REPUBLIC OF KENYA

Local Content Policy

MINISTRY OF INDUSTRIALIZATION, TRADE AND ENTERPRISE DEVELOPMENT

Upscaling in-country value addition and retention

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ACRONYMS AND ABREVIATIONS

COMESA- Common Market for Eastern and Southern Africa

DDI- Direct Domestic Investment

EAC-East African Community

FDI-Foreign Direct Investment

GDP-Gross Domestic Product

HSSEQ- Health, Security, Safety, Environmental and Quality

ICT- Information Communication and Technology

KIA- Kenya Investment Authority

KICD- Kenya Institute of Curricula Development

KIE- Kenya Industrial Estates

KIRDI- Kenya Industrial Research and Development Institute

KIPI- Kenya Industrial Property Institute

LCC- Local Content Committee

MSEA- Micro and Small Enterprises Authority

MOITED- Ministry of Industrialization, Trade and Enterprise Development

MSMIs-Micro, Small and Medium Industries

NGO-Non-Governmental Organizations

R&D- Research and Development

SACCO- Savings and Credit Cooperatives

SMEs-Small and Medium Enterprises

DEFINITIONS

The Policy adopts a definition that quantifies local content in terms of value addition into the Kenyan economy through the deliberate utilisation of Kenyan human resources, material resources, and services.

The term ***local*** shall be defined in terms of:

i. For natural persons, it shall be in terms of citizenship, as per the Constitution of Kenya, 2010 and national law
ii. For companies or artificial persons, local shall be defined in terms of ownership and control by nationals, as per national law. For the purposes of defining and measuring local content, a local company or firm shall be a business entity that has been incorporated under the laws of Kenya whose principal place of business is in Kenya and which is effectively owned and controlled by Kenyan nationals.
iii. For goods, local goods shall be defined as materials produced, mined or grown in Kenya or supplied by a local or supplied through financing from a local source of capital.
iv. Local Services shall be defined as works and services performed or supplied by a local.

Beneficial owner shall be defined as a natural person who ultimately owns or controls a legal person or arrangements or the natural person on whose behalf a transaction is conducted, and includes those persons who exercise ultimate effective control over a legal person or arrangement.

Value addition shall be defined as the quantum of value added, created as a consequence of the benefits gained from local participation in activities that support a sector and through the use of raw materials. This entails:

i. **Beneficiation,** being the activities and outputs in the mid- and downstream segments of the value chain, involved in handling and converting raw materials/industrial outputs into usable products and selling and delivering these to end users. When done in-country or by Kenyans, these are considered Local Value-Add and are sometimes referred to as *forward economic linkages or downstream linkages*

ii. **Backward linkages,** being the supply of the input to industries through local procurement of goods and services and local direct employment opportunities.

iii. **Lateral or Horizontal linkages,** being the spread of benefits from one economic sector to another. This involves the use of infrastructure, facilities, utilities, technology, skills and services that are developed for one sector, but available to benefit other sectors.

FOREWORD

Kenya has registered continuous growth of its GDP in the recent past, thereby creating a promising environment for investments. Agriculture, manufacturing, wholesale, retail and financial services are the highest contributors to Kenya's GDP, and as a result they have been prioritised under the economic pillars of Kenya Vision 2030.The Kenya Vision 2030 policy provides the national development goals in promoting inclusive and sustainable growth to make Kenya a globally competitive and prosperous nation. In keeping with Kenya's Industrialization Policy, this is to be attained through promotion of a robust and diversified industrialisation process that is focussed on in-country value addition.

For Kenya to meet its national development objectives, it must generate opportunities for wealth creation for its people. The Constitution of Kenya, 2010, reaffirms that Kenya's resources belong to the people of Kenya and its exploitation should focus on benefiting the Kenyan people. Therefore, Kenya must utilise its resources to create opportunities towards this end. It must add value to and diversify its production across all its economic sectors, in particular agriculture, trade, manufacturing, extractives, tourism and financial services. This will enable Kenya to ensure economic sustainability and attain its development agenda.

Successful realisation of this national development agenda requires adequate capacity in skills, competent local industries, technical and commercial know-how, value-addition, supply chain development, advanced technology and strong domestic capital markets. Kenya can gain this from its investors by using the unique capabilities that they bring along with their investments in a manner that allows Kenya to advance value addition, develop and enhance standards of local firms and industries, improve the capacity of the local workforce, promote local equity participation and foster the growth of micro, small and medium enterprises to create globally competitive industries. A policy framework for local content, capacity development and participation provide the roadmap towards this goal.

This local content policy promotes the national developmental agenda by nurturing local participation towards industrialisation and international competitiveness of Kenyan nationals and firms at community, county and national level. Low value addition, limited industrial subcontracting linkages, inadequate skilled human resources, limited access to finance and market information asymmetry contributed to the retardation of Kenya's industrialisation process. In order to encourage the growth of local businesses and skills, Kenya must tackle these identified challenges. The policy provides the measures to tackle these obstacles and attain the national development goals.

The Local Content Policy has been developed based on a robust stakeholder engagement and informed by Kenya's developmental agenda. This has involved deep consultations with the private sector, public sector (at national and county levels), civil society and development partners. The framework has taken into consideration the aspirations of Kenya Vision 2030, Kenya Industrialisation Policy, the Big Four Agenda and Kenya Investment Policy. Its measures are based on the status of the Kenyan economy, opportunities available across the various economic sectors and the related challenges. This framework adheres to both domestic and international law and treaties.

The policy is premised on Kenya being able to leverage investments which use its assets, resources, markets and people, in a manner that ensures realisation of the potential benefits, so as to maximise the impact on the economy and support Kenya's sustainable development goals. It provides for broad, yet on-going consultation and co-operation between stakeholders, ongoing monitoring and reporting and continuous improvement of stakeholder performance. For Kenya to benefit from this policy, all players must have clear roles and responsibilities and collaborate. The Government is ready and fully committed to fulfilling its part in ensuring its success, and I urge all players to take on their roles in making Kenya prosperous through growing Kenyan local content.

I thank all those who participated to in the development of this policy

Ms Betty C, Maina, CBS
Cabinet Secretary

PREFACE

Kenya has set its vision on prosperity and has made milestones in economic growth. The Constitution of Kenya2010 emphasizes the commitment of the Kenyan people to nurturing and protecting the wellbeing of all Kenyans and the nation at large. Kenya's development vision is to be a globally competitive and prosperous country. Its development policies exhibit the aspiration of engineering economic growth to transform the country into an industrialised middle-income economy. To forge along this path successfully, a local content policy that deepens our domestic industrial sector is of necessity.

The purpose of the local content policy is to create and retain value from the exploitation of Kenya's resources. It seeks to ensure that investments in the country optimise the value of local inputs. Local labour and supply have not been adequately utilised by investors and as a result, Kenya has lost a lot of opportunities in the exploitation of its human and natural resources, while generating immense wealth for investors. For Kenya to attain its economic goals, it must ensure that investments in the country generate maximum benefits for Kenyans.

Kenya therefore seeks to leverage its assets, resources, people and other competitive advantages to attract investors who will promote in-country value addition through transfer of knowledge and technology, local supplier development, research and development and utilisation and enhancement of local skills. For Kenya to meet its target, it must identify and address existing gaps. The policy recognises challenges with regards to requisite capacity, resources and systems of governance and recommends measures for the nation to respond to these challenges to attain our national development goals and aspirations.

Dr. F. O. Owino PhD, CBS
Principal Secretary

EXECUTIVE SUMMARY

Kenya seeks to utilise its investment potential to promote industrialisation and inclusive economic growth. The developmental agenda under Kenya's Vision 2030 and Kenya's Industrialisation Policy has prioritised in-country value addition as a measure for promoting industrialisation. In-country value addition is critical in strengthening Kenya's industrial base, building capacity and diversifying the economy. Its goal is to ensure that the exploitation of all national resources creates and retains optimum value for the country.

This local content framework prioritises in-country value addition as a measure to maximize positive returns from foreign direct investments and expands domestic investments. Its objectives are to promote value addition, create global competitive industries, develop local investors and increase ownership by citizens, grow local workforce opportunities, promote local procurement, build local capacity, advance research and development, promote transfer of knowledge and technology and support value-chain development. It recommends measures to meet these objectives, such as the deliberate utilisation of Kenyan human resources, goods and services to ensure that Kenyans have opportunities to grow economically and build capacity. Empowering local firms in this way will provide employment and entrepreneurship opportunities for current and future generations and support industrial development.

The policy is overarching in nature, cutting across all economic sectors. It provides a guiding framework for the formulation of sector-specific local content legislation and regulations, where required. It provides a strategy framework for the country to prioritise sectors that have high potential for local content, creating forward, backward and lateral linkages through which benefits can be spread along the entire value chain and across different economic sectors.

Implementation of the policy shall require participation by both national and county Governments. The national Government shall support the policy to attain its goals, through a number of measures such as improving infrastructure, establishing technical and vocational institutions to train skills required by the market, promoting research and development, promoting enterprise development, enabling a good business environment providing incentives for stakeholders and operating in a manner that epitomises a collaborative environment. Through its procurement procedures and in line with Public Procurement policies and legislation, the Government shall select, contract with and oversee investors and ventures that maximise the enhancement and participation of Kenyan people, firms and institutions.

The policy also provides a governance framework that requires the creation of instruments (regulations, contracts, licenses, guidelines, systems, procedures, tools, etc.) that shall support the effective delivery of the various roles for agencies of the Government and the private sector. It also creates a Local Content Committee that shall provide a platform for collaboration to oversee the implementation of the policy. The committee shall comprise of representatives from both public and private sectors and promote a multi-stakeholder approach in local content policy implementation. This ensures that the policy measures and targets are feasible, realisable and have ownership by implementation stakeholders. It will also enable the Government to identify the key sectors and services of optimum benefits and provide opportunities to periodically review the local content requirements and performance with stakeholders.

Due to the multi-sectoral scope, the range of stakeholders involved and the different levels of engagement and awareness of the target audience, this policy document is deliberately drawn out so as to provide a big-picture view, sometimes dipping into detail, ranging from context and intent to implementation. It is divided into four parts. The first section comprises the background and an introduction to local content, providing the basis for the policy, together with definitions and a description of the sources of value maximisation being pursued by this policy, the ultimate ***vision*** for Kenya (the achievement of which this policy aims to support), the ***mission*** that summarises the role of this policy and the ***guiding principles*** that shape the policy. It also provides definitions of some key terms used and a description of the sources of value maximisation being pursued by this policy. The second section is on the rationale and national context, inclusive of the legal and policy context informing the approach to policy formulation. The third section provides an overview of the policy, its goals and the related objectives, along with recommended policy measures. The final section provides an implementation, monitoring and evaluation framework through which these policy measures shall delivered.

1.0 BACKGROUND

1.1 Introduction

Kenya's national development agenda for in-country value addition can be traced back to the period when Kenya attained independence. Through African Socialism and its Application to Planning in the Kenya Sessional Paper No. 10 of 1965, the first Government set its goals on efficient use of the available Kenyan resources for the Kenyan economy. It sought inclusive economic growth to provide equal opportunities for Kenyans and for Kenyan benefit. Through that policy, Kenya sought to borrow technological knowledge and economic methods from advanced states to grow local industries in order to improve productivity and actively participate in world trade.

The sessional paper set the first local content obligations by requiring foreign investors to make shares of their companies available to Kenyans, employ Kenyans starting from the managerial levels and provide training facilities. It set its goals to attract foreign capital to promote economic growth but to ultimately reduce reliance on foreign investors. It recognised the importance of capacity building and put focus on skills development. From this period onwards, Kenya has continuously developed local content measures.

Kenya is currently the biggest and most diversified economy in East Africa. It is a gateway to the region and is ranked highly among the strongest emerging economies in Africa. This Local Content Policy aims to optimize on these attributes by maximizing in-country value addition. It seeks to create mutual benefit and not impose a burden on investors. The continuing, robust growth in infrastructure, relatively skilled workforce and GDP and improved ease of doing business prove Kenya to be an African success story. Furthermore, Kenya is endowed with an abundance of natural resources, above and below the earth's surface, both onshore and offshore. All these attributes are highly favourable to investors setting up in the country. Kenya recognises the need to provide an attractive environment for investors, similarly, for their part, investors are expected to recognise that Kenya's developmental agenda shall remain supreme.

