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ETHIOPIA COMMERCIAL LAW & INSTITUTIONAL REFORM AND TRADE DIAGNOSTIC



Executive Brief: Report Summary and Recommendations

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Ethiopia: Cautious Reform, or Half-Measures?

In Ethiopia, the need for comprehensive and sustained economic reform, including significant loosening of restraints on commerce and vastly improved access to capital and to markets, is a matter of life and death. Within the country's population of nearly 77 million people, about 85%—roughly 10 million households—live in rural areas and work in agriculture-related activities. About 14–17% of Ethiopia's people are chronically or transitionally food-insecure, and half the population reportedly lives on less than US\$1 per day. Ethiopia ranks low—170th out of 177 countries—on the United Nations' Human Development Index for 2005.

Although the country has suffered greatly in recent years, most prominently through frequent droughts and the 1998–2000 war with Eritrea, Ethiopia has taken some important steps toward transforming

its economy into one that is more competitive and dynamic. The Government of Prime Minister Meles Zenawi, in place since 1994, has fostered increased macroeconomic stability, privatized a significant number of companies, eased constraints on foreign investment, and enacted or reinforced a number of market-oriented laws. Moreover, as enunciated in 2005 in the draft Government's Plan for Accelerated and Sustained Development to End Poverty (PASDEP), there is renewed resolve in Ethiopia to promote development through a mix of strategies, including a focus on basic human needs for health, sanitation, and education; an emphasis on capacity-building within various State sectors; and broad-based macroeconomic reform.¹ The Government has identified among its primary economic objectives during the period of 2006–2011 “to accelerate the transformation from subsistence to a more business/market-oriented [system of] agriculture.”²

On the world stage, moreover, Ethiopia has much to offer. Its fundamental resources include agricultural products for which there is significant demand in wealthy countries (coffee and flowers, for example), the potential for developing far more “value-added” agricultural and industrial exports, underdeveloped tourism potential due to its rich

At a Glance: How Ethiopia Ranks in Major Indices of Economic Development and Reform		
Study/Index	Ethiopia's Ranking	Number of Countries Surveyed
United Nations, Human Development Index (2005)	170	177
World Economic Forum, Global Competitiveness Index (2006–07)	120	125
World Bank, Doing Business in 2007	97	175
Heritage Foundation, Index of Economic Freedom (2006)	133	161
Transparency International, Corruption Perception Index (2005)	137	159

¹ Ethiopian Ministry of Finance and Economic Development (MoFED), Plan for Accelerated and Sustained Development to End Poverty (Draft-PASDEP) (October 2005).

² Id. at Chapter IV, Section 4.1.

history and environment, and, given significant long-term investment in infrastructure, a vast potential for regional trade.

Notwithstanding this potential, Ethiopia's reform efforts in recent years have unfolded with a cautiousness that belies the urgency of addressing the country's poverty. The policy changes to date do not ultimately reflect confidence that, were individuals and firms are not overwhelmed by unnecessary bureaucratic constraints or unfair competition from State and political party actors, their collective dynamism could contribute to significant and sustainable "homegrown development."³

Equally important, the initial rounds of reform have not sufficiently addressed key constraints to economy-wide productivity, such as access to capital and access to markets. Enhancing the ability of Ethiopian firms to borrow capital represents a critical step in raising the status of the private sector in the global economy from a small, static player to a larger and more dynamic competitor. Similarly, the ability of Ethiopia's farmers and other business concerns to transport their goods to market, and for those goods to flow smoothly across borders, is of critical concern.

This Report explores the state of economic opportunity in Ethiopia through the critical lenses of Commercial Legal and Institutional Reform (CLIR) and cross-border trade. Following an overview of the purpose and methodology of the inquiry, this Report identifies certain cross-cutting themes in the commercial, legal, institutional, and trade environments and then details 15 individual topics that comprise the infrastructure of a thriving economy. Through its findings and analysis, the Report aims to bring a concrete, substantive structure to a long-term agenda for legal, institutional, and trade-related reforms that set a welcoming stage for entrepreneurship, investment, trade, and development.

The E-CLIR Trade Diagnostic: A First in Africa

This inquiry—known as the Ethiopia CLIR and Trade Diagnostic ("E-CLIR Trade" or "Diagnostic")—represents a first for Africa. Through the comprehensive methodology established by USAID's Seldon Project for Global Trade Law Assessment and Assistance and tested in recent years in several different regions of the world,⁴ the Diagnostic examines the following topics:

Commercial Law

- Company Law
- Contracts Law and Enforcement
- Real Property Law
- Secured Transactions Law
- Bankruptcy
- Commercial Dispute Resolution

³ William Easterly, *Planners vs. Searchers in Foreign Aid* (Paper prepared for African Development Bank Distinguished Speakers Program, January 18, 2006), page 23.

⁴ Detailed information about the Seldon Project can be found at www.bizlawreform.com.

Court Administration
Competition Law
Foreign Direct Investment
International Trade Law
Financial Crimes
Intellectual Property

Trade

Flows of Goods and Services Across Borders
Trade-Related Flows of People
Trade-Related Financial Flows

The purpose of focusing on these topics is to identify in specific and substantive terms the various ways in which a developing country may be missing out on opportunities for economic growth because of its law, policies, institutional characteristics, or social dynamics, and how specifically it is advised to change. Sustained efforts to address these topics can increase a country's prospects for economic growth and prosperity. Indeed, raising prosperity over time requires legal and institutional changes that allow economic actors to become established, grow, compete, resolve conflicts, access markets, and engage in trade with relative ease. Although every country has specific needs and priorities, research has brought to light a great number of best practices in the implementation of micro-economic reform.⁵

Within each of the targeted areas, therefore, this Diagnostic has accessed data from a broad spectrum of stakeholders and endeavored to build a "360° picture" of the E-CLIR/Trade challenge. This picture derives from inquiries into the following:

Legal Framework. The Diagnostic first examines the laws and regulations that Ethiopia has in place that serve as the basis for its ability to achieve and sustain market-based development. The Diagnostic poses the following questions: How closely do existing laws reflect emerging global standards? How well do they respond to commercial realities that end-users face? What inconsistencies or gaps are present in the legal framework? Often discovered through this review are opportunities to make relatively small changes that may result in significant openings for business development and expansion.

Implementing Institutions. Next, the Diagnostic examines those institutions that hold primary responsibility for implementation and enforcement of Ethiopia's laws, regulations, and policies governing one or more of the areas addressed in this Report. For example, courts are usually a crucial institution in the examination of commercial law. Problems uncovered often relate to bureaucratic inefficiency, lack of resources and training, and, of paramount concern, real or perceived corruption. With respect to the

⁵ See, for example, the World Bank Doing Business initiative, www.doingbusiness.org; Michael Porter, *Building the Microeconomic Foundations of Prosperity: Findings from the Business Competitiveness Index* (2004); Robert Cooter, *Innovation, Information, and the Poverty of Nations* (2005).

flow of goods, services, and people, Customs and Immigration authorities are the chief implementing institutions.

Supporting Institutions. The Diagnostic then considers the environment of organizations, individuals, or activities without which the legal framework or policy agenda cannot be fully developed, implemented, or enforced. Examples include notaries, lawyers, banks, business support organizations, professional associations, universities, and other similar ancillary service providers. Of particular interest with respect to supporting institutions is whether they have any meaningful involvement in *what the law says*. Where there has been “buy-in” from affected constituencies, a law and its commensurate system for implementation are more likely to be understood, to be used properly, and to achieve their overall purpose.

Social Dynamics. Finally, studying social dynamics entails asking whether the affected constituencies of a law or policy perceive a need for change, and, if so, how they are demonstrating this need. Are they effectively lobbying those institutions that can make a change? Is the media seizing the issue as a topic of public concern? Are individuals speaking out? Or, have social dynamics taken a less positive approach—for example, is the “gray economy” growing as a response to overly burdensome conditions for market entry? Analysis of social dynamics may affect how an assistance project is ultimately designed. Where outside participation is strong and public understanding high, a reform program may simply involve a relatively small number of State officials who are capable of meeting the demands. In contrast, where mistrust and misunderstanding are abundant, an approach that involves significant engagement of “end-users” will likely be necessary.

The E-CLIR Trade Diagnostic took place on June 19–30, 2006, when a team of commercial law and trade professionals, including a representative from USAID/Washington, DC, traveled to Ethiopia to conduct a comprehensive inquiry pertaining to the country’s laws, public and private sector institutions, and social dynamics relating to commercial law and trade. The team consisted of the following individuals:

- Andrew Mayock (*Team Leader*) (Flows of People);
 - Amy Allen (Administrative Support, Gender Issues);
 - Peter J. Baish (Flows of Goods and Services);
 - Wade Channell (*USAID*) (Bankruptcy, Secured Transactions);
 - Joanne Cornelison (Flows of Goods and Services);
 - Timothy Hughes (Competition Law);
 - Thomas N. Jersild (Company Law, Real Property Law);
 - Mark Walter (Contract Law, Financial Crimes, Legal Education);
 - Irving Williamson (Foreign Direct Investment, International Trade Law, Flows of Money);
 - Arthur Westneat (Agricultural Economy); and
 - Scott Worden (Commercial Dispute Resolution, Court Administration).
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Summary of Subject-Specific Findings

The findings of the 15 subject-matter areas examined in this Diagnostic are summarized as follows:

Company Law and Corporate Governance. Although Ethiopia's company law—set forth primarily in its Commercial Code enacted in 1960 and in the 1997 Commercial Registration and Business Licensing Proclamation—has proven basically adequate for conditions to date, the Code needs to be updated to reflect current commercial realities and the demands of a global economy. The Government recognizes the need for a new law and has appointed a committee under the Department of Justice, which has been working on a replacement for more than 2 years. Unfortunately, the committee has yet to circulate a draft of the law for comment from interested constituencies, which may include trade associations, individual businesses, university representatives, foreign investors, and others. Nonetheless, completion of the effort is said to be planned for early 2007. Although the efficiency of company startup and registration in Ethiopia has been a problem in the past, those issues are no longer as pressing because of streamlined company registration procedures and forms in the Ministry of Trade and Industry. Issues ripe for change within the legal framework include (a) the current law's requirement that private limited companies must have at least two members and a shareholding company must have at least five shareholders, and (b) the lack of a requirement that larger companies have independently audited annual financial statements. There also is a general lack of quantitative and qualitative information on Ethiopian companies, an issue that discourages investment in them.

Contracts Law and Enforcement. Though Ethiopia's written law on contracts—specifically, the Law of Obligations in the 1960 Civil Code—is comprehensive and reasonably well thought out, most of the other components critical to an efficient culture of commercial contracts are either nonexistent or seriously underdeveloped. A traditional, customary legal system in Ethiopia is sometimes used by individuals and small commercial enterprises and is reported to be reasonably efficient. Individuals with commercial disputes reportedly turn first to the customary system (usually the elders of a rural community or urban neighborhood), then to the courts if the dispute cannot be resolved. Judges have suggested that they will review the findings of the elders as if they had come from a lower court. This state of affairs is not necessarily a barrier to the development of a domestic market system. However, it is a system which will not be viable for business in the international market. The dependence upon customary dispute resolution will need to be reduced for Ethiopia to successfully compete in the global marketplace.

Real Property Law. Under Ethiopia's Constitution all land is owned by the State, a circumstance that is hardly conducive to a free market in land transactions. Moreover, Ethiopia has never had a widespread system of land survey and titling. At the same time, however, the Constitution and other laws support extensive private use and quasi-ownership of land by Ethiopians and, in limited cases, by foreigners. This includes the right of private persons to own buildings and fixtures on the land, their right to lease land from the State on a long-term basis, farmers' right to continue using rural land

permanently for agriculture and, in limited cases, to lease it to investors or otherwise develop it commercially, and the State's right—and frequent practice—to expropriate urban or rural private land use rights and sell those to private investors. Through these limited rights, there is an active market in land transactions. That market is politically controlled and highly opaque, however, and the rights are less secure and predictable than in market-economy countries or than should be the case for optimal economic development in Ethiopia.

Secured Transactions Law. Ethiopia's collateral law system has significant gaps that limit its utility for supporting economic growth and development, with the absence of a national collateral registry among the most prominent gaps at this time. This absence of a national registry for collateral is of immediate concern. Moreover, the country's basic legal and institutional structure is inadequate to move significantly beyond existing levels of credit. Supporting institutions—especially the banking system—create further limitations on the utility of movable property for expanded access to credit. Significant reforms are needed before the demand for secured credit can be met, including significant legal and regulatory reform and refinement, strengthening creditors' awareness of opportunities and options in secured lending, increased public education about such new options as leasing and warehouse receipts, and public education about access to credit generally. These reforms are neither difficult nor radical, and they should be marked as one of Ethiopