

**MINISTRY OF TRADE AND INDUSTRY
REPUBLIC OF KENYA**

**INVESTMENT CLIMATE ACTION PLAN
2005 - 2007**

I. PREAMBLE

The private sector is Kenya's hope for creating employment and wealth, arresting the spread of poverty, and putting Kenya on a firm development path. In the National Economic Recovery Strategy, President Kibaki has called for a national effort to create an enabling business environment that would encourage domestic and foreign private investment, "because without investment the desired growth will not take place and without growth there will be no new employment opportunities."¹

For this reason, the Government of Kenya is determined to make every effort, in cooperation with the private sector and development partners, to create an enabling environment for investment and ensure that the private sector rises to the challenge of pulling the rest of the Kenyan economy.

II. GOVERNMENT'S COMMITMENT TO PRIVATE SECTOR DEVELOPMENT

The Government has begun a number of initiatives aimed at supporting the private sector , including:

1. The Private Sector Development Strategy (PSDS) to provide the general direction and a medium- to long-term road map for the Government of Kenya to support private sector development;
2. The Investment Climate Action Plan (ICAP) to coordinate and address the reform efforts by various ministries and public agencies with a view to producing immediate benefits to private enterprises;
3. The National Export Strategy Implementation Action Plan;

¹"Kenya: Economic Recovery Strategy for Wealth and Employment Creation, 2003–2007." Government of Kenya, June 2003, Foreword by President Mwai Kibaki, p. xi.

4. Regulatory (Licensing) Reforms for Business Activity; and
5. Trade Policy Strategy.

The Ministry of Trade and Industry is charged with coordinating these initiatives.

III. THE INVESTMENT CLIMATE ACTION PLAN (ICAP)

This document presents the Investment Climate Action Plan (ICAP) as an essential part of the Government initiative to support the private sector development. It focuses on quick wins or activities that are obvious targets of reform about which there is general agreement, and that will bear ripe fruit for harvest over the relatively short term. Many of the actions included in the ICAP are the initial steps of a much larger process to address the problems confronting the private sector. In this sense, the ICAP complements the Private Sector Development Strategy (PSDS) which is concurrently being developed by the Government and will be finalised by end of June 2005.

Institutional framework for preparing the ICAP

The ICAP attached hereto is the culmination of intensive consultations among stakeholders which were organised by a Technical Committee, established in 2005 by the Government of Kenya to guide the Private Sector Development process, including the PSD Strategy. The Technical Committee is chaired by the Permanent Secretary, Ministry of Trade and Industry (MoTI) and composed of public and private sector representatives and experts, and development partners. It is supported by a Secretariat housed in the MoTI. It reports to a Committee of Permanent Secretaries.

The Technical Committee and its Secretariat have interacted intensively with the Principal Input Providers (PIPs) which are the various ministries and public agencies responsible for the prioritised areas of concern. This network of communication has led to agreement on focused areas of reform actions that are included in the ICAP. The same network is also critical to generating consensus on the PSDS.

Prioritised areas of concern for the private sector

To ensure expedited reforms for quick results, the ICAP focuses on a number of priority areas. The issues and recommendations in the priority areas have been consistently recognised by previous studies, evaluations of Kenya's private sector, and, in many cases, government-initiated reform programmes. These areas have been organised into the following "clusters" in the ICAP:

1. Controlling rampant and escalating insecurity
2. Addressing the poor state of roads
3. Fast-tracking construction approvals
4. Removing inefficient, unnecessary, unfriendly and cumbersome licensing
5. Improving business registration
6. Improving land administration
7. Improving power hook-ups
8. Updating the Company Law
9. Improving customs and tax administration

Prioritised reform actions in each area

In each of the cluster areas, further efforts have been made to select and prioritise actions based on the following principles:

1. Activities that genuinely address the problems/concerns of the private sector;
2. Activities that are likely to have maximum impact for minimum cost;
3. Activities that are realistic/implementable;
4. Activities that can show relatively quick results in the next 12-24 months; and
5. Activities that are firmly committed by responsible government agencies.

Format of the ICAP

The format of the ICAP is designed primarily to specify *who* is going to do *what* by *when*, in order to allow the private sector and the Government alike to keep track of the overall reform process. The format also indicates the expected outputs and outcomes required for monitoring and evaluation at the implementation stage. Further, for purposes of government planning and donor support, the ICAP includes estimated budgetary cost with indicated sources of funding, where applicable.

IV. IMPLEMENTATION, MONITORING AND EVALUATION

The ultimate goal of the ICAP is to create tangible benefits for the private sector through assured implementation. As such, there will be a rigorous reporting, monitoring and evaluation system to be executed through a formalized institutional structure to ensure the progress and results of the ICAP. The process of preparing the ICAP has proven to be a successful exercise in fostering networks of contacts and institutional support among public and private sector stakeholders for the reforms. The lessons learned on methodology will be applied to future implementation, monitoring and evaluation.

The future implementation, monitoring and evaluation system will be based on the following foundations:

1. Ongoing high-level political support
2. An institutionalised public-private sector advisory body
3. Continued inter-ministerial coordination with a specific mandate to monitor reform implementation
4. A designated secretariat with technical competence to support the monitoring and evaluation process

The ICAP was submitted for inclusion in the 2005/2006 Budget Process and in future budget processes.

All responsible authorities that have committed to the reform actions included in the ICAP will be required to report their progress to the coordinating committee on a quarterly basis. The Committee, with the support of its Secretariat, will be responsible for monitoring, troubleshooting and overseeing the process throughout the implementation of the ICAP.

After the first 12 months the Government, in consultation with stakeholders, may review the overall achievements of the ICAP, and decide on necessary adjustments to the ICAP to reflect solutions implemented, new problems identified and new solutions needed.

Issue/ Problem	Actions to address the issue/proble m (Short term and medium term)	Specific activities	Responsible authority (including title)	Implementation Timeframe		Resource implications (KSH)			Output indicators (governme nt activity)	Outcome indicators (impact on business)
				FY05/06	FY06/07	Already committed (including source and status)	Needed from budget	Needed from other sources		

CLUSTER 1: CONTROLLING RAMPANT AND ESCALATING INSECURITY

1. Police visibility and responsive ness inadequat e	Increase foot patrol especially at night and in crime prone areas	Identify Crime prone areas	Commissioner of Police	July 2005	June 2007	5,000,000			More foot patrols.	Increased sense of security.
2. Increasing levels of sophisticat ed crime.	Improve police skills through retraining programmes	Design training programs	Commissioner of Police	On-going	June 2007	46,000,000	50,000,000		Half the police force (18,000) retrained	Increased sense of security.
3. Surveillan ce inadequat e in crime prone areas/area s susceptibl e to crime	Provide regular surveillance (human and equipment) in trouble spots.	Identify trouble spots	Commissioner of Police	June 2005	June 2007	15,000,000			Trouble spots documented	Increased sense of security.
		Design Surveillan ce methods for different spots		June 2005	June 2007				Surveillance methods agreed upon.	
		Prepare a surveillan ce programm e		December 2005	June 2007				Surveillance programme prepared Prepared	

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		Prepare a surveillance programme								
		Roll out the surveillance activities			June 2005				Surveillance activities rolled out	
4. Highway crime spiraling and happening in remote areas	Strengthen response to highway crime by procuring motor bikes and vehicles for highway patrols	Setting up information centers, Increasing motorbike patrols	Commissioner of Police	June 2005	June 2006	30,000,000			Stronger response to highway crime.	Increased sense of security.
5. Uncoordinated crime prevention efforts by police, local authorities	Establish a regulatory framework to improve coordination.	Provide personnel, vehicles and equipment Establish Crime gathering centers	Commissioner of Police PS/National Security.(OP) PS/Ministry of Justice & Const. Affairs.	June 2005	June 2007				Effective and co-ordinated response to crime	Incidences of crime reduced

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, security service providers and communit ies		Develop guidelines on how private security agencies and municipali ties can participate in law enforceme nt Draft Cabinet Memoran dum on how to incorporat e private security agencies in law enforceme nt							Guidelines for coordinated war against crime developed	

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	Develop guidelines to prevent crime by involving municipalities and private security firms	Establish a Coordinati on Committe e Against Crime (CCAC) Evaluate legal provisions for such cooperatio n Amend or create appropriat e legislation		June 2005	June 2007				Coordination Committee Against Crime (CCAC) established	
6. No frame- work for communit y policing exists in Kenya	Establish a framework for community Policing in order to encourage community participation in crime prevention.	Initiate a draft policy Reconstitu te the National Police Reform Committe e	Commissioner of Police- Kenya Police Service PS/ National Security (OP)	June 2005	June 2007		2,000,000.		National Police Reform Committee (NPRC) reconstituted	Reduce the cost of doing business by reducing security costs.