Kenya aspires for an inclusive and sustainable economic growth to become a globally competitive and prosperous country. It has focused on utilising its abundant resources and investment opportunities for national benefit. Through its long-term developmental policy blueprint, KenyaVision2030, the country sought to industrialise and attain a middle-income country status by the year 2030. This requires the country to constantly grow its GDP by boosting, deepening and diversifying its production.

The priority sectors for driving GDP growth in Kenya Vision 2030 have been identified as tourism, agriculture, manufacturing, financial services, business process outsourcing, wholesale and retail trade. Beyond these, Kenya has immense value generating potential in extractives (oil, gas and minerals), ITC and other goods and services sectors. The extractive industries, both mining and petroleum, have enjoyed sustained recent growth. While these are the priority sectors that drove the development of this policy, each sector has different characteristics that require specific approaches to and allow for a variety of areas for and levels of local content and maximizing benefits to the Kenyan economy.

This policy is therefore over-arching, in that it is applicable to all sectors. It strives to provide consistency of approach to implementation and oversight, while enabling efficient coordination across multiple Government agencies and private sector entities and deriving maximum benefits from synergies. It provides guidelines for the Government to identify and set key priority sectors, goods, services and skills to derive maximum benefits from each sector and investment and to ensure that there is a spill over of benefits between economic sectors. Given the peculiarities of each sector, this policy recognises the need for and recommends sector specific legislation and regulations.

The Government of Kenya has initiated broad policy and legal reforms to support the aspirations of Kenya Vision 2030. For Kenya to constantly attain a target of 10% annual economic growth, it must improve the ease of doing business to support a private sector led economic growth.

To drive economic growth the following strategies were identified under Kenya Vision 2030;

- supporting the growth of small and medium sized firms,
- investing in research and development to boost science, technology and innovation,
- transfer of knowledge and technology,
- infrastructural development,

- institutional reforms and
- supporting a good business environment.

This local content policy seeks to augment these by utilising Kenya's inputs into investments in infrastructure, services and other businesses as strategic levers for enhancing the business environment. This will enable Kenya to become more attractive to both domestic and foreign investors. This policy sets about this by recommending a governance framework that is transparent, accountable and responsive to changing circumstances. The aim is to improve the ease of doing business, and provide strategies to enhance the quality, productivity and competitiveness of Kenyan employees, firms and services.

The Kenya Industrialisation Policy has identified the weaknesses affecting industrialisation which include low value addition, limited industrial subcontracting, inadequate skilled human resource, limited access to finance, and market information asymmetry. Kenyans have not adequately benefited due to low retention of value from its resources as a consequence of low capacity in technical skills, limited access to finance and other handicaps that limit downstream value addition of primary products. This has generally also contributed to a low level of local participation especially in the vital industries such as the extractives. That said, Kenya has been effective at domestically adding value in some areas, notably agriculture, information technology and downstream petroleum (specifically domestic marketing.)

Local content is only possible if local suppliers are able to provide goods and services at a standard acceptable to the procuring industries. Achieving and increasing local content in new, complex or advanced industries, shall require enhancing the capability of local individuals, communities and firms to participate through capacity development and the provision of infrastructure, facilities, utilities and Government services at international industry standards.The Government has therefore identified the need to formulate a local content policy to encourage utilisation of local skills, services and resources, enhance local capacity, promote the transfer of technology from international players to Kenyans in the respective sectors and across to other sectors and improve access to competitive local financing.

In keeping with legislation on public procurement and disposal of state assets, this policy creates preferential status for Kenyan people and businesses in employment and procurement activities of investors. Subsequently, the policy seeks to deepen the linkages between primary industries and the broader local economy. It seeks to facilitate, enable and ensure the utilisation of available human and business capacity by providing opportunities for gaining experience and further developing the competence and competitiveness of Kenyans, thereby progressively increasing local inputs and content. Priority shall be given to those skills, services, infrastructure and facilities that can support multiple economic sectors beyond that of the primary investment.

The Policy framework and the measures herein set the mechanisms for generating maximum in-country value addition and retention to grow national wealth. The Government seeks to promote economic growth by ensuring that investments in the country put Kenyan interests first. It approaches this through, among other things, promoting and growing local participation of Kenyan people and businesses in management, investment in and ownership of the national wealth. It seeks to take raw materials further and deeper downstream, bringing Kenyans in direct relationships with the final consumer of products derived from Kenyan inputs. The policy also promotes value addition by encouraging utilisation of Kenyan goods and services to generate wealth-creating opportunities though job creation and business opportunities for the Kenyan people at national, county and community levels.

The policy takes both prescriptive and facilitative measures on investors to ensure mutual benefits and consistency and predictability of application. The success of local content is predicated on Kenya continuously improving its attractiveness for foreign direct investment and using these investments as the platform for local content development.

1.2 Situational Analysis

1.2.1 Status of In-country Value Addition

In country-value addition has been a major goal for Kenya since independence. As a developing state, Kenya has initiated several measures towards local content development which date back to when the country attained independence. After independence, between 1960's and 1980's, the Government used import substitution strategies mainly through Government direct participation in the establishment of local industries and tariff protection. The objective of these strategies was to promote robust growth of local industries and indigenous participation. The manufacturing industries grew, especially the light and intermediate industries such as textile, food and beverage and leather. However, the strategy had mixed results as it was not successful in promoting in-country value addition and did not generate the anticipated employment.

This was followed by the structural adjustment programs centered on liberalization, privatization and restructuring of state corporations, liberalisation of prices and the rationalization of tariffs in the 1980's and 1990's. This resulted in the decline of the performance of manufacturing industry, therefore derailing growth of in country value addition. Kenya then adopted the export-oriented approach that focused on improving productivity and efficiency of local industries for export. This led to creation of export-oriented policies in the 1990's to 2010. It used various strategies such as promoting manufacturing, a good credit environment, local procurement, technology and innovation, human resource development and macro-economic stability. This finally led to the formulation of Kenya Vision 2030 that promotes value addition as a major contributing factor to the growth of the domestic economy.

Throughout this period, there has been a gradual and distinct development of Kenya's economic sectors. Since independence agriculture has remained the main economic sector, contributing about 21% to Kenya's GDP. Kenya's manufacturing industry contributes about 9%. Other significant contributors are transport and storage at 7.7 %, wholesale and retail at 7.6 %, financial and insurance services at 6% and construction at 5.5 %. Agriculture, forestry and fishing sectors have the highest value-add followed by the manufacturing, transport and storage, wholesale and retail, financial and insurance services and construction sectors respectively.

Local participation in textile and apparels, food and beverage, financial services, wholesale and retail and downstream petroleum have largely developed replacing foreign ownership and control. However, in major higher value chain activities such as the upstream petroleum industry and advanced manufacturing sectors, there are low levels of local participation. Due to globalization and liberalization, high value chain industries and products in developing states such as Kenya have been dominated by foreign owned industries and personnel who have financial muscle, advanced knowledge and technology. In addition, there is inadequate business environment incentives to support local enterprises particularly Small and Medium Enterprises (SMEs).

Local content development will enable Kenya to remain attractive to foreign investments and use these investments for further development of inputs that are attractive to investors. This requires workforce development, transfer of technology and knowhow (technical and business), development of globally competitive services and industries, good governance, efficient capital markets and indigenous innovation, research and development. Once available, these inputs can transform Kenyan capacity for domestic direct investments. Kenya has seen a significant growth in foreign direct investment in the last decade. However, it has not maximized its potential in its growth. The major barriers to Kenya's FDI growth has been institutions and administrative bottlenecks, infrastructure, cost of doing business, security, inadequate industrial skills and corruption. The Government has taken significant measures to address these barriers.

1.2.2 Challenges in Growth of Local Industries

The growth of local industries has been highly affected by inadequate infrastructure, high cost of power, influx of contraband goods, cheap imports, rising trade cost, low credit environment, skills gap, information asymmetry, poor compliance with standards, technological change and low market access. The major challenges Kenyans face in procurement are inadequate capital, low levels of technology, un-competitiveness of price, volume, quality or schedule, inability to meet tender procedures, inability to meet international procurement or quality standards and lack of experience. Those seeking local employment are often inadequately skilled and have inadequate technical knowledge, experience and qualifications. As an example, the upstream oil and gas industry is new in Kenya, so local capacity has not been adequately developed. The level of local capacity is largely medium to low making it hard for local participation in higher value chains. As an emerging industry, Kenya had not focussed adequately on technical training to support the industry and local enterprise development. Overcoming this requires establishment of an educational system that focuses on development of high technical skills and local supplier development programs.

Local industries are not evenly spread across the country as they are mostly in Mombasa, Nairobi and Kisumu. The small and medium sized firms in the informal sector use low technology and employ a small number of people. Performance of the formal sector is slightly better. However, the sector is also limited in skills, technology and technical capacity and unable to compete globally. Most of the local industries produce low value added products. Food and beverage, textiles, clothing, tobacco, leather and footwear local industries have the highest value-addition while petroleum and electricity have low value addition. Kenya currently has no refinery to process crude oil into petroleum products. There may be need to consider and explore the viability of establishing a refinery.

The Kenya Industrialisation Policy has identified the drawbacks affecting industrialisation which include low value addition, limited industrial subcontracting, inadequate skilled human resource, limited access to finance, and market information asymmetry. These weaknesses have highly affected the development of in-country value-addition and generally created a low level of local participation especially in the vital industries such as the extractives.

1.2.3 Opportunities for Local Content Development

Kenya has a wide range of natural and agricultural resources that can be exploited for in-country value addition. Under Kenya's Industrialization Policy, the Government seeks to ban export of natural and agricultural resources in their natural state, establish industrial parks, develop appropriate incentive packages and fast track the development of special economic zones, SME Parks and Industrial Zones. The sectors identified with potential for growth especially in the manufacturing sector are agro-processing, textile and clothing, leather and leather goods, iron and steel industry, machine tools and spares, pharmaceuticals, advanced manufacturing sectors, biotechnology and nanotechnology and agro machinery and farm implements. These industries have huge potential for forward, backward and lateral linkages, job creation opportunities, channels of technology transfer and development of local industries.

The world-wide wave in demand for local content policies across extractives industries in recent years has provided a vital stimulus for this policy. These sectors have the potential for high values of local content and capacity development, particularly for new and advanced skills, services and technology transfer. The high capital, complex technology, high levels of skills required and reliance on global supply chains by multinational investors in the extractives industries have traditionally impeded local participation. Employment and supply of goods and services in areas such as civil works, supply of bulk construction materials, electrical installations, engineering, construction, operations and maintenance, transport and logistics, general business support are required by these industries, as they are in many of those identified as priority. Others, like drilling and well services in petroleum and mining can find use in the geothermal industry to support Kenya's energy needs. In the mining industry, the areas of high spend with procurement opportunities also include energy services and equipment management services.

The opportunities in the extractive sectors have prompted the Government to formulate local content requirements specific to mining and petroleum. The scale of confirmed oil reserves in Kenya is relatively small in comparison to major producing states such as Nigeria or Norway. Kenya has so far discovered less than 1 billion barrels oil. Given the current expected levels of resources and activities required to produce and handle them, local content in Kenya's oil and gas sector, is not likely to be transformative. Nevertheless, sedimentary basins have the potential for other significant discoveries. As such, it is imperative to focus on first building capacity for activities related to the already discovered fields and especially those activities that can be used beyond just the oil and gas industry.

Given the high levels of spend involved in oil and gas exploration and production activities, operators are better able to invest in capacity development than other sectors. To get the maximum benefit of that capacity, a strategic approach must be taken to ensure that local content initiatives in the sector are not solely focused on the oil and gas industry. Kenya therefore needs to use the oil and gas industry as a multiplier for Kenyan economic development. For sector specific skills, Kenya can recover the investment in building capacity by taking advantage of the relatively long life cycle of the upstream industry. Similarly, Kenyans may be able to invest in and develop smaller pools of oil and gas that are not attractive to foreign investors. Ultimately, Kenyans will be able to export their goods and services to neighbouring, continental and global markets.

