that has so far consolidated and streamlined more than 300 licenses into 3 categories, having only 16 licenses.

Measures have also been undertaken to operationalize the e-Registry to curb creeping re-regulation. The Reform Unit is also planning to institutionalize a Regulatory Impact Assessment system within Government Regulatory Authorities to ensure quality of new regulations and licenses. Going forward, the BRRU has started the process of engaging regulators on the possible administrative and legal mechanisms to simplify and eliminate the deferred licenses.

RRI and Administrative Reforms

The City Council of Nairobi has made tremendous improvements in streamlining its administrative operations especially through the Second phase of Rapid Results Initiative, arising from the Results Based Management policy of the Government, which also encompasses Performance Contracting.

The Kenya Power and Lighting Company (KPLC) has also enhanced service provision through performance contracting and changes in administrative procedures, thus improving its operations and service delivery to the public.

Nairobi City Water and Sewerage Company made outstanding administrative improvements, enhancing its efficiency.

All these institutions have clearly captured their targeted reforms and new goals in their service charters and also embedded the same in their performance contracts.

Baseline findings for Dealing with Construction Permits

The baseline data with regard to DB 2009 for Dealing with Construction Permits is as follows:

- Rank: 9 out of 181
- Number of procedures: 10
- Time (days): 100
- Cost (% of the income per capita) 46.3

This indicator continues to perform well, building on previous years' findings, resulting in significant reduction in the number of days to obtain approval permit from the City Council of Nairobi (NCC). Most of these improvements are due to the second phase Rapid Results Initiative at the City Planning Department of the NCC. The number of days in Dealing with Construction Permits in Kenya has therefore been reduced significantly as shown in Table 3. Some of the achievements include:

- Processing of development applications was shortened;
- On going digitalisation of the City Master Plan;
- Institutional bureaucracy is lessened for rapid results;
- Planning policies reviewed to be responsive to socio-economic realities;
- The department is in the process of full utilization of ICT to facilitate prompt service delivery to its customers; and
- Staff motivation for enhanced service delivery and improved efficiency.

Table 3: Procedure improvements in Dealing with Construction Permits DB indicator

Procedure	**Quantitative improvement**	**Source of assertion**	**Justification**	**Planned improvements**
Procedure No. 1 (obtain approval permit from local authority)	Time reduced from 50 days to 14 days, a saving of 36 days	City Council of Nairobi, private sector.	Second phase of the Rapid Results Initiative conducted in February 2008.	Consolidation of the approval processes into a one-stop licensing shop under the Rapid Results Initiative (on going).
Procedure No. 2	Simultaneous	City		N/A

Procedure	**Quantitative improvement**	**Source of assertion**	**Justification**	**Planned improvements**
Seek approval of project plans and architectural drawings from municipal authority	with above procedure	Council of Nairobi, and validated by the private practitioners.		
Procedure No. 4 (Obtain occupancy certificate).	Time taken has reduced from 14 days to 7 days.	City Council of Nairobi, and validated by stakeholders	Second phase of the Rapid Results Initiative conducted in February 2008	N/A
Procedure No. 6 (Pay water and Sewerage installation costs and obtain connection)	Time taken has been reduced from 30days to 22days	Nairobi City Water and Sewerage Company	Administrative efficiency towards improving service delivery; a more enhanced Customer Management System (CMS) that tracks every transaction for every account in real time; availability of meters; enhanced transport	Service charter sets targets at 14 days, which is achievable in the short run period and will be sustained by the improvements in service delivery.

Procedure	Quantitative improvement	Source of assertion	Justification	Planned improvements
			system; etc.	

2.3 Registering Property

In an endeavour to streamline the process of registering properties in Kenya the Ministry of Lands has undertaken the following broader reforms:

1. Service Charter - Implementation of Service Charter which stipulates the timeframes and cost of services offered. This also eliminates bureaucratic processes by reducing the number of steps of carrying our transactions, decentralising services, availing information to the public through the web and creating an effective customer care desk in all offices.

2. Searches - The ministry has created a special desk where personal searches are conducted. A desk officer for receiving other applications for searches has been established.

3. Land rent clearance certificates and consents - Desk officers to issue clearances and consents have been established.

4. Valuation - The ministry has introduced the valuation of properties before transfer documents are booked to facilitate faster stamping and registration of documents. Zonal files have been introduced for use in case the property file is missing.

5. Registration - Documents are registered on first come basis to reduce queue jumping.

6. Payment of fees in banks - The ministry through Kenya Revenue Authority contracted banks to receive payments anywhere in the country. An online link between the banks, KRA and the Ministry is being worked on.

7. Capacity building of Human resource is also being pursued at the Ministry of Lands to improve the service delivery standards. This will help clear up the huge backlog of land disputes.

Baseline findings for Registering Property

The baseline data with regard to DB 2009 for Registering Property is as follows:

- Rank: 119 out of 181
- Number of procedures: 8
- Time (days): 64
- Cost (% of the income per capita) 4.1

Table 4: Procedure improvements in Registering Property DB indicator

Procedure	Time To Complete	Legal Basis	Responsible Ministry/Agency	Reforms (Recommended Or In Process)	Legal Requirement To Simplify/Eliminate
3. Seller's lawyers obtain Municipal Council tax clearance certificate, land rent clearance certificate and consent.	5 days, down from 30days recorded in DB 2009	Registered Land Act (Cap 300) Section 86,86A, Registration of Titles Act (Cap 281) Section 33(3), Government Lands Act (Cap 280) Section 107(3), Land Titles Act (Cap 282 Section 63, Rating Act (Cap 267) Section 21, and City Council of Nairobi by laws.	Ministry of Finance, Ministry of Lands, Kenya Revenue Authority, City Council of Nairobi.	The ministry is working towards transformation of manual land rent and land information system into a digital format.	Amendment of some statutes
4. File transfer document at the Lands Office for assessment of stamp duty payable on the transfer.	1 day down from 8days recorded in DB 2009	Stamp Duty Act (Cap 480) Section 43(1)(a), 117(1)(a), Schedule to the Act, Government Lands Act (Cap 280) Section 117, Land Titles Act (Cap 282) Section 48.	Ministry of Lands, Kenya Revenue Authority, Ministry of Finance.	A review of the current titles registration procedure has been done with a view to streamlining, simplifying and reducing the procedures. Transformation of manual system of land records into a digital	Amendment of some statutes

				format is being worked on.	
5. Payment of stamp duty at commercial bank.	1day down from 7days recorded in DB 2009	Registered Lands Act (Cap 300) Section 111, Government Lands Act (Cap 280) Section 117, Land Titles Act (Cap 282) Section 48, Stamp Duty Act (Cap 480) Section 5.	Ministry of Lands, Ministry of Finance, Kenya Revenue Authority, Banks	An on-line link between ministry of lands, KRA and Banks is being worked on.	Amendment to Stamp Duty Act
6. Inspection by Land Officer	5 days, down from 30days recorded in DB 2009	Government Land policy	Ministry of Lands	A review of the current land administration procedures has been done with a view to streamlining and simplifying them.	None
7. Obtain valuation of the property.	21 days, up from 7days recorded in DB 2009	Developed through practice.	Ministry of Lands.	A review of the current land administration procedures has been done with a view to streamlining and simplifying them	Amendment of stamp Duty Act.
8. Lodge the transfer documents with Lands Office for registration of the Transfer.	5 days down from 6days recorded last year.	Government Lands Act (Cap 280) Section 99, 118, Registered Lands Act (Cap 300) Section 15, Land Titles Act (Cap 282) Section 29, 57,60 (1) 60(2), Registration of Titles Act (Cap 281) Section 27.		A review of the current land registration procedures has been done with a view to streamlining and simplifying them	None

Computerisation of land records has commenced and is at an advanced stage. All paper records are being updated and then computerised.