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		Prepare a working paper on Policing Policy	PS/ National Security (OP) NPRC		June 2006				Working paper on Policing Policy prepared and finalised	
		Finalise the National Policing Policy	PS/ National Security (OP) NPRC		September 2006				National Policing Policy finalized	
		Establish a Service Charter on policing	PS/ National Security (OP) NPRC		December 2006				Service Charter developed	

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CLUSTER 2: ADDRESSING THE POOR STATE OF ROADS

1. No mechanis m for pooling private investmen t on urban roads, particularl y in industrial areas (existing Investmen t Charter is for major roads only)	Develop an investment charter on roads in order to improve access to and within industrial areas	Establish a Working Group (WG)	Kenya Roads Board (KRB) Ministry of Local Government (MLG) Nairobi City Council (NCC) Ministry of Roads & Public Works Ministry of Transport	June 2005	June 2007				Working Group Established	Private sector participatio n in road maintenanc e
		Develop TOR and identify consultant s (an engineer and a legal person)	WG	September 2005	June 2007				TOR developed and Consultants identified	

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		Produce draft investmen t charter	WG	December 2005	June 2007		1,500,000		Draft Investment Charter produced	Create opportunity for investment
		Hold a stakeholde r workshop to validate the charter	WG	January 2006	July 2007		150,000		Proposals from stakeholders for revisions to draft charter	
		Finalize Charter	KRB, WG	February 2006	July 2007		50,000		Final Draft Charter prepared	
		Identify a pilot road	KRB, WG	March 2006					Pilot road identified	
		Completi on of pilot road and evaluate performan ce of investmen t charter	KRB, WG		March 2007				Construction of Pilot Road completed and an assessment prepared	

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				FY05/06	FY06/07	Already committed (including source and status)	Needed from budget	Needed from other sources		
		Revision of Charter	KRB, WG		June 2007				Revised Investment charter ready clearly outlining role of private sector and mechanism	

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CLUSTER 3: FAST TRACKING DEVELOPMENT (CONSTRUCTION) APPROVALS

1. Long and Cumberso me procedure s for approval of constructi on of buildings	Prepare and implement a Local Authority Development Approval Manual to simplify and standardize procedures.	Establish a board based Building Bylaws Review Board (BBRB). Membersh ip to be drawn from MoLG Departme nt of Physical Planning, NCBDA, NCC, Kenya Institute of Planners, NEMA, and Kenya Private Sector Alliance (KEPSA)	MOLG	June 2005					Building Bylaws Review Board established	Reduce time for approvals and increase time taken for construction Businesses will become more efficient.
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		Collect, collate and review existing building and planning bylaws or standards in selected Local Authorities (LA)	BBRB	September 2005					Existing building and planning bylaws reviewed and proposals prepared.	
		Prepare new LA Development Approval Manual	MoLG, BBRB	January 2006	April 2006				Draft LADAM prepared.	
		Hold 7 regional and 1 national dissemination workshop	MoLG, BBRB	April 2006	June 2006				Dissemination workshops held, proposals for revisions to LADAM	

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		Revise and submit new LADAM to the Minister for Local Government	September 2006	December 2006					Revised LADAM submitted to Local Government Minister for approval
		(dissemination and implementation)							LADAM approved by Minister

CLUSTER 4: REMOVING INEFFICIENT, UNNECESSARY, UNFRIENDLY AND CUMBERSOME LICENSING

1. Licences are inefficient, costly, business unfriendly and some are unnecessary	Rationalize all licences to reduce the cost of doing business	86 licences already reviewed, through the guillotine procedure in Phase 1	Working committee on Regulatory Reforms	March 2005	April 2005	3,700,000			Report on recommending specific actions on 86 licences finalized.	Reduce cost of doing business, less time to apply for licences and reduce number of staff needed for this process.
		Stakeholder Workshops to build consensus already held	Working committee, Ministry of Trade and Industry	April 19 2005	April 19 th 2005	200,000			Consensus built on 86 licences	

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				FY05/06	FY06/07	Already committed (including source and status)	Needed from budget	Needed from other sources		
		Recommendations on 86 licences forwarded to Ministry of Finance (MoF) for consideration in budget speech Put in place mechanism for implementing recommendations on 86 licences	Ministry of Trade and Industry Ministry of Finance	April 2005	June 2005				Recommendations on 86 licences: 20 licences to abolish; 32 licences to simplify; and 34 licences to retain pending further review. Legal drafts for the said amendments prepared	
	Continue with Phase 2 of rationalizing remaining licences	Review approximately 514 licences through the guillotine process	Working Committee	May 2005	June 2006		4,500,000		200-300 licences guillotined.	

Issue/ Problem	Actions to address the issue/proble m (Short term and medium term)	Specific activities	Responsible authority (including title)	Implementation Timeframe		Resource implications (KSH)			Output indicators (governme nt activity)	Outcome indicators (impact on business)
				FY05/06	FY06/07	Already committed (including source and status)	Needed from budget	Needed from other sources		
2. Lack of objective informatio n on the objectives, structure and impact of the Single Business Permit (SBP)	Undertake an independent study on the impact of the SBP on businesses	Study to be based on random sample of large, medium and small businesses from a random sample of county, town and municipal councils from throughout Kenya	Independent research team contracted under the Ministry of Local Government (MoLG)	November 2005	March 2006			3,000,000	Objective study results to be used to identify further reforms needed to improve the SBP policy and administratio n	Better informed policy discussions and developmen t of policy and administrati ve reforms to enable LA(s) to undertake its planning and regulatory functions more efficiently within a pro-business environment

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				FY05/06	FY06/07	Already committed (including source and status)	Needed from budget	Needed from other sources		
3. Need for improved administra tion to improve understan ding and implemen tation of the SBP	Review administrative procedures	Procedural review on key administrati ve issues, issuance of revised procedures, and disseminatio n	MoLG/ Kenya Local Government Reform Program (KLGRP)	April 2006				4,500,000	Improved administrativ e procedures issued by MLG, disseminatio n programs to Local Authorities (LA(s)) and business community	Improved administrati ve procedures and better understandi ng by LA(s) and business community
4. Inadequat e use of SBP related data for improved planning and regulatory action within LA(s)	Undertake a review of LA(s) to identify an action plan to improve use of business related information for more effective planning and regulatory activities within a pro- business environment	Study to be based on stratified random sample of LA(s) to identify the SBP information management structure, use of the information within the LA, etc.	MoLG/ KLGRP	September 2005	November 2005			2,000,000	Improved planning and regulatory systems in pilot LA(s)	More responsive and effective planning and regulatory pro

Issue/ Problem	Actions to address the issue/proble m (Short term and medium term)	Specific activities	Responsible authority (including title)	Implementation Timeframe		Resource implications (KSH)			Output indicators (governme nt activity)	Outcome indicators (impact on business)
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	Implement Action Plan to improve LA planning and regulatory environment on pilot basis	To be determined from study results	MoLG/ KLGRP	September 2006	March 2007			1,000,000	Improved planning and regulatory systems in pilot LA(s)	More responsive and effective planning and regulatory pro
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CLUSTER 5: IMPROVING BUSINESS REGISTRATION

1. Delays in business registratio n due to obsolete computer equipment s and irresponsi ble administra tive procedures	Replace all obsolete computer equipment	Purchase of computers and soft ware	Registrar General/ Registrar of Companies	September 2005	December 2005	6,200,000	4,000,000		Letters to Ministries and Public bodies written	Reduction in time taken to register a company
	Review existing administrative procedures	Commission a study on administrati ve procedures		September 2005	December 2005	Nil	1,500,000		Admin Procedures streamlined & replaced with better sequenced & simplified processes	Increases in users satisfied with service delivery