By focusing efforts on capacity to be built to support oil and gas, which can be leveraged to other key priority sectors, as an example, this policy seeks to ensure that there is effective spill over of benefits between economic sectors. Also, by building capacity and an investment and governance ecosystem that is conducive to Kenya's own economic vibrancy and independence, Kenya will be able to transform itself into an investment destination more attractive to progressively higher value industries and ventures.

Kenya also has opportunities in infrastructural projects and construction. It needs to maximize on local content opportunities in developing its local workforce and industries. As the country develops the ability to participate in major infrastructure projects, they will become less dependent on international firms to conceptualise and deliver smaller and less complex infrastructure projects, thus deepening Kenya's development.

These opportunities require capacity in skills and business practise. Development of capacity to support local content requires that Kenya looks at the existing local content opportunities, identifies gaps and strategic and priority areas on which to focus and sets reasonable targets. The strategy shall require prioritization of skills and services for individual industries, as well as at a national level. These industries are mainly the prioritized industries in the national development agenda under Kenya Vision 2030, Kenya Industrialization Policy and the Big Four. The extractive industry is a priority industry for local content development. Each industry has its own level of demand and local content potential therefore each sector shall have its own specific strategy, but it must be aligned with the national strategy, for maximum impact.

1.3 Vision and Mission of the Local Content Policy

The policy is aligned to the national development goals of a globally competitive and prosperous Kenya and is designed to support Kenya's Industrialization Policy and Vision 2030. The policy's vision and mission are highlighted in Figure 1 below

Figure 1: Vision and Mission of the Local Content Policy

Vision

The Local Content Policy's vision is "**A healthy, prosperous, secure and self-sufficient Kenya, sustained by a highly skilled workforce and globally competitive firms, services and business environment.**"

Mission

The mission is ***"To transform Kenya's economy from basic to advanced industries through maximization of in-country value addition, by strategically leveraging activities and know-how of investors to make the business and operational capacity of Kenya's nationals, firms and business environment internationally competitive."***

1.4 Guiding Principles and Approaches

Investors are attracted to Kenya by virtue of its positive aspects, some of which this policy seeks to enhance and leverage, with the objective of makingKenya even more attractive for investors. These include Kenya's skilled workforce, natural resources, infrastructure, geographic location, climate, domestic and regional markets, membership in trade blocks, system of governance and business support services and facilities.

1.5 Guiding Principles and Approaches

Recognizing the pivotal role of this policy in supporting Kenya's sustainable economic development in alignment with Vision 2030 and Kenya's Industrialization Policy, enhancing local content and participation across Kenya's multiple economic sectors shall be guided by the following principles:

1. Support for implementation of Kenya's Industrialization Policy

This policy supports the implementation of Kenya's Industrialization policy by providing guidance on the application of its guiding principles of:

- Productivity and competitiveness
- Market development
- High value addition and diversification
- Regional dispersion
- Technology and innovation
- Fair trade practices
- Growth and graduation of MSMIs
- Employment Creation
- Environmental Sustainability
- Compliance with the Kenya's Current Constitution
- Education and human resource development

2. Support for the achievement of Kenya's Vision 2030

This policy supports the achievement of Kenya's Vision 2030 and align with its related guiding principles of:

- Sovereignty of the people
- Gender equality
- National values, goals and ideology - affirm the indivisibility of Kenya as a nation committed to democracy and the rule of law
- Public participation in governance
- Decentralisation

3. Kenyan inputs used by private investors shall be treated as Kenyan Equity:

In seeking value capture through local content and value addition, Kenya views its assets as equity inputs into investments, thereby giving the country a seat at the table in shaping the strategic direction of new ventures. In exchange for turning these over to investors, Kenya shall seek access to those assets and capabilities brought by its co-venture partners, which the country currently lacks but needs for its development

4. Kenya's Resources must contribute to Sustainable Economic Development

Kenya shall use its assets and resources (human and natural) to benefit current and future generations, and create a sustainable economy. In all ventures, Kenya shall always ensure that the interests of its citizens are paramount. In conducting their business related activities, investors shall support development of the capacity of Kenya's citizens, institutions and companies, which shall be necessary for an enhanced and sustainable economy.

5. Respect for all local and international laws and treaties

In implementing this policy, Kenya shall adhere to all international laws, treaties and obligations. Similarly, Kenya expects that its investors shall adhere to all of Kenya's laws and support its implementation of local content development as well as the national development aspirations and policies.

6. Kenyans shall be given priority access to benefits from the country's resources

In keeping with Constitutional, policy and legal requirements, Kenyans shall be given preferential treatment in the provision of goods and services where Kenyan assets or money are being used, provided that there is no substantial negative impact on investments and the economy.

7. Capacity building shall be treated as an investment in Kenya's future

The level of local content and participation will be limited by existing capacity. To increase the amount and value of local participation and content requires investment in capacity building. While this investment might initially increase costs and reduce profits and taxes, the social and economic benefits that Kenya will gain in the future, will outweigh these costs. As such Kenya should view costs associated with capacity building as investments by the nation.

Implementation Approaches

The policy design is influenced by the following implementation approaches:

i. **Domestic Empowerment**

The policy focuses on promoting the Kenyan people and local industries through optimising opportunities, building capacity and developing their competitiveness.

ii. **Technology and Innovation Enhancement**

The policy recognises that technology and innovation play a central part in economic development. It promotes transfer of technology and enhances innovation by targeting capacity development in those industries that lend themselves to utilize and enable indigenous research and development.

iii. **Productivity and Competitiveness**

The policy recognises the need to enhance the capacity of local industries in productivity and competitiveness. This shall be done through supporting enterprise development programs, local sourcing of goods and services and the transfer of knowledge and technology. This will result in growth of local firms, particularly the small and medium companies, to become globally competitive.

iv. **Economic Diversification**

The policy takes a multi-sectoral approach which encourages development of capacity in high value sectors that can be used across different economic sectors. It highlights the benefits of these lateral linkages to promote the aggregation of demand and supply, sharing of investments in capacity building and benefits between sectors with similar needs, thereby creating opportunities for movement to higher value chains in smaller economic sectors.

v. Good Business Environment

The country continues to rely heavily on private sector led investment to grow the economy. The policy recognises that the investment required for development of local content is dependent on a stable and predictable business environment suitable to enabling efficiently operating markets.

vi. Collaboration

The policy recognises that many stakeholders from the private and public sectors will have overlapping and complementary roles. It underscores the essence of a multi-stakeholder approach in local content policy development and implementation and calls for the clarification of roles and the need for robust and continuous stakeholder engagement and collaboration to enable efficient realization of local content goals and targets.

vii. Inclusivity

The policy is in line with the 2010 Constitution of Kenya which promotes maximum inclusivity. It recognises the promotion of marginalised communities and groups including women, youths and persons with disabilities. It also supports measures to ensure equity in access of local participation opportunities in order to promote shared prosperity among all Kenyans.

viii. Good Governance

Learning from best practice and Kenya's past experiences in local content, good governance shall take a risk-management approach that shall comprise operational policies and procedures designed to mitigate risks, including:

a. **On-going Stakeholder Engagement, underpinned by:**

I. **Transparency and Accountability**

- The policy promotes a transparent and accountable process of decision making by key stakeholders in matters such as the selection of local firms qualified to supply to industries, setting targets (where appropriate), making decisions and reporting on outcomes.
- In implementing this policy, the Government of Kenya shall establish a governance framework that shall ensure that all decisions on major investments and activities shall be conducted in a transparent manner with clarity of stakeholder roles, engagement and accountability of decision makers and operators.
- Policy implementation shall be governed by adequate national and sector legislation and regulations, with aligned state procurement procedures, contracts, licences, rules, guidelines, procedures and similar control instruments. These shall be aligned and overseen by sector and national, multi-stakeholder entities, ultimately accountable to the people of Kenya, via the National or County Parliament, as appropriate.

II. **Access to information**

- The value of transparency is enhanced when information shared is up to date, accurate and sufficient for business decision making. The policy recognises that information is critical in the development of local content. Its implementation shall provide local companies and individuals appropriate means to readily access timely information on available opportunities and for investors to have easy access to information on quality and availability of local skills, goods and services.

1.6 Scope and Limitations

The overarching policy provides a framework that shall guide appropriate local content sector specific legislations and regulations. Figure 2 below illustrates what the scope and limitations of the policy.

Figure 2: Scope and Limitations of the Local Content Policy

Scope

- The Policy is overarching covering all sectors of the economy
- It identifies the areas of Concern, Policy Objectives and Measures
- It provides an Implementation Strategy
- It Provides Monitoring, Evaluation and Reporting Framework

Limitations

- The Policy leaves economic sectors to set and review sector specific local content obligations

1.7 Value Maximisation

The local content policy provides the strategies in maximising the benefits from investments in Kenya to promote value addition. Investors bring the necessary inputs required to convert the available opportunities to businesses in terms of capital, technology, technical know-how and foreign markets. Kenya provides the complimentary components to actualise the opportunities in terms of resources, labour, strategic geographical location and domestic and regional markets. It is on this basis that Kenya's inputs might be viewed as equity and gives Kenya the right to demand and negotiate for benefits from the venture.

This policy seeks value maximization through local capacity enhancement and local content by way of:

1. **Knowledge & Technology Transfer, from foreign to local participants by:**
    i. Building and enhancing capacity in people, companies, Government or other services, utilities, institutions, infrastructure or facilities that support the sector of investment

ii. Ensuring that Kenyans are given the opportunity to participate fully at all levels, in all roles and disciplines required for the conduct of the sector businesses and operations.

2. **Improving the quality of governance in Kenyan firms and Government by**:
    i. Collaboration between Kenyans and international investors to adapt, embrace and enshrine in local operations risk management, quality assurance, accountability and governance policies and procedures, so as to ensure that Kenyans perform at or above international industry standards.
    ii. Supporting the transfer of this approach to Government regulators at municipal, county and national levels, in order to improve Government efficiency and the overall business environment.

3. **By enabling lateral linkages, transfer of capacity between the primary sector of investment to other sectors** to:
    i. Enhance the productivity of other economic sectors
    ii. Improve national competitiveness
    iii. Reduce imports
    iv. Generate export opportunities
    v. Benefit from synergies and economies of scale

Value from the in-country investments and operations can be gained or retained in various ways, many of which can be addressed/impacted by the implementation of this policy. This requires:

1. Selecting the best investors and operators, in terms of ability to support Local Content policy goals.
2. Contracting with investors to get the best possible deal for Kenya, either by statutory requirements, fixed in legislation or regulation, or by negotiations, where appropriate.
3. Regulating and overseeing program and project management and operations to ensure that Kenya and Kenyans have timely and fair access to opportunities to capture value from:
    i. ***capacity building*** *of individuals, firms and the capital markets;*
    ii. *the provision of goods and services* ***(backward linkages);***
    iii. *benefit to other sectors of the economy* ***(lateral linkages)*** *and;*

iv. *value addition to produced goods, services and raw materials through processing, manufacturing, handling, trading and other mid- and downstream activities* ***(forward linkages)***

4. Effective collection of revenues from investments and using some of those revenues to promote training, innovation, research and development;
5. Administering the sectors efficiently and effectively, through good governance systems and procedures.

Each of these measures represents an opportunity to increase in-country value creation and retention. Failure to do any one properly, results in value erosion and loss.

2.0 RATIONALE AND CONTEXT

2.1 Rationale

The rationale behind the creation of a national local content policy across all sectors is to make use of the current and anticipated growth in Kenya's economy and investment within a wide range of sectors including construction, financial services, manufacturing and extractives. These sectors continue to attract foreign direct investments. The policy aims to utilise the foreign direct investments to promote development in the local economy by setting specific requirements to derive maximum benefits for Kenya through the harnessing of local resources transfer of know-how, technology and skills.

A unique and valuable opportunity for engaging a robust local content strategy has arisen, by virtue of the growth in extractives, facilitated by discoveries of significant reserves of oil and gas in Kenya. World scale discoveries in neighbouring countries, which have similar geological characteristics to Kenya's basins, both onshore and offshore, provide the impetus for further exploration and, possible discoveries and production. Oil and gas industries are high investment, high technology and profitable with long life cycles, making them ideal for governments to invest in human and business capacity. This promotes local participation and reaps the benefits of working with some of the world leading firms in areas of high technology and excellent business and risk management. In addition, the availability of oil and gas, their production, use and export, present the opportunity for value addition and enhancing other sectors, by virtue of the industry's ability to provide reliable power and water, enhance and add transportation and export infrastructure and provide feedstock and fuel for manufacturing and processing.