2.4 Getting Credit

The Indicator has two main components

- Ease of access to information, scope of information distributed and quality of credit information shared, captured in a ***credit information index***
- Protection of creditor and debtor rights in collateral and bankruptcy laws captured by a ***legal rights index***

Credit Information Index

Kenya opted for privately owned and managed ***credit reference bureaus*** (CRBs) licensed and regulated by the CBK as opposed to bureaus owned by a consortium of banks (as in Egypt) or public bureaus operated by the central bank (as in Malaysia, Argentina).

The Banking Act Cap 488 sets out the framework for credit information sharing:

- **Section 31(3)(b)** provides for *mandatory* exchange of negative information on ***non-performing loans*** (default information that licensed institutions shall exchange with CRBs and among themselves
- **Section 31(3)(c)** provides for *voluntary* exchange of positive information on ***performing loans*** (positive and other payment information that licensed institutions may exchange
- **Sections 31(4)** and **31(5)** provides for the establishment and operation of credit reference bureaus for collecting *prescribed credit information* on clients of licensed institutions only (i.e. banks only) and disseminating it amongst licensed institutions for the purposes of credit decisions only.
- **Section 33(4)** grants general powers to the CBK to issue directions to licensed institutions and prescribe standards and guidelines, including prudential guidelines. The CBK can thus use the powers under this section to issue guidelines on credit information sharing on areas not covered under the Banking Act or the *regulations*, for example practical matters like data formats and data transmission standards and other aspects of credit information exchange.
- **Section 55(1)** grants the Minister for Finance broad powers to make regulation under the *Banking Act.* the Minister exercised powers under this section to issue the *Credit Reference Bureau Regulations*

The Banking Act (Credit Reference Bureau) Regulations, 2008 of 11 July 2008 (Legal Notice No.97) sets out the main rules and regulations governing the licensing of private credit registries as well as their operations, ownership, and management structure. The regulations also provide the rules for credit information sharing.

The Banking (Credit Reference Bureau) (Amendment) Regulations, 2009 of 30 January 2009 (Legal Notice No 17) designated 2nd February 2009 as the "***commencement date"*** for the regulations.

The CBK is currently in the process of reviewing applications for licensing private CRBs. The CBK is receiving technical assistance and support from FLSTAP in that process.

The Banking Industry through Kenya Bankers Association (KBA) is in the process of engaging a Project Manager funded by FLSTAP to assist in fast tracking the implementation process.

Going forward with the reform process, the Government will work towards addressing key challenges faced by most countries towards implementing credit information sharing beyond licensing, mainly revolving around the following;

- Increasing coverage to positive data as well as payment data
- Extending the scope of credit information sharing to non banking sectors
- Agreeing on uniform formats, data transmission protocols and frequency of data shared
- Data processing and management at CRBs including world class Business Continuity Management (BCM) and investments in backup Data Recovery sites to ensure robust and resilient data management
- Addressing poor quality data currently held by banks on borrowers compared to the stringent data quality standards and requirements laid down in the CRB regulations. For instance banks may lack some of the historical information on borrowers and defaulters required under CRB regulations
- Capacity of private bureaus to make the investments necessary for the business of credit information sharing to be profitable and sustainable
- The potential "failure" in credit information sharing to actually improve credit outcomes and to deliver tangible benefits in increasing access to credit

by borrowers, lowering cost of credit, reducing costs of processing and granting credit for lenders and lowering non performing loans.

LEGAL RIGHTS INDEX

The ***legal rights index*** reflects Kenya's good legal environment at present.