Issue/ Problem	Actions to address the issue/proble m (Short term and medium term)	Specific activities	Responsible authority (including title)	Implementation Timeframe		Resource implications (KSH)			Output indicators (governme nt activity)	Outcome indicators (impact on business)
				FY05/06	FY06/07	Already committed (including source and status)	Needed from budget	Needed from other sources		
2. Inaccurate records due to un- field document s	Filing of all statutory documents into respective paper files and updating records of registered businesses		Registrar General/ Registrar of Companies	September 2005	June 2006	1,400,000	3,000,000		Number of records updated	More accurate information about registered businesses and enhanced public confidence
3. Lack of adequate space to cope with growing number of registratio n	Archiving closed paper files to create more space.		Registrar General/ Registrar of Companies	September 2005	December 2005	NIL	3,000,000		Volume of space created for newly registered companies processes	Improved space utilization and file management
	Redesigning the available space for optimal use.	September 2005		December 2005	500,000	3,000,000				
4. Insufficie nt informati on to public and inefficient customer	Printing of brochure and distributing it to the public		Registrar General/ Registrar of Companies	May 2005	July 2005	1,200,000	1,000 000		Brochure printed and distributed	Increase in more informed customers

Issue/ Problem	Actions to address the issue/proble m (Short term and medium term)	Specific activities	Responsible authority (including title)	Implementation Timeframe		Resource implications (KSH)			Output indicators (governme nt activity)	Outcome indicators (impact on business)
				FY05/06	FY06/07	Already committed (including source and status)	Needed from budget	Needed from other sources		

care	Training of staff on customer care			July 2005	May 2006	NIL	2,000 000		Number of officers trained.	Improved customer care
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CLUSTER 6: IMPROVING LAND ADMINISTRATION

1. Cumber- some and complex land registratio n processes and procedure s	Conduct review of the current titles registration procedures with a view to streamlining and simplify the procedures.	Develop TOR for review committee s	PS/Ministry of Lands, Settlement and housing (MOLH)	July 2005	July 2006				Committee on Review of Processes and Procedures (CRPP) established	Reduce Opportuniti es for graft
		Conduct review to identify the areas for simplificat ion	Commissioner of Lands (CoL)	August 2005 – October 2005				Working paper on processes and procedures produced		
	Prepare and disseminate user guidelines with information flow charts.	Present the proposal for procedural simplificat ion at a stakeholde rs workshop	CoL	November 2005			250,000	Working paper finalised		

Issue/ Problem	Actions to address the issue/proble m (Short term and medium term)	Specific activities	Responsible authority (including title)	Implementation Timeframe		Resource implications (KSH)			Output indicators (governme nt activity)	Outcome indicators (impact on business)
				FY05/06	FY06/07	Already committed (including source and status)	Needed from budget	Needed from other sources		
		Finalize, print and distribute manual for simplified procedure s. Announce the new procedure through public media.	Commissioner of Lands	November 2005		100,000			Manual for procedures and processes finalized and distributed to users. New procedure announced to the public	
2. Poor paper record keeping and lack of security	Restore and improve paper record keeping systems	Conduct needs assessment of land records Subject to findings of the assessment, develop and carry out computeri zation programm e	PS/MoLH	August 2005 To be specified	October 2005				Data capture teams trained and in place Torn cards repaired Land records updated	Proper land records kept Increase efficiency and reduce risk to investment

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				FY05/06	FY06/07	Already committed (including source and status)	Needed from budget	Needed from other sources		
		Train staff on data capture		To be specified						
		Scan the cards								
		Procure fireproof binders		2005/2006			50,000,000		Fireproof binders provided to 10 offices in major towns.	
		Procure shelves and cabinets		2005/2006		2,000.000			10 offices in major towns provided with shelves and cabinets	
3. Lack of sufficient skills and poor mindset of staff	Train staff on both skills and mindset	Establish results based motivatio n and improve working environme nt	PS/MoLH	2005/2006			2,000,000	Staff motivated Working environment improved	Efficient service delivery to the public Better efficiency and reduction of turn around	

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		Prepare and carry out tailor- made courses for staff at Kenya Institute of Administ ration (KIA)		2005/2006				300,000	Tailor-made courses prepared and staff trained	time
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CLUSTER 7: IMPROVING POWER HOOK-UPS

1. Power hook-ups are costly	Standardize connection costs within given radius	Develop procedure s and standards on connectio n costs	Managing Director/ Kenya Power and Lighting Company Limited (KPLC)	June 2005		700,000 revolving fund		Connections cost standardized	Group applications frequent
	Encourage group applications			June 2005					
	Spread payments of connection costs over time			June 2005			Connection costs spread out		

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2. Power hook-ups are protracted	Timely acquisition of material by KPLC in order to have materials available for hook-ups	Identify materials needed for hook-ups		June 2005					Material acquired on timely bases	Efficient service delivery
	Outsourcing of service line construction Improve supervision Staff appraisal based on performance contract								Supervision improved Staff appraised on performance contracts	

CLUSTER 8: UPDATING COMPANY LAW

1. Outdated Company Law	Review existing legislation on incorporation of companies, their operation, management, winding up, insolvency and bankruptcy	Review already done	Chairman Kenya Law Reform Commission (KLRC)						Existing legislation reviewed	More simple realistic modern and effective company law.
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2. Complex, tedious and expensive applicatio n of current law's provisions on incorporat ion, managem ent, winding up insolvenz y and bankruptc y	Prepare Companies' draft bill to address these problems	Draft Company Bill.	Chairman/ KLRC	July 2005		6,000,000			Draft Bill prepared	Laws and provisions simplified
		Hold a stakeholde rs workshop to discuss draft bill	Chairman/ KLRC	September 2005		250,000			Stakeholders ' workshop on draft bill held	Consensus building
		Finalise draft bill and produce copies	Chairman/ KLRC PS/Ministry of Justice & Const. Affairs	November 2005		150,000			Draft bill finalised	
		Forward bill to Attorney General	Attorney General	December 2005	March 2006				Draft bill forwarded to AG Draft Bill presented to Parliament	

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CLUSTER 9: CUSTOMS AND TAX ADMINISTRATION

1. Slow and excessive customs clearance procedure s/obsolete customs IT system that causes unnecessa ry delays	Train Staff and stakeholders on the new customs system	Design training modules and identify staff	Commissioner of Customs & Excise (KRA)	June 2005	June 2006		30,000,000	600 staff trained and 1000 stakeholders trained	Simplified customs clearance procedures
	Implement new customs procedures on pilot basis in Nairobi			June 2005	June 2007		11,000,000		
	Roll out the procedures to major customs stations			June 2005	June 2007				
2. Little coordinati on among numerous agencies at border posts which slows clearance and raises costs	Set up a one stop-office to centralize all functions of various agencies.	Set up office in Mombasa	Commissioner General (KRA)	June 2005	December 2005		3,000,000		Less time spent at border posts

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				FY05/06	FY06/07	Already committed (including source and status)	Needed from budget	Needed from other sources		
3. Uncertaint ies of valuation with the expiry of the PSI contract in June 2005	Train officers on IDF processing and issuance	Design training modules and identify officer for training	KRA	June 2005	July 2005		1,000,000		An efficient valuation system put in place	
	Develop and implement valuation system and database			May 2005	July 2005		1,000,00			
	Roll out implementatio n of post importation verification procedures to all customs stations			April 2005	April 2006		1,000,000			
4. Need to provide a corruption -free tax administra tion especially where tax officers have a	Train integrity assurance officers	Design training modules and execute training		December 2005			700,000		Physical contact between officers and customers reduced	Low incidences of corruption
	Develop anti corruption sensitization materials for circulation or display			November 2005			500,000			
	Sensitization of staff			August 2005			500,000			

Issue/ Problem	Actions to address the issue/proble m (Short term and medium term)	Specific activities	Responsible authority (including title)	Implementation Timeframe		Resource implications (KSH)			Output indicators (governme nt activity)	Outcome indicators (impact on business)
				FY05/06	FY06/07	Already committed (including source and status)	Needed from budget	Needed from other sources		
one-on- one interface with taxpayers	Purchase of corruption prevention & reporting boxes	Procure necessary stores		November 2004	June 2005		1,00,000			
	Establishment of an integrity secretariat			March 2005	December 2005		3,000,000			
	Sensitisation of stakeholders			June 2005	June 2006		600,000			
	Develop a comprehensive integrity strategy for KRA			November 2004	December 2005	1,000,000				