Kenya has invested in the development of human capacity, infrastructure, business development, technology and governance systems as levers for transforming the economy. This is in order to prepare Kenyans to undertake the business roles for which the country has traditionally been dependent on foreigners. Kenya has relied heavily on technology, capital, know-how and skills supplied through foreign direct investments. The goal is to use these foreign direct investments (FDI) and the competencies they bring, to enhance those competencies in Kenyans and to grow Kenya's capacity for domestic direct investments (DDI). Progressively, Kenyans will be able to displace foreign investors and fully participate in basic industries and services, graduating to higher value-addition, by partnering with established players in those services and sectors that require higher skills, technology, know-how, capital and risk, usually bringing higher reward. Moving along this path will enable Kenyans to become globally competitive and capable of exporting technology, skills, higher-value goods and services. The ability to invest allows for profits to remain in Kenya, enhancing both the tax base and the capital markets.

Creating a domestic market, characterised by a competitive capital market, world class business skills, services, infrastructure, utilities and governance will set Kenya on a path to transforming its economy to a self-sustaining one. Kenya's and Africa's history demonstrate that this does not happen by default, but requires specific policy interventions provided herein.

Local content can provide efficient linkages across economic sectors through the selection and management of enterprises investing in the country, bringing their skills and services to Kenya and engaging Kenyans to support the in-country activities. These linkages will promote integration across the value chains, thereby capturing the benefit of synergies to accelerate the localisation of Kenya's economic sectors. Through integration between foreign and local firms, the local entity will improve their performance and become more globally competitive. Globalisation has a great influence on any country's economy. Kenya must therefore plan on how to capture the opportunities it presents and focus on how to upgrade the competitiveness of local industries.

This is attainable by setting specific local content measures to ensure that Kenyans benefit through technology transfer, use of local goods and services, use of local workforce, promotion of local ownership, research and development and transfer of technology. The Local Content Policy aims to facilitate these measures by providing opportunities where local industries can gain from the vast experience, technological knowledge, and capacity levels of foreign firms.

Kenya has a number of policies, legislations, and regulations in force that promote local content. However, there is no synergy in the local content legal framework. Kenya does not have an overarching policy to guide the implementation of local content in Kenya. The different sets of laws lack a comprehensive implementation framework which has created challenges in ensuring industries investing in the country adopt measures to promote local content. An umbrella policy is essential in order to ensure harmonisation of the legal and institutional framework. This is also to ensure an efficient legal and institutional framework for monitoring and evaluation.

A standardized policy, across sectors, clarify the terms and conditions of investment and facilitate decision making for both foreign investors and local participants, including the financial and training sectors and regulators.

2.2 Legal and Policy Context

Deriving from the Constitution of Kenya, 2010, Kenya has developed policies, laws and regulations that promote maximum in country value addition. The aim to ensure exploitation of Kenya's resources for the benefit all Kenyans, including the local communities, in the case of natural resources. Some of these laws and regulations already provide for local content and capacity development in individual sectors.

The policy seeks to provide a broad based framework on local content, capacity development and equity participation. This cuts across all the economic sectors and is intended to assist the Government in developing additional legislation and regulations, as well as offering support for the existing legal framework, to meet national development objectives.

2.2.1 Constitution of Kenya, 2010

The Constitution provides the inspiration and vital principles that guide the formulation of the local content policy and its supporting legal, institutional and administrative frameworks. The mainly includes :

1. **Kenya's international obligations**-Article 2(5) and 2(6) recognizes Kenya's international obligations. Kenya is a party to multilateral and bilateral treaties on trade and investments and the policy should align to Kenya's international obligations
2. **National Values and Principles** -Article 10 provides for national values and principles of governance. Under Article 10 (2) the national values and principles of governance include;
    - good governance, integrity, transparency and accountability and ***sustainable development***."

- **Natural Resources as Public Land** -Article 61 specifies that "All land in Kenya belongs to the people of Kenya collectively as a nation, as communities and as individuals. Article 62 recognizes minerals , mineral oils and other forms of natural resources as public land . As public land it is vested in the people of Kenya and held in trust be the government

3. **Beneficial Interest for Kenyans in Exploitation of Resources** -Article 64 makes it clear that all investments that engage Kenya's land and natural resources must benefit local communities and be governed by legislation:
   - "Parliament shall enact legislation ensuring that ***investments in property benefit local communities and their economies.***"

   Article 69 provides for the obligation of the State to derive maximum benefit to the country in exploitation of its natural resources. It promotes public participation in the exploitation of natural resources and provides an avenue for local content measures by requiring the State to:
   - "ensure sustainable exploitation, utilisation, management and conservation of the environment and natural resources, and ***ensure the equitable sharing of the accruing benefits***";
   - "utilise the environment and natural resources ***for the benefit of the people of Kenya***"
   - Clearly indicating who should be the primary beneficiaries of Kenya's natural wealth.

   Article 71 provides for ratification by Parliament of agreements for exploitation of natural resources. This gives the parliament the role to ensure that local content measures are provided for in agreement for the exploitation of natural resources and ensuring a route to good governance over Kenya's natural resources.

2.2.2 Kenya Vision 2030 (- A Globally Competitive and Prosperous Kenya)

The Kenya Vision 2030 is a policy aimed at accelerating the transformation of Kenya into a rapidly industrialising middle-income nation by the year 2030. The vision seeks to make Kenya a globally competitive and prosperous country with a high quality of life. The aim is to transform Kenya into an industrialised middle-income country. The vision is based on three pillars; economic, social, and political. The foundations of the vision are macroeconomic stability, continuity in governance reforms, enhanced equity, infrastructure, wealth creation, energy, science, technology and innovation, land reform, human resource development, security and public sector reforms.

Local content shall focus on the many opportunities to create and retain value within Kenya, from the investments and activities involved in major projects and operations that will utilise state assets and resources. It will result in the development of employment opportunities for Kenyans, and will enhance the local manufacturing sector, research and development and training. These are crucial areas under the economic pillars of Kenya's Vision 2030. This local content policy framework is aligned around the Kenyan Vision 2030. Since the vision has identified a number of flagship projects in every sector to be implemented over the vision period, it would make sense to leverage those that are yet to be or are currently being implemented as key local content vehicles.

The promotion of in-country value addition under Kenya's Vision 2030 has developed as policy issue since independence. Below is a chronological development of Kenya's policies:

a) The African Socialism and its Application to Planning in Kenya (Sessional Paper No.10 of 1965)

Sessional Paper No.10 of 1965 was the first policy that had wide focus on in-country value addition. It focused on growth of domestic capital, development of skilled workforce, proper utilization of Kenya's resources for national benefit and growth of foreign exchange. The policy focused on strategies such as import substitution and use of imported capital goods to support export of Kenya's products.

b) Sessional Paper No.1 of 1986 on renewed economic growth

The Sessional paper focused on the restructuring of Kenya's industrial sector within a period of 15 years in order to improve productivity, diversify Kenya's export, create jobs in the informal sector , develop local enterprises and promote agriculture.

c) Sessional Paper No.2 of 1992 on Small Enterprises and Jua Kali Development in Kenya

The policy focused on the micro and small enterprise especially in the informal sector. It focused creating a good credit environment for small and medium enterprises, improving technology and innovation, improving productivity and preference for SME's in public procurement.

d) Sessional Paper No.2 of 1996 on Industrial Transformation to the Year 2020

The policy focused on economic growth and job creation in the industrial sector. It focused on improvement of productivity of Kenya industries labour market stability, growth of exports, growth of physical infrastructure, human resource development, growth of technology and investment in research and development.

e) Economic Recovery Strategy for Wealth Creation and Employment Creation 2003-2007

The policy focused on rehabilitation and expansion of physical infrastructure, investment in human capital, macro-economic stability and strengthening of institutions of governance. This led to the development of Kenya's Industrial Masterplan 2008 that focused on Agro-processing, Agro-machinery, ICT, Electric and Electronics.

These events informed Kenya Vision 2030 goals on in-country value addition.

2.2.4 Kenya Sessional Paper No 4 on Energy, 2004

This document provides the most current Policy for the promotion of investment in research and human resource development in Kenya's energy sector. The policy requires industries to actively contribute to and participate in the development of human capacity through skills development, so as to enhance the quality, depth and breadth of Kenyan participation in all aspects of the provision of goods and services. This is intended to ensure that the industries make investments and provide support for local institutions, such as universities and technical and vocational schools, in enhancing Kenya's indigenous training and research and development capacity and output. It promotes development and implementation of a comprehensive capacity program for the energy sector on a continuous basis. Figure 3 below highlights the important role of Domestic Direct Investment

2.2.4 Kenya National Industrialisation Policy, 2012

This local content policy is faithful to the Kenya's Vision 2030 and the ensuing Kenya Industrialisation Policy (KIP) of 2017. Taking its cue from the KIP, the policy seeks to tease out and secure maximum benefit from those sectors and investments that can contribute to the sustainable development sought by Vision 2030.

> *"To achieve the twin targets of Kenya's Vision 2030 — 10% growth per annum and middle income industrialising country status — the Government of Kenya recognises the critical role played by private investment and has put measures in place to attract and retain foreign investment while encouraging the expansion of domestic investment, with the aim of increasing private investment to 24 per cent of GDP by 2030".*

> *"The KIP addresses some of the fundamental requirements for establishing a well-coordinated investment environment that will attract high-quality FDI into the country while up scaling local SME capacity. These include: …; building a critical mass of domestic investors including strengthening their capacities; a targeted approach to offering incentives by aligning them to development priorities…"*

The policy focuses on enhancing the competitiveness of local products. It looks into measures of encouraging development of local micro, small and medium enterprises, and it provides for the development of value addition. The economic sectors that the policy has identified are trade, agriculture, manufacturing, finance, business process outsourcing, wholesale and retail.

One of the objectives of the policy is to strengthen local production capacity in order to increase domestically manufactured products. A target has been set to increase this sector's productivity by 20%, and a minimum of 25% local content in all locally produced industrial components has also been set. It seeks to have at least 60% local content in all locally manufactured exports. It provides that the Government shall give preferential treatment to local manufacturers and the use of local raw material is seen as a priority industrial subsector in the short to medium term of realisation of Kenya's Vision 2030. It seeks the promotion of consumption of locally manufactured goods.

Figure 3: Important Role of Domestic Direct Investment

Domestic Direct Investment (DDI) plays an important role in economic development through the creation of employment opportunities, mobilisation of domestic savings, poverty alleviation, income distribution, regional development, training of workers and entrepreneurs, creation of an environment in which large firms flourish, contribution to export earnings, and local supply chain enhancement through FDI with respect to domestic value addition. A favourable legislative and regulatory framework specifying incentives for domestic investments will help promote the development of SMEs, including feeder industries for targeted FDI as well as a competent SME sector capable of accessing the value chains of larger industries.

2.2.3 Mining and Minerals Policy Sessional Policy No.7 of 2016

The policy provides for local content requirements for goods and services for the mining sector and it supporting industries. The policy's focus includes local equity participation in investment in the mining sector as one of its objectives. It provides for maximisation of mining benefits through use of local goods and services by promoting horizontal/lateral and vertical/backward & forward linkages in the mining industry. It seeks inclusiveness of women, youths, and persons with disabilities in local content opportunities.

2.2.3 Kenya National Trade Policy, 2017

The Policy promotes in-country value addition to promote an export led globally competitive economy. This is aimed at providing opportunities for expanded markets, increased employment, income generation and distribution and improved competitiveness. It recognizes that Kenya's trade and investment can only thrive if local industries are globally competitive. The Local Content Policy is built on the goal of the National Trade Policy in creating an export led economy.

2.2.5Mining Act, 2016

The Act provides for preference in local procurement and the employment of Kenyans. It provides local content requirements in terms of capacity building, equity participation, research and development. It also recognises the local community in areas where the mining industry is located. The policy promotes local participation in the industry through employment, training, skills transfer, use of local goods and services and local equity participation.

2.2.6 Public Procurement and Asset Disposal Act, 2015

The statute promotes local procurement in public procurement and provides for the support for local industries and contractors through measures that require state bodies to make provisions for giving preference to and exclusively reserving some goods and services for local suppliers. It provides preference/priority for goods that are extracted, manufactured, and grown in Kenya. It establishes a Public Procurement Regulatory Authority, which is required to ensure that state entities and all those involved in spending state money or in the disposal of state assets promote and adhere to local content and participation requirements in their procurement procedure.

2.3 Benchmarking with Global Best Practice

There are a number of countries that have formulated and implemented local content measures, with varying degrees and areas of success. For instance, Norway has formulated local content measures with a focus on in country procurement. Norway has been able to pass skills, technology and capacity to Kenyans through local content obligations. It has been able to build capacity in its people and businesses in the extractive industry. Trinidad and Tobago, through Local Content and Local Participation Policy framework, has been able to develop skills, local industries and export its skills to other states. Malaysia has been successful in establishing linkages between multinationals and local industries. Through these linkages, they have successfully been able to transfer skills and technology from the multinational companies and promote growth of skilful people and local businesses. The key principles identified in developing a successful local content policy include:

i. A local content policy that is guided by the national developmental agenda which identifies the sectors of strategic importance to the Government.
ii. Investments in capacity building that can be used in different sectors. The Government should prioritise the sectors that its skills can be used in other sectors and have huge potential for creating lateral linkages.

iii. An assessment of the demands of a sector and the local capability to supply goods and services to inform the local content obligations. This includes an evaluation of skills, capital, infrastructure and governance requirements.
iv. Local content policy requirements should be predictable and reliable for the investors, yet adaptable to accommodate changing circumstances, as in petroleum, where new discoveries might result into a progression from short term exploration to long duration production operations.
v. Project development, operations/production and maintenance plans should include local content strategies that involve skills and supplier development plans, investment and support of training and research institutions, as well as procurement strategies that facilitate and support local content.

2.4 Kenya's Local Content Experiences

Over its history, both as a colony and since achieving independence, Kenya has had many experiments with local content under a range of circumstances. There have been remarkable successes, as well as setbacks. From these, there are lessons to be learnt and applied where circumstances bear similarities, in sectors of Kenya's economy as diverse as agriculture, ICT, tourism, manufacturing, downstream petroleum and geothermal energy. In recent times, the Mining sector has introduced local content regulations, which reflect current international best practice. For each of these sectors, there are lessons to be distilled and applied in implementing this policy in relation to:

1. How success was manifested, in order to provide metrics for performance measurement and determining and setting appropriate targets. These include:
    - Levels of investment, equity participation, ownership and control by Kenyans
    - Kinds and levels of management roles, employment and skills developed
    - Kinds and levels of value-addition, export, import substitution, lateral linkages/benefits (supporting other sectors)
    - Impact on capital markets
    - Levels and kinds of technology adoption, innovation and research and development R&D

2. Factors that contributed to these areas of growth and development, such as;
    - Government policy
    - protectionism, fiscal, other incentives, etc.
    - Clarity and consistency of application
    - Clear roles and responsibilities of agencies
    - Accountability of agencies
    - access to services, infrastructure etc.,
    - clustering,
    - preferential/easy access to local/regional markets,
    - available skills, training institutions and/or methods, including industry/academia collaboration
    - access to business support and capital access
3. Obstacles to improved performance, such as:
    - lack of the above conditions at specific times of in specific sectors
    - a more integrated regional approach to addressing the scale, continuity and duration of demand and supply. A collaboration of countries in the regional trade blocks will go a long way to aggregating these, so that there is the critical mass necessary to justify investments in training institutions, manufacturing plants, facilities, and the like, which can be shared by nationals and firms from neighbouring states. Such shared centres of excellence and clusters can be spread over different countries, each supporting those for which they are best suited and will enable East and Southern Africa to retain more jobs and value within the region, while enhancing regional prosperity and security.

The implementation strategy and its roll-out will require a deeper understanding of these issues, specifically as they affect individual sectors.

3.0 POLICY GOALS, OBJECTIVES & MEASURES

3.1 Overview

Historically, the human and natural resources of Kenya have made significant contributions to the fortunes of international firms and enrichment of their home countries. Meanwhile, Kenya's economy has continued to be dependent on exporting raw materials, while Kenyans have remained poor and the country under-developed and reliant on foreign skills and investors for even the most basic services and industries.

There are some notable exceptions in sectors where Kenya has deepened local participation and control, which provide lessons for transforming the rest of the economy. Even so, those benefits that have been retained in Kenya tend to disproportionately favour those in the major cities, leaving behind the rural areas, including those from which raw materials are being produced.

Recognising this, the 2010 Constitution of Kenya obliges the State to derive maximum benefit to the country from the exploitation of its natural resources and makes it clear that all investments that engage Kenya's land and natural resources must benefit the people of Kenya through equitable sharing of the accruing benefits, making special reference to local communities and historically disadvantaged groups.

In the past, investments in countries like Kenya have portrayed local inputs as of minimal value, resulting in labour and raw materials being provided at low rates. This policy seeks to support national development and economic transformation by leveraging Kenya's assets, resources, people and other competitive advantages to attract investors who bring and are willing and able to develop skills in and share know-how and technology with Kenyans.

Foreign investors bring some of the inputs required to convert an opportunity into a business, such as capital, know-how, foreign markets and technology. Countries and their people contribute complementary components, such as resources, assets, labour, domestic markets and geographic location to the venture. With this in mind, Kenya views her inputs as equity, giving her the right to demand and negotiate investor benefits from new ventures in which Kenya makes a meaningful contribution. By the same token, Kenya recognises that investors rightfully seek to maximise the value they generate for their shareholders, so local content initiatives must be mutually beneficial.

Kenya intends to attract foreign direct investments and use the activities related to these investments to grow Kenyan knowledge, skills and technology. Through alliancing and supporting, opportunities for Kenyans to learn and grow by training, experience and strategic procurement, local content, participation and capabilities will increase and deepen. In this environment, the transfer of technology, know-how, best in class business process and governance systems to local firms and Government regulators will in turn increase the standard of Kenya's firms and business environment to make them more globally competitive.

Local content will also result in increased revenue earned and retained in Kenya, so contributing towards strengthening and deepening capital markets. Combined with good governance and accountability, these conditions will increase the range and value of opportunities available to Kenyan investors, so positioning them to take more control of future projects where they currently lack capacity and enable Kenya to have greater leverage in exploitation of its resources for basic and strategic industries.

Increasing foreign direct investment and making Kenya more self-reliant by increasing direct domestic investment are not mutually exclusive. On the contrary, this policy sets out to make them symbiotic. Foreign direct investments can benefit the growth of domestic direct investments, by ensuring that value chain systems and structures are aligned, so as to efficiently develop opportunities for domestication of activities that are typically conducted outside Kenya. Later initiatives to increase FDI will focus on higher value-added industry sectors by providing the Kenyan capabilities and governance that are necessary to attract investors in these areas.

By identifying, facilitating and enabling the creation of these desired conditions this Local Content Policy is intended to provide the bridge between the status quo and the co-existence of these two investor types.

The policy's implementation shall be aligned with those areas prioritized for national development and target those areas for local participation that present opportunities for high levels of employment, enhanced skills, technology and services, high spend, long-term and sustained demand, and the capability of benefiting multiple economic sectors. The approach shall be premised on understanding the sectors, evaluating their existing circumstance, studying the existing local capacity, analysing the value chain activities and building capacity where it is lacking.

The governance of the implementation of this policy and the evaluation of its performance shall be harmonized across all economic sectors through coordination and engagement of stakeholders. A National Local Content Committee shall be charged and empowered to oversee the implementation of this policy and ensure coordination, facilitate sector synergies, review performance and improve and update policy implementation strategies, in order to keep local content priorities in step with evolving national and sector circumstances.

The Government, both at county and national levels, shall take an active and leading role in local content development. It shall ensure that all operations that touch on local content are carried out transparently and accountably. Both Governments shall work in coordination and consultation to ensure that local content development promotes inclusive growth and regional balance. They shall establish measures to ensure that local content development provides benefits to the economy of local communities and helps support their prosperity and security.

The Government shall develop sector specific legislations and regulations to imbed the provisions of the policy. This shall be based on a sector's potential in its demand and supply chain activities, sustainability of its benefits, existing capacity, and level of spend. During the transition, sector specific local content legislations and regulations already in operation shall be amended to align to the provisions of the policy to ensure harmonization, if necessary. These amendments shall focus on consistency of local procurement, capacity development, local content planning, reporting and evaluation. Kenya shall be strategic and analytical in setting local content obligations, to ensure that they shall not be an inordinate burden for investors that lowers competitiveness of local industries.

Kenya shall take a leadership role in regional collaboration and integration across its trading blocs in Eastern and Southern Africa, to support local content and economic integration. This will be achieved by Kenya fostering and promoting through diplomatic and other channels, mechanisms to aggregate demand and supply of skills, goods and services to generate the critical mass that shall justify investment in facilities and clusters spread over member countries. The purpose of these shall be to retain value in the region and create globally competitive centres of excellence, while contributing to prosperity and security.

Kenya shall also ensure that its local content requirements minimizes the potential for conflict with its international obligations through leveraging available exemptions, such as those that protect its nascent and strategic industries.

The policy recognises that local content obligations are susceptible to corrupt practices. It promotes transparency in governance of the local content implementation, particularly in the procurement, measuring, reporting and evaluation, therefore ensuring that Kenyans have equal opportunities to fairly access the local content opportunities available.

3. 2 Goals

As a country, Kenya aspires to become a healthy, prosperous and secure nation, with a sustainable economy in which all citizens benefit equitably. The goal of this policy is "***to transform Kenya's economy from basic to advanced industries through maximization of in-country value addition, by strategically leveraging activities and know-how of investors to make the business and operational capacity of Kenya's nationals, firms and business environment internationally competitive."*** In doing so, it seeks to make Kenya a preferred destination for investments by virtue of the high quality of skills, goods, services and governance that will be characteristic of Kenya's business environment. Through upgrading local skills, services, institutions, firms and industries and the removal of obstacles to growth, these will be manifested via:

i. Kenyans participating at all levels and in all roles, in all major industrial sectors in firms located in Kenya and overseas, using Kenyan resources.
ii. Globally competitive people, firms and industries.
iii. Equitable access to skills development, employment opportunities and provision of goods and services to every Kenyan.
iv. Strong domestic supply chains, with deep and broad local participation.

v. A strong, self-reliant Kenyan economy, with strong DDI and attractive to foreign investors competing for high value businesses in Kenya.
vi. An industrialised country with efficient capital markets, extended value chains, high-value industries and technologically advanced and innovative firms.
vii. Strong, internationally accredited and recognised teaching, research, development and business support institutions.
viii. An attractive business environment, regulated by transparent, accountable, highly capable, trusted and efficient Government agencies.

3.3 Objectives and Measures

In pursuit of its goals, this policy aims to attain maximum in-country benefit from investments in and use of Kenya's human and natural resources, markets and geographic competitive advantage. This shall be achieved through creating and enhancing *skills and jobs*: *goods, services and supplier development*; *inclusivity*; *capital markets*; and *sustainable development*.

The policy objectives are intended to create and/or improve business and operational competencies, workforce productivity, supplier networks, competitiveness, innovation, enterprise capability, training infrastructure and legal and the supporting regulatory systems for business support, trade, capital markets and fiscal regimes. All of this shall be done in a manner that ensures Kenya's adherence to its obligations to its people and regional and international trading partners.

Meaningful participation along the value chains of major projects and operations in Kenya's various economic sectors shall be necessary to enhance Kenyan capacity to become globally competitive. This in turn will enable the transformation of Kenya's economy from one largely dependent on foreign direct investment, to one that supports direct domestic investments and exports local goods, services and investors beyond Kenya's borders.

By encouraging and facilitating cross-sector linkages, this policy seeks to multiply the impact of the presence of world class firms in Kenya to benefit, first local firms in the same industry, then those in other sectors that use similar skills or services. By working alongside these international firms, Kenyans will be able to draw on their governance, leadership, management, business, operational and risk assurance systems and procedures.

These firms and people will then be able to take these characteristics to other economic sectors, including in traditionally locally run ones, small businesses and Government at both county and national levels. This transfer capacity to other sectors will benefit from synergies and economies of scale to:

- Enhance the productivity of other economic sectors
- Improve national competitiveness
- Reduce imports
- Generate export opportunities
- Improve governance across all of Kenya

By enhancing the level of quality and reliability of governance systems, indigenous goods and services providers, innovation and a skilful workforce, this policy is aimed at making Kenya a preferred destination for investment.

It is also aimed at providing clarity and consistency across all areas of investment, on the meaning and application of local content and its objectives and measures.

The objectives of this policy are to :

1. Promote development of local skills
2. Promote maximum use of Kenyans in the workforce
3. Domesticate traditional head office capabilities and activities of international investors
4. Promote development of Kenyan businesses and supply chains to become internationally competitive
5. Promote maximum use of locally sourced goods and services
6. Enhance the global competitiveness of Kenyan industries
7. Promote equitable access to all Kenyans
8. Promote Kenya as a leader in regional collaboration and integration, in support of mutual prosperity and security.

9. Promote access to finance, local investment in businesses and industries, capital aggregation and enhance the Kenyan capital markets.
10. Promote in-country value addition and retention along value chains
11. Promote technology and knowledge transfer, research and development in the industrial sectors.
12. Enhance the quality of the business environment and governance in Kenya.

Each of the objectives shall be delivered through appropriate *policy measures*. Often, measures shall apply to multiple objectives, in other cases, objectives shall have their particular measures. The most common measures that will almost universally be required include:

1. Situation Analysis: There is good understanding of the current state of the area being targeted by an objective, the level to which it can be elevated based on Kenya's market circumstances and aspirations and the growth potential of the industry. From this the current gap shall be analysed.
2. Strategy and action plan – an approach to close gaps, progress to the desired end state, measure performance, report, review and continuously improve performance;
3. Implementation – Identify actions with clear scopes to be delivered by stakeholders;
4. Accountability – Identify accountable stakeholders and their roles, responsibilities and relationships;
5. Assurance –
    i. Empower regulators and relevant oversight agencies with appropriate legislation/regulations and financial and human capacity and hold them accountable through clear delegations of authority, transparent decision making and reporting mechanisms.
    ii. Empower and hold accountable implementing institutions and firms through the appropriate suite of control instruments required to take risk-management to operating the relevant services and industries, inclusive of contracts, licenses, operating guidelines, approval mechanisms (such as permits and work plans) and procedures (such as Standard Operating Procedures.)

3.3.1 Skills Development and Jobs Creation

The Government shall ensure that industries across all economic sectors give priority to Kenyans for any employment unless regulators can be satisfied that no Kenyan holds the requisite skills. Where there is a shortage of such skills requiring the use of foreign nationals, Government shall ensure that industries identify/employ an understudy (ies) and put in place specific competency development programs for succession planning. Where the competencies are long term and/or require significant numbers of employees, industries, in collaboration with relevant institutions, shall support apprenticeship and training programs for development of those skills among Kenyans.

The Government shall put in place oversight mechanisms to make sure these programs are conducted and are delivering the intended outcomes. Industries shall ensure promotion of gender equality and social inclusion in employment opportunities. Industries and operators shall also ensure that their major international sub-contractors undertake and/or participate in similar programs.

The Government shall promote linkages between industries and institutions in determining demand for these competencies and developing the curricula and facilities for training. It shall also facilitate strategic alliances between industries and higher learning institutions and promote private sector investment in human resource development.

The Government shall promote tertiary and vocational institutions for skills development and ensure that the institutions offer up to date training, based on market needs and are equipped with necessary facilities, personnel and funding. The training shall prioritize science, technology and innovation, with special focus on technical and vocational skills and provide properly accredited institutions to ensure the training meets international standards.

Objective 1: To promote development of local skills

Policy Measures:

1. Government shall establish a framework to promote substantial and sustainable linkages between the industries and technical and vocational training institutions. Through this,

Government and industry shall invest in capacity building, with a science and technical based curricula developed in consultation with the appropriate industries and aligned to the demand focused on skills required for industrial growth and the needs of the Kenyan economy and supply needs of the markets of Kenya and its regional trading partners. As far as practical, such institutions shall be located to benefit access by Kenyans close to the operations of relevant industries and with access to under-served communities, in order to provide on the job training.

2. The government shall encourage and facilitate private sector investments in the development of technical and management training institutions.
3. The Government shall ensure compliance with an accreditation system for institutions to meet internationally recognised industry standards. This shall include strengthening the capacity of the institutions to maintain the required facilities, equipment, certified trainers, standards and quality assurance systems.
4. International firms and industries in strategic industries and where scale allows, shall be required to provide employment and training plans, detailing how they intend to employ and develop Kenyans, including on-the-job trainee programs or apprentice programs for students and graduates.

Objective 2: To promote maximum use of Kenyans in the workforce

Policy Measures:

1. Government shall establish sector specific targets, as appropriate, to ensure industries employ Kenyans.
2. The Government shall require companies to implement ongoing workforce and job skills development programs for local employees and which are transparent, measurable, and achievable.
3. Firms and industries that employ foreigners due to lack of Kenyans with the requisite skills shall be required to implement approved succession plans focusing on training Kenyans to replace the foreigners in the shortest practical time.
4. Government and industry shall create and maintain easily accessible and accurate databases of Kenyan citizens with the relevant qualifications in the key sectors for which

higher level and strategic skills are required, such as energy, extractives, construction and manufacturing.

5. Employment opportunities in major projects, firms and industries along with the required competencies and information on applying for them shall be provided through easily accessible means and kept up to date.

Objective 3: To domesticate traditional head office capabilities and activities of international investors

The Government shall promote and encourage in-country maximisation of those value chain roles and activities that are typically conducted outside of Kenya and consequently largely inaccessible to Kenyans. Particularly, those involved in business development that occur prior to the build and operate phases of major projects. "Doing it in Kenya" shall be a priority.

Policy measures

1. The Government, in collaboration with the industry, shall analyse value chain activities and identify those which are conducted both in and out of the country in order to promote maximum in-country activities, including:
    - i. Asset and resource evaluation
    - ii. Market analyses
    - iii. Developing business cases, strategies and plans
    - iv. Designing plants and facilities - from conceptual to final investment decision stages
    - v. Raising capital efficiently
    - vi. Identifying and securing appropriate technology
    - vii. Engaging, selecting and contracting suppliers effectively
    - viii. Managing projects, contracts and suppliers
    - ix. Managing fabrication, construction, installation, commissioning and start-up
    - x. Developing risk management, maintenance and operations plans and procedures
    - xi. Human capital management for analysing competency and capacity needs, designing plans, procedures and protocols for attracting and retaining the best skills in Kenya and ensuring knowledge transfer and business continuity

xii. Assessing mid- and downstream markets of raw materials and intermediate products, developing supply chains and businesses for in-country processing and manufacturing into usable products
xiii. Marketing, trading, transportation and logistics
xiv. Research and Development
xv. Industry collaboration with academia

2. Government shall design and implement measures to prioritize areas of focus and incentivize and attract firms and industries to build the desired competencies in Kenya and among Kenyans.
3. The Government shall require enhancement of the amount, depth and breadth of in-country activities in industrial value chains to enable fuller participation of nationals and local enterprises along these value chains.
4. Kenyans shall be trained, developed and provided opportunities to participate at all levels, in all roles and in all parts of the value chain of the various sectors, including by practical experience and with the supporting ecosystem of tools, equipment, information, procedures, knowledge, mentoring and coaching, so that as much of the activities are domiciled in Kenya as is practical.
5. The Government shall maximise in-country activities by promoting and incentivizing them for the enhancement of the quality and standards of existing sources of input goods and services with their required supporting ecosystem.

3.3.2 Supplier Development and Preference for Local Goods and Services

The Government shall require industries investing in the country in specific projects and sectors, as identified by the LCC, to include local content in their project, multi-year, annual and other plans, indicating how they intend to develop local capacity and utilise local goods and services during their planning and operations. The local content plans shall map the industry's supply chain and show where and how local firms and industries shall participate and be developed. Firms and industries shall report regularly on progress and how they have achieved the same to their sector regulators. The LCC shall also recommend and maintain an appropriate incentives regime to facilitate the procurement of local goods and services.

The Government shall promote subcontracting linkages between the large suppliers and small and medium enterprises. This is to encourage local firms to learn and upgrade to international standards and train their employees on the best international practice. In their local content strategies and plans, major international contractors and subcontractors shall include procurement and contracting procedures and practices, such as unbundling of contracts and advanced market sensitisation, to benefit local enterprises.

To the extent that they can meet demand competitively, industries shall be required to utilise local services industries, in particular; insurance, banking, catering, construction, legal and transportation. For its part, Government shall collaborate with industry and academia in collecting and analysing supply chain activities and data to identify the sectors for priority treatment and so inform the setting of local content targets and identifying goods and services that shall be reserved for Kenyans.

To ensure Kenyans get a fair chance to participate and avoid corruption and disproportionately benefitting a limited group of elites or geographic regions, the Government shall ensure that there is transparent procurement by, among other things, pre-qualifying local suppliers based on pre-established criteria to validate their ability to supply to the industries and the regions.

Further, the Government shall promote readily accessible and up to date market information in all economic sectors to populate portals for enabling interactions and transactions between supply and demand side stakeholders, as well as analysts and researchers. This shall be supported by databases for local individuals, firms and suppliers to be easily identified and accessed by the industry operators, potential local and international partners, agencies of Government, training institutions, development partners and suppliers within Kenya and the diaspora. It shall provide information on skills, services, certifications and experience, in order to:

i. Allow Kenyans a fair chance to make their credentials available to be considered for participation.
ii. Enable local and international operators and services companies to identify, access and engage suitable local employees, suppliers and potential partners from within Kenya.

The databases shall be maintained and made accessible on demand in the full range of activities with the requisite skills, goods, services, standards and certifications required in conducting the whole business of each sector, along its entire value chain, both within and outside Kenya. Government shall ensure that these databases of market demand are updated early enough to give local suppliers a fair chance at participating.

Some industries, such as extractives, manufacturing, and construction require significant operating, capital and risk management capacity. With their high spend, these sectors provide huge procurement opportunities. Localising the supply chains in the procurement of these goods and services can create substantial opportunities for Kenyan people and businesses. Where these are outside the scope and/or scale of Kenyan firms, the Government shall require partnerships between local and foreign enterprises in establishing joint ventures or other appropriate forms of alliancing. It shall provide incentives to firms that partner with local companies and excel at knowledge and technology transfer.

Objective 4: To promote development of Kenyan businesses and supply chains to become internationally competitive

Policy Measures:

1. With industry, the Government shall ensure demand and supply surveys and analyses are conducted regularly across all key economic sectors to identify the supply chain activities in which local enterprises can participate and grow.
2. Up to date, detailed databases and user-friendly portals shall be maintained to enable meaningful stakeholder engagement, interactions and transactions and to advise strategies and priorities for local capacity development and participation. These shall list local suppliers, along with their competencies, certifications and experience to supply goods and services, support their prequalification and expose them to potential clients, local and international partners and employees.
3. The Government shall encourage and facilitate transparent and accountable joint ventures and other appropriate partnership arrangements between local and foreign firms and institutions to improve business management and leadership capacity of local industries.

4. Beneficial ownership shall be used to gauge the level of value retained in Kenya and to ensure that the practice of "fronting", where local benefits are not secured because of deliberate deception of the nature of Joint Ventures, shall be discouraged and penalised.
5. Government shall lead a collaboration with industry and academia to build, operate and maintain ***enterprise development centres*** to support small and medium sized companies around Kenya, so that their business processes and internal governance systems shall allow them to access and qualify for opportunities, enable them participate meaningfully in industry and grow to become internationally competitive and export their services, by meeting international standards of operational efficiency and good governance. These centres shall provide information, market intelligence, education, tools and advisory support to small businesses, including those in areas close to industry activity.
6. The Government shall support the development of ***incubation programs, clusters and growth poles*** to strengthen small and medium enterprises and facilitate their ease of implementation to maximise lateral benefits of major investments.

Objective 5: To promote maximum use of locally sourced goods and services

Policy measures

1. As appropriate, the Government shall determine and ensure preferential treatment and exclusive access in procurement for local personnel, goods and services, in line with provisions in Public Procurement legislation and favourable treatment of Kenyans, in accordance with this policy.
2. The Government shall require each industry and its major operators to have sector-specific and/or corporate policies on supplier development programs for local industries, as part of their local content policies. These shall be in line with this policy and shall provide for each major firm to identify a specific officer responsible for reporting on progress and keeping their policy and plans updated and liaising with regulators.
3. The Government shall develop procurement and contracting regulations, guidelines and procedures that promote participation of Kenyan citizens and enterprises, as appropriate for the national or sector levels. This shall require operators to develop, maintain and report capacity development and local content strategies and plans at licence/contract

project, annual and operational levels. Where such already exists, they shall prevail in the transition process, until amended, if needed.

4. Investors shall adopt procurement and supplier development strategies, plans and procedures that assist local suppliers in accessing and succeeding in opportunities by, among other things:
    i. Giving exclusive access to those that are already of equal value and quality to international suppliers; the LCC shall maintain lists of goods and services which must be procured in-country and may be sector specific.
    ii. Giving preference to those for which the demand allows for investment in supply chain enhancement, so that they become internationally competitive.
    iii. Designing tender and contract terms to provide for access and capacity enhancement among Kenyans, such as unbundling and utilising contract scope and terms for favourable financing.
    iv. Reserving particular goods and services for local suppliers, either fully Kenyan or in partnership with international partners, at minimum levels to be determined in accordance with national law or sector regulations.
    v. Using local suppliers for banking, catering, logistics, custom brokerage, insurance and other services as may be prescribed by regulation, to the extent that they can meet demand and their costs are in line with international market rates; the Government shall provide fiscal and other incentives to support making the cost of doing business in Kenya more competitive.
    vi. Promoting affirmative action for women and traditionally disadvantaged groups of citizens and regions of the country.
5. In contracts for goods or services, where local suppliers lack capacity, the Government shall give preference to international suppliers that are in partnership with local enterprises, based on their proposals for development of Kenyans and their track records in other jurisdictions and/or projects within Kenya. Where appropriate, Government shall provide incentives for joint ventures between international entities to transfer capabilities to local companies.

Objective 6: To enhance the global competitiveness of Kenyan industries

The growth of local enterprises faces several challenges including poor and/or inconsistent product quality, limited access to and high cost of finance, inadequate access to markets, limited technology and poor access to market information. The Government, through its relevant agencies, shall develop and support programs to promote enterprise development, particularly for SMEs, to upgrade their standards and help close the gaps in access to competitive finance, linkages with research institutions, technical assistance and business development services. It shall also leverage and support Kenya's already outstanding sectors, such as ICT, by promoting innovation and technology transfer, setting up reliable infrastructure, providing reliable access to feedstock, fuel and other inputs, maintaining a good business regulatory environment, building human capital in entrepreneurial, managerial and operational skills and promoting market linkages and clusters.

The Government shall collaborate with the private sector in areas where the private sector might be better equipped, such as in developing technical and business management skills, systems and procedures, risk management, governance, partnering and access to finance. The development of alliances and joint venture partnerships between domestic and foreign investors requires a predictable and stable business environment, with transparency and good governance. International investors must be assured that local business partners can meet their due diligence guidelines and can be selected on merit, rather than in favour of political or other elites.

Policy Measures

1. Government shall streamline and automate the processes of its various agencies to dramatically improve the ease of doing business and impact business efficiency and profitability.
2. Government, in collaboration with industry, the financial sector and development partners, shall create funding programs and provide incentives for deployment of private capital from a broad range of Kenyan society, to enable local industries to get access to affordable financing for their activities, so supporting establishment of a well-funded and efficient capital market regime.
3. The Government shall support the Micro and Small Enterprise Authority in its role to coordinate the functions of other private and state institutions in developing micro, small, and medium enterprises.

4. The Government shall make investments and establish incentives to upgrade technical capability and quality standards and support agencies responsible for these functions, in order to promote the movement towards the higher value chains.
5. Investors shall adopt supplier development strategies, plans, contracts and procedures to assist local suppliers in enhancing their competitiveness by designing tender and contract terms to provide for, among other things:
    i. Ensuring that there are relevant contract provisions for systems and capacity development, including enhancing operational systems and processes for risk management and assurance of health, safety, security, environmental and quality (HSSEQ), business processes and human resources to international standards.
    ii. Setting performance improvement targets in identified growth areas, measuring and providing support through identified contract responsible officers, as appropriate.
    iii. International partnering for effective knowledge transfer;
    iv. Providing assurance that local partners to international firms meet technical, commercial and good governance guidelines required to support the relevant investment or operation and are selected through fair and transparent mechanisms.

3.3.3 Inclusivity

Objective 7: To promote equitable access to Opportunities by all Kenyans

Policy Measures

In order to ensure equitable access to and distribution of opportunities, jobs, wealth creation and prosperity among women, youths, traditionally disadvantaged groups, such as persons living with disabilities and local communities near to industrial activities, , the Government shall:

1. Ensure transparency and equality of access to local employment and procurement programs.
2. Ensure that there are affirmative action initiatives, including preferred or exclusive access to skills development, jobs, goods and services contracts and business/supplier development support for these groups.
3. Promote the decentralisation of labour-intensive industries to rural areas through incentives to encourage regional balance and inclusive growth.

4. Provide incentives to industries that provide community development programs.

Objective 8: To promote Kenya as a leader in regional collaboration and integration, in support of mutual prosperity and security

Given the limited markets and supply chains in each country in the East African Community (EAC) and the Common Market for Southern and Eastern Africa (COMESA) , investment in capacity development to provide goods and services or add value through downstream beneficiation of produced raw materials is usually not attractive in any individual country. The value inherent in these two areas of linkage to raw materials is usually exported to another part of the supply chain of international investors. In addition to the loss of potential jobs, industrialisation and prosperity, this often leads to further value loss through transfer pricing and tax avoidance.

Aggregating supply and demand of both inputs to the supply chain and demand, the combined markets of these two regional groupings have the potential to significantly reduce value leakage outside of the region.

Policy Measures

1. The national Government shall use diplomatic measures and work with its neighbours, regional trade and integration bodies, development partners, major NGOs and major investors and international contractors, to facilitate regional collaboration in skills development, supply chain enhancement, downstream value-addition and procurement.

2. The Government of Kenya shall play a leading role in analysing demand and supply, sharing information and developing strategies to support the development of shared cross-border assets, facilities, plants, clusters and centres of excellence for education, research and services.

3. The Government shall promote for mutual benefits, by cross border treatment of regional inputs as local in the country of use, once designated local in the jurisdiction of origin, along similar lines as those originating in Kenya.

4. Kenya shall provide support and incentives for collaboration, partnering and co-investments between Government and privately owned companies across borders with its neighbours.

3.3.4 Capital Markets

Objective 9: To promote access to finance, local investment in businesses and industries, capital aggregation and enhance the Kenyan capital markets

Kenya should not only be suppliers of human resources, goods and services but also owners of industries, in order to benefit, not only from salaries, but from profits of firms for which they might work. Local investment opportunities and ownership are crucial in retaining profits and deepening the domestic capital markets. The Government shall promote local investment and ownership by giving preference to companies where Kenyans have significant equity and facilitating access to competitive capital for investment.

Ownership by citizens, whether through state owned enterprises or private companies, has the potential for wider support for the success of the firms and industries. Encouraging and facilitating equity participation, where dividends and capital growth can accrue to many citizens, can encourage citizen participation in demanding good governance and oversight of Kenya's resources and assets.

Taking advantage of local content opportunities shall require access to affordable finance. The Government shall need to create an efficient environment to enable local businesses to access affordable financing to facilitate this.

Partnerships between local and foreign investors shall help reduce the risk faced by local capital and help with knowledge transfer and retention of technology. This, in turn, requires that local firms become attractive to the foreign partners, by virtue of their own technical, commercial capabilities, governance systems, access to finance and ability to meet their due diligence criteria of international investors.

Policy measures

1. In awarding rights to access national resources, assets and markets and in public procurement, the Government shall give first priority and set aside some opportunities for exclusive access to Kenyan firms, state and/or private, that have the requisite capacity.
2. In strategic industries and/or projects, foreign entities shall be awarded contracts or licences on condition that they form joint ventures or other appropriate alliances with state or private local entities, as the nature of the investment allows; such partnerships shall be facilitated and encouraged through incentives and improved ease of doing business practices.
3. To facilitate widespread ownership of Kenya's industries, the Government shall require large companies in strategic industries to list some portion of their shares on the Nairobi Stock Exchange. This shall aspire to make equity in Kenya's broader industry base preferentially available for small investors, via SACCOs/Cooperatives, Mutual funds, Pension Funds and the like. Such placements and purchases shall align risks with national law and prudent business or fund practice.
4. The Government shall facilitate with industry, the financial sector and development partners, encourage, provide incentives and seek funds and innovative methods to finance SMEs. Methods such as widening the net of available finance to crowd funding, access to SACCOs, mutual funds and pension funds, as sources of financing for different classes of investment risks and a mechanism to spread the participation in Kenya's formal economy to a wider cross section of the population.

3.3.5 Sustainable Development

Objective 10: To promote in-country value addition and retention along value chains

In-country value addition is attained through the benefits that Kenya can gain from local participation across Kenya's economic sectors and transfer of knowledge and technology, first to Kenyans from international investors in a particular sector, then to other sectors, by Kenyans.

Kenya, having agriculture as its main economic activity, exports its products in raw or semi-processed state. The same applies to the extractive industries and other natural resources. Maximising the value chain activities within the country shall develop forward economic linkages and create opportunities for Kenyans.

The Government shall promote utilization of local goods and services across all economic sectors through investing in the development of the manufacturing sector. It shall promote initiatives to attract advanced manufacturing technology, research and development, innovation and product development. It shall enhance industrial skills development for application of technologies for advanced processing and manufacturing industries.

The Government shall encourage processing of natural resources and agricultural resources before export. It shall promote the use of local raw materials for the manufacture of medium to high technology sector products.

Policy measures

1. The Government shall give preferential treatment in public procurement and assignment of rights to Kenyan resources, markets or assets to enterprises that have high levels of Kenyan content in terms of investment, goods and services or personnel.
2. Where Kenyan content is not significant, either due to lack of required capacity and/or experience, but the activities involved present opportunities for enhancement of these to grow to the required levels, the Government shall give similar preferential treatment to international firms that demonstrate the ability, experience and commitment to close these gaps.

3. The Government shall provide incentives in establishing advanced manufacturing and processing industries and sub-sectors, especially for agro-industries, extractives, construction, technology research, blue economy, product development and sectors deemed strategic to Kenya's economy.
4. The Government shall establish industrial, science and technology parks and clusters to support manufacturing in line with the framework under Kenya's Industrialisation policy.
5. The government shall provide incentives to encourage local assembling industries to substitute importation of fully assembled components.
6. To ensure that investors in manufacturing and processing benefit from the proximity of locally produced input, no export of raw materials or intermediate products shall be allowed until domestic markets are met and provided with inputs at or below international prices; in such cases, investors and producers shall not be disadvantaged, in terms of existing contractual commitments and economic benefit.

Objective 11: To promote technology and knowledge transfer, research and development in the industrial sectors

Research and Development plays a critical role in developing science, technology, and innovation and is critical to Kenya's industrialisation and development. As the country introduces higher levels of technology into its existing industries, and moves towards higher technology and new industries, the Government needs to attract and encourage investors who are shalling and able to deploy technology, support R&D, enhance innovation and develop intellectual property in Kenya.

Policy Measures

1. The Government shall ensure investors transfer technology and know-how to local firms and Kenyan people and enhance the R&D and innovation capacity of existing firms and institutions.
2. Where appropriate, firms in specified industries shall be required to invest some amount of gross revenue derived in the country, in research and design in collaboration with local universities and institutions. The Government shall also promote funding for research and development.

3. The Government shall provide incentives for localisation of R&D and product design, such as limiting cost recovery for research carried out in relation to an operation in Kenya to work done in-country and in collaboration with local universities and institutions.
4. The Government shall require industries that use highly complex technology including extractive, manufacturing, and construction to formulate and implement plans for transfer of technology from themselves and their major international suppliers. Where there is limited opportunity due to duration, specialisation or exclusivity of intellectual property, the Government shall encourage and facilitate "offsets" wherein companies and/or their suppliers may choose to bring a business unit separate and apart from the one investing in Kenya, to set up operations and add value in Kenya, so as to offset the value paid by Kenya to import the base investment.
5. The Government shall promote collaboration between firms, industries, local universities, and institutions in enhancing and supporting research and development consortia, cluster formation, enhancing the capacity of existing institutions, prioritising areas of R&D and innovation, supporting linkages with international institutions and lending oversight to in-country R&D.
6. Local and foreign companies and institutions involved in research and development shall have mutual beneficial ownership to any co-developed intellectual property and the local industry or institution shall have the right to utilize the intellectual property beyond the project it was developed under.

Objective 12: To enhance the quality of the business environment and governance in Kenya

Attracting foreign investors, especially in highly specialised and/or high capital industries, requires clarity and consistency of the rule of law and its application, contract sanctity and ease of doing business. Major international firms in these classes of business are successful only if they manage risks well. Excellence in project delivery and operations requires consistency of procedures, transparency of decision making and accountability of all involved. These firms thus build and operate good governance systems that mitigate the risks to their business. Working alongside them and being required to perform at similar standards, local firms shall need to raise their level of risk assurance and governance to international standards if they are to become competitive and be weaned off initial phases of preference.

Should state agencies conduct their affairs in a similar vein, not only shall they give confidence to investors, but they shall also manage the country's resources efficiently. Transforming governance to make Government operations, procedures and decisions transparent and allow agents of the state to be held accountable, is key to sustainable development in Kenya.

Policy Measures:

1. This Policy shall be implemented consistently and transparently through local content entities that employ risk management systems, underpinned by standard operating procedures that hold individuals accountable for their actions and decisions.
2. Local Content Committee and Units shall be required to publish their activities and results at regular intervals.
3. Selection of foreign and local companies shall follow clear and transparent guidelines and procedures.
4. Local companies shall be required to meet pre-determined standards, in keeping with good procurement procedures to mitigate corruption, fronting for foreign firms/individuals and benefit of elites.
5. Legislation and Regulations shall be coordinated and standardised across sectors, where practical.
6. Preferential treatment is a necessary measure for assisting nascent industries to get started and ensuring that strategic national interests are served. Experience in Kenya and elsewhere clearly shows that unbridled preferential treatment acts as a disincentive to productivity and competitiveness. In all cases, where measures in this policy have been put in place to ensure preferential treatment, targets shall be set, progress measured and publicly reported, to ensure that the desired outcome of making Kenyans competitive is being achieved. Each preferential treatment measure shall include mechanisms to wean firms off this support system.

4.0 IMPLEMENTATION, MONITORING AND EVALUATION, AND REPORTING

4.1 Implementation Strategy

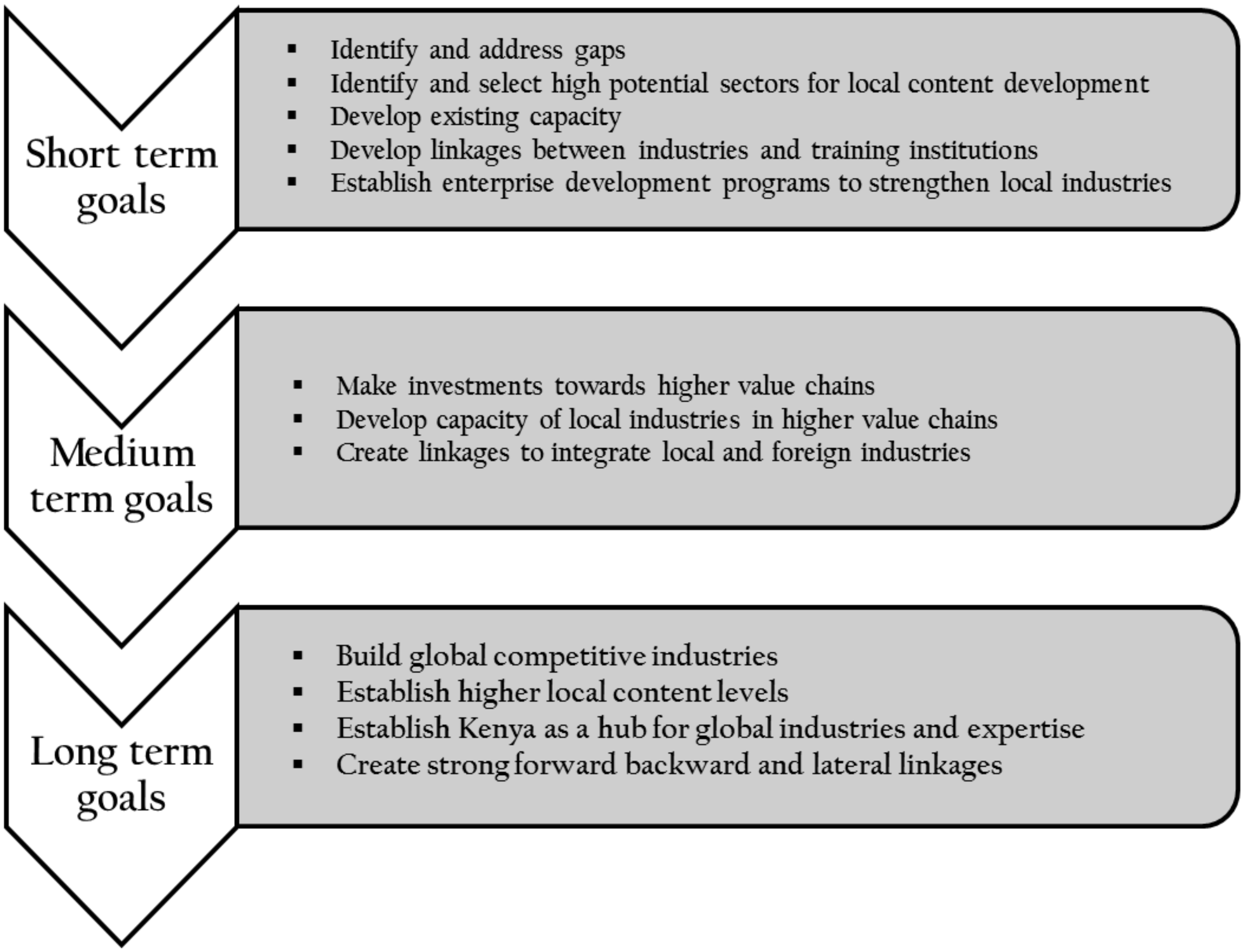
To implement the policy measures identified, the following approach shall be taken:

1. Legislation and regulations for specific economic sectors shall be guided by demand and supply analyses, linkages to other sectors and national development aspirations.
2. Priorities in building capacity and increasing local participation shall be guided by:
    a. The scale, scope, duration and continuity of activities in the supply chains.
    b. The levels of spend and job creation potential in supply chain.
    c. The potential for transfer of knowledge and technology from international investors to Kenyans.
    d. The opportunity for capacity that is built in the supply chain of one sector to support other economic sectors
    e. Giving preference or exclusive rights to Kenyans in areas where they already have the capacity to provide the required skills, goods, and services at the industry standard.

3. The Government shall foster mechanisms to develop competency and capacity by collaboration with and between firms, industries, training institutions, civil society and development partners.
4. The Government shall ensure fairness in accessing local content opportunities through a transparent process for selection of qualified local suppliers and ease of access to information on available opportunities.
5. The local content policy shall be periodically reviewed based on the changes in the economic sectors, demand and supply and the national development agenda, at that time.
6. The goals of local content shall evolve over the short, the medium and the long term as illustrated in the figure that follows.

Figure 4 below gives a summary of the policy's short term, medium term and long-term goals

Figure 4: Short term, Medium term and Long-term goals



4.2 Local Content Committee

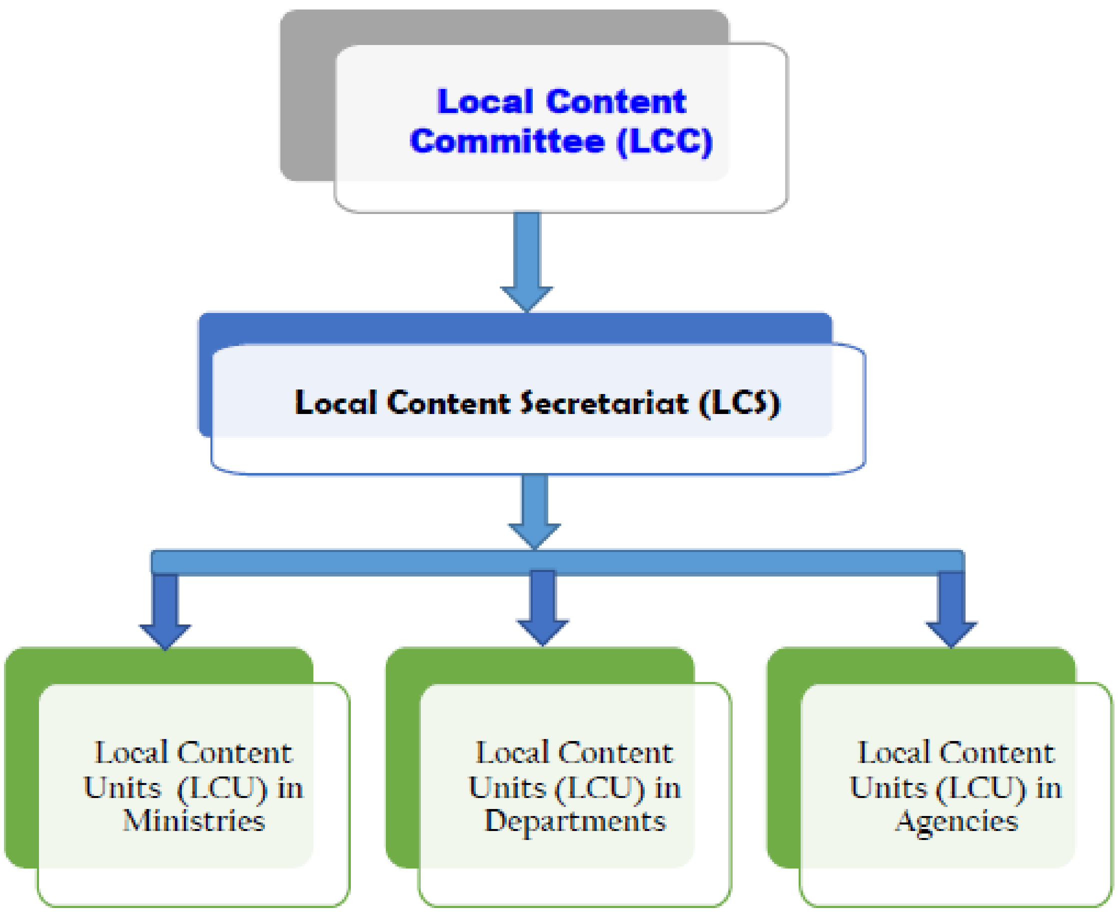
The Government will establish a Local Content Committee (LCC) through enactment of appropriate legislations (Local Content Bill and Local Content Regulations) to enforce the provisions of the Local Content Policy .

The Local content Committee, will be supported by a Local Content Secretariat at National Level, with Local Content Unit established at Ministries, Departments and Agencies (MDAs) levels.

4.3 Reporting

The Local Content Committee will receive monthly and quarterly reports from the Local Content Units. These reports will be analysed and consolidated for the Local Content Committee to present annual reports on the State of local content development to Parliament, via the Cabinet Secretary of Industrialization, Trade and Enterprise Development. Figure 5 below show the organizational structure for the Local Content Policy implementation framework.

Figure 5: Organization Structure for Local Content Policy Implementation Framework



IMPLEMENTATION MATRIX