The Kenya Law Reform Commission (KLRC) has drafted a number of landmark Bills awaiting parliamentary enactment approvals that would significantly improve the legal environment and extend creditor and debtors rights while bringing local laws into line with world-class legislation. The main pending bills cover:

- Banking Amendment Act
- New Companies Bill
- New Insolvency Bill
- Personal Securities Bill

The Way Forward

The main additions needed to capture better outcomes on credit and lending include;

- Credit terms, rates and cost
- Average lending rates and spreads for basic credit products
- Access to credit by number, volumes and quality of basic credit products
- Extend of credit rationing and discrimination that's widespread in emerging markets
- Ratio of private sector credit to GDP
- Credit extended by the SACCO sector that's not captured in DB Indicators
- Credit extended by MFIs
- Credit extended by trade and non-formal actors like shops and traders

Baseline findings (Getting Credit)

The baseline data with regard to DB 2009 for this indicator is as follows:

- Rank: 5 out of 181

- Legal Rights Index 10
- Credit Information Index 4
- Public registry coverage (% of adults) 0.0
- Private bureau coverage (% of adults) 2.1

Table: Procedure improvements in Getting Credit DB indicator (attached)

Other reforms on Getting credit in Kenya

In order to reinforce the ability of the new system to manage both risk and liquidity, a new **National Payments System (NPS) Bill** has been prepared for parliamentary approval and is expected to gain early approval.

The Credit Reference Bureaus were gazetted in July 2008 and officially launched in September 2008. Regulations have been finalised, which provide a plan for a regulated and reliable system of credit information sharing, which gives banks more confidence to lend to smaller businesses. They make it mandatory for financial institutions to report non-performing loans, and provide for the protection of consumers by defining their rights.

CBK has since finalised licensing procedures for interested institutions to apply. The first licence for a Credit Reference Bureau is at its final stage and is expected to be issued by end May 2009.

2.5 Paying taxes

The continued implementation of the Electronic Tax Register (ETR), together with the upgrading of the Simba 2005 System (S2005S), has contributed to increased efficiency in the tax collection system. The Kenya Revenue Authority introduced e-filing, leading to increased efficiency in the collection of VAT. The National Social Security Fund (NSSF) and National Hospital Insurance Fund (NHIF) are now fully automated, thereby facilitating electronic filing of returns. In addition, the two (2) payments documented on account of Turn over tax are not applicable to TaxpayerCo in Kenya. This is because; the company's turnover per annum-as per the DB assumptions- is way above the required threshold to fall into the Turn over Tax (ToT) category[4]. This means that the number of payments made by TaxpayerCo drops from the reported 41 in DB 2008 to 39 per annum- a saving of 2 payments.

Baseline findings (Paying Taxes)

The baseline data with regard to DB 2009 for this indicator is as follows:

- Rank: 158 out of 181
- Number of payments: 41
- Time (hours per year): 417
- Profit Tax (%): 32.5
- Labour tax and contributions (%): 6.8
- Other taxes (%): 11.6
- Total tax rate (% of profit): 50.9

The number of hours taken in paying taxes in Kenya has been reduced from 432 hours per year to 224 hours, as shown in Table 5 below:

Table 5: Procedure improvements in Paying Taxes DB indicator for Kenya

Procedure	Quantitative improvement	Source of assertion	Justification	Planned improvements
Procedure No. 1 (Paying Value Added Tax)	Time reduced from 300 hours to 192 hours. This was also validated by expert opinion from practitioners(see explanation below)	KRA and Private sector practitioners	Continued implementation of ETR has greatly reduced the time to prepare and file tax returns; payments can now be done either from one's bank. E-filing is now available in the Domestic Tax Department. Simba system has also been	Full implementation of an Integrated Tax Management System (ITMS) to improve tax administration efficiency and thus reduce on number of hours to pay VAT

[4] Note that the threshold for ToT in Kenya is Kshs. 5m, much lower than TaxpayerCo turnover in Kenya estimated at about Kshs. 47m. That is 1,050 times the country's income per as at 2006).

