


Progressive business legislation in Kenya

New laws look to spur economic growth in the country

 WITH AN EXPANDING middle class, East Africa has huge potential for economic growth and development through foreign direct investment (FDI) in natural resources and technological innovation.

The World Bank 2015 Ease of Doing Business Report, which compares the business regulations for domestic firms in 189 countries, ranks Rwanda as the top country for ease of doing business in the region, at position 46. Tanzania lies at position 131, Kenya 136 and Uganda 150. As a region there is a need to eliminate regulatory and other hurdles that discourage investment.

Kenya has taken key strides in making it easier to do business by passing key legislation that will change the current business landscape. The signing of the new business laws in Kenya by President Uhuru Kenyatta on 11 September 2015 will go a long way to improving Kenya's attractiveness as an FDI destination. The new laws include the Companies Act, the Special Economic Zones Act, the Business Registration Service Act, the Insolvency Act and the Finance Act 2015.

The Companies Act, which mirrors the 2006 English Companies Act, replaces the pre-independence law, introducing provisions that reflect the current business realities and technological advancements over the years. Some of the interesting features of the Act include the "walking company" provisions, which allow single shareholder companies. The Act also simplifies the Memorandum of

Association to allow companies to carry out any activities not necessarily included in their memorandum. Companies can also make written electronic resolutions, eliminating the requirement for members to physically meet all the time.

The process of registering a business in Kenya will be easier under the Business Registration Service Act 2015. The Business Registration Service (BRS) is the new body that



will administer the laws relating to incorporation, registration, operation and management of companies, partnerships and firms, taking over from the State Law Office.

The Special Economic Zones (SEZ) Act 2015 aims to promote the establishment of SEZs by providing tax and other incentives to licensed developers and operators. The SEZs are currently planned to be located in Lamu, where there will be a free port, Mombasa and Kisumu. The activities to be carried out in these zones include Free Trade Zones (FTZ),

Industrial Parks, Free Port, Information Communication and Technology Parks (ICT Parks), Science and Technology Parks, Agricultural Zones, Tourist and Recreational Zones and Business Service Parks. This is expected to spur economic growth in the country.

Although the new laws portend a lot of promise for businesses in Kenya and the region, they need to be backed with political goodwill and implementation to create an environment that ensures they achieve their full potential in easing business in Kenya and promoting the country's attractiveness as an FDI destination.

Given Kenya's position as the regional economic hub and efforts towards regional integration, we might see other countries in the region following suit and updating their business laws to bring them in line with the prevailing circumstances, even as East Africa marches towards a political federation.

George Gitau, Tax Advisor,
KPMG Advisory Services
ggitau@kpmg.co.ke
For more information:
www.kpmg.com/eastafrica



KPMG is a global network of professional firms providing Audit, Tax and Advisory services. We operate in 155 countries and have more than 174,000 people working in member firms around the world. The independent member firms of the KPMG network are affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. Each KPMG firm is a legally distinct and separate entity and describes itself as such.

The views and opinions are those of the author and do not necessarily represent the views and opinions of KPMG.