Procedure	**Quantitative improvement**	**Source of assertion**	**Justification**	**Planned improvements**
			fully implemented.	
Procedure No. 6 (making National Social Security Fund deductions)	Time reduced from 72 hours to 12 hours per year	NSSF, Private Sector	Automation of NSSF's social security accounting system	Consolidation of company registration processing for NSSF, NHIF and the Company Registry
Procedure 3. Paying corporate income tax	Time reduced from 60hours to 20hours	KRA, Private sector	EFT is available for payment purposes and reduces the delays incurred. ITMS and CCRS also improve efficiencies at the KRA.	Making KRA fully automated and processes online will ensure all filing and payments are done online (instant).
Procedure No. 9 (Paying Standards Levy tax (Turn Over Tax)	The Standards Levy is imposed by Kenya Bureau of Standards (KEBS) and is charged at 0.2% of the value. This is also different from the Turn over Tax. Turn over tax, as captured in DB 2009 is not applicable to TaxpayerCo in Kenya. This is because; the company's turnover per annum-as per the DB assumptions- is above the required threshold to fall into the turn over tax (ToT) category.			

This means that the number of payments drops from 41 to 39 per annum.

Notes explaining Table 5

The Government and private practitioners agree that there have been improvements since the DB 2009 findings of 300 hours for VAT preparation, filing and payment. The following breakdown represents a consensus on time taken to prepare, file and make payments for VAT:

- Input tax and output tax (ETR generated): 4.5x12 = 54 hours p.a.

- Additional analysis of accounting information to highlight tax sensitive items: 1x12 = 12 hours p.a.
- Actual calculation of tax liability including data inputting into software, spreadsheets, or hard copy records: 3x12 = 36 hours p.a.
- Preparation and maintenance of mandatory tax records: 3x12 = 36 hours p.a.
- Completion of the tax return forms VAT 3, VAT3A and VAT3B: 1x12 = 12 hours p.a.
- Filing of VAT (filling necessary documents): 1×12 = 12 hours p.a.
- Paying of VAT:

    i. Calculation of tax payments required, including if necessary extraction of data from accounting records and time spent maintaining, updating accounting systems for changes in tax rates and rules: 2x12 = 24 hours p.a.
    ii. Time to make the necessary tax payments either online at the tax authority website or physically at the tax authority office (at the Bank): 0.5x12 = 6 hours p.a.

- Total time: 192 hours per annum.

The DB assumption for the TaxpayerCo is that it must have a turnover of 1,050 times income capita of the year 2006. This is estimated to be about Kshs. 47 million, far much above the ToT threshold of less than Kshs. 5 million.

2.6 Trading Across Borders

There have been initiatives since DB 2008 at the port of Mombasa, our international airports and border ports including administrative reforms to make procedures and processes more efficient for importers and exporters involved in international trade and trade across borders. A case in point is the National Single Window Community Based Project currently under implementation by the GoK.

The National Single Window System provides an electronic platform for submission and receipt of trade related documentation. The platform enables exchange and automated processing of electronic trade/cargo clearance documents documentation. It provides a facility for parties involved in trade and transport to lodge standardized information and documents with **a single entry point** or portal to fulfil all import, export and transit-related regulatory requirements. Since information lodged is electronic, the individual data elements are submitted only once and shared by the various stakeholders.

The System relies on the use of Information and Communication Technology (ICT) to simplify the sharing and processing of documents amongst the broad set of stakeholders involved in international trade. In this regard it will electronically integrate the processes of all stakeholder groups including the government regulatory agencies involved in the external trade process chain to enable electronic clearance of trade transaction documentation. These include Kenya Revenue Authority, Kenya Bureau of Standards, KEPHIS, Kenya Ports Authority and Public Health Department.

It will serve as a computerised platform that facilitates the exchange and dissemination of information to stakeholders in a structured and flexible manner and will provide an electronic interface between the trade and the computer systems of the various Government regulatory agencies. In addition, access to information on cargo status and movement of goods enables stakeholders in the logistics process chain to streamline operations and optimize use of resources towards efficient logistics.

Establishing a **Single Window** CBS will bring about greater harmonization and better sharing of the relevant data across Governmental Departments/systems and result in improved efficiency, transparency and effectiveness of official controls, enhance revenue collection and reduce costs of doing business in Kenya for the business community. **The introduction of this system will result in a reduction in import cargo delays both at the port of Mombasa and JKIA.**

The System will be linked to single window systems being developed in Uganda, Rwanda and Tanzania to enable exchange of data and cargo tracking information and thus improve cargo transit times and cross border trade along the Northern Corridor and in the region.

Currently, KRA is undertaking a Business Process Improvement Project at the port of Mombasa which seeks to automate all KRA cargo clearance processes.

The second phase of the project will be at other ports like Malaba and Jomo Kenyatta International Airport. These improvements were as a result of the customs reform and modernization program at the KRA whose objective was to modernize its Customs Department, with simple procedures including post clearance verification and risk analysis and the Economic Operators Scheme to fast track cargo clearance. The program has resulted in reduced cargo clearance times, standardized procedure application and improved compliance levels hence reducing compliance costs.

Specifically, the achievements in the program include:

- Elimination of paper based transactions by adopting electronic processing of customs and related documents. This has reduced the long and tedious processes experienced when documentations were done manually, hence reducing on the time. The Simba System 2005 has also been fully implemented;
- Centralization of document processing;
- Enhanced use of X-ray scanners and electronic tracking systems based on assessment of risk;
- Customs border control services in line with international standards;
- Introduction of electronic cargo tracking system; and
- System interconnectivity between Kenya Revenue Authority (KRA), Uganda Revenue Authority (URA), and Rwanda Revenue Authority (RRA) to enable data exchange in order to facilitate cross border trade in the region. Tanzania Revenue Authority is in the process of creating an interface to exchange revenue data.

Baseline Findings for DB 2009

The baseline data with regard to DB 2009 for this indicator is as follows:
Rank: 148 out of 181

	Export	**Import**
Time(days)	29	26
Procedures	4	4
Documents	9	8
Cost (USD$ per container)	2055	2190

The continued implementation and upgrading of the Simba 2005 System (S2005S), has contributed to increased efficiency in customs department hence improved procedures of import and export. There have also been initiatives at the port of Mombasa including administrative reforms to make procedures and processes more efficient for importers and exporters.

Under the Revenue Administration Reform and Modernisation programme (RARMP), commenced in April 2005 and ends in June 2009, which involved structural and organizational changes, procedure and processes reviews in KRA, great improvement has been recorded.

Through this programme that saw replacement of paper based customs administration with an electronic data interface system; import and export processes have been made more efficient. Though DB 2009 captured reduction in time taken for import as advised by GoK, it failed to capture improvement in the time taken for export. To emphasize, this improvement results from improved processes including: selective post clearance verification and risk analysis; Economic Operators Scheme for importers, exporters, transporters and clearing agents whose cargo are green channelled and allowed direct release; Employees reward scheme based on performance on cargo clearance at border points; and reduction in number of inspection points to two.

Therefore, time to export should take 16 days down from 29 days and time to import 19 days down from 26. This is explained by improvement mentioned above and also enhancement of processes going on since DB 2009 including:

- Enhanced use of X-ray scanners;
- Customs border control services in line with international standards;
- Systems interface; RADDEX connectivity to URA and RRA to enable data exchange in order to facilitate cross border trade in the region;
- Valuation database; this gives 10% deviation allowance from the database hence verification made easier and in turn clearance is not delayed;
- Single entry documentation (SED) for both import and export online;
- OSBP (one stop border post) with RTMS and CSS implemented;
- VMS and S2005S have been integrated; and

- Single window for import and export; ORBUS module of S2005S is active and provides EDI functions. It's being enhanced and has been interfaced with KWATOS.

Electronic Cargo Tracking Systems are being used to monitor transit cargo online. The system has: (i) real time-use for wet and sensitive products like petroleum whereby cargo is tracked all along its journey. (ii) Relevant time - cargo is tracked at different stations. This has enhanced security, inland transportation and handling of cargo hence the cut in cost of import or export.

Recently, KRA issued a directive waiving overtime fee at border points in the country as a move to promote 24 hour system within the region and reduce congestion of transit trucks. Hence, this reduces cost and time for inland transportation for exports and imports.

Explanation for reduction in time

Goods exported from Kenya have no revenue risk thus profiled low risk and also by DB assumptions about the traded good, export clearance takes minutes and at most 2 days. Documents for export or import clearance are prepared and lodged online through Simba System by completing a screen page and takes less than 2days to be cleared depending on the risk profile of the importer/exporter or the goods. There is also Centralization and consolidation of document approval procedures which enhance speed and efficiency of passing/clearing entries. Depending on the channel release point, it takes a maximum of 2 days to clear import cargo. Moreover, KRA works 24 hours at all exit/entry ports. Therefore, time to complete documents preparation and customs clearance procedures for export reduce significantly to a maximum of 3days each down from 13 days and 6 days respectively. Similarly, documents preparation and customs clearance procedures for imports reduce from 18 to 3 days and from 5days to 2 days respectively as explained by above processes.

Reduction in Number of Documents

Kenya is a liberal market; hence, there is no requirement for foreign exchange authorization as a document for both import and export. Moreover, procedures for exporting goods range from packing goods to their departure at the port of exit, thus documents like Bill of Lading, Commercial Invoice, Certificate of Origin are not a requirement for export. This reduces number of documents for export from 9 to 5. Similarly, documents for import reduce from 8 to 6. (See table)

Table 6. Procedure improvements in Trading across Borders DB indicator

Procedure	Quantitative improvement	Source of assertion	Justification
	EXPORT		
Documents preparation	Time reduces from 13 to 3 days maximum.	KRA	Documents are prepared and lodged online through Simba System. There is also Centralization and consolidation of document approval procedures. It takes few hours/minutes to complete on screen page.
Inland cargo transportation and handling	4 days	KRA	reduced number of inspection points to two and also introduction of an electronic cargo tracking system to monitor inland transit cargo.
Custom clearance and technical control	Time reduces from 6 to 3 days maximum	KRA,	Exporters are able to lodge their claims online; selective post clearance verification and risk analysis thus reducing delays in cargo clearance; use of a cargo scanner; Introduction of Economic Operators Scheme
	IMPORT		
Documents preparation	Time reduces from 18 days to 3 days maximum		Documents are prepared and lodged online through Simba System. Single Entry Documentation (SED) online. A

Procedure	**Quantitative improvement**	**Source of assertion**	**Justification**
			C63 form (screen page) is completed and lodged online.
Custom clearance and technical control	Time reduces from 5 days to 2 days		DPC passes all entries in maximum of 4 hours; depending on the channel release points it takes less that 2 days to clear cargo. KRA operates 24hours at all exit/entry ports.
Ports and terminal clearance	Time reduces from 5 to 3 days	KPA	The introduction of the Kilindini Waterfront Operations (KWATOS) computerised system has eliminated manual documentation in cargo clearance/delivery and receipt in the port. Application for import cargo evacuation and export cargo delivery in the port is done on-line through the system. KPA operates 24/7 at the port. Efforts to fully integrate the KRA Simba System with KWATOS are under way.
Inland transportation and handling		KRA	Electronic Cargo Tracking System and reduction of inspection points

NB: Time to export reduces from 29 to 16 and time to import reduces from 26 to 19

Documents Required

Export	Import
Customs Export declaration	Bill of lading
Inspection report	Certificate of origin
Packing list	Packaging list
Cargo release order	Customs import declaration
Terminal handling receipts	Inspection report
	Terminal handling receipt

NB: export documents reduce from 9 to 5 and import documents reduce from 8 to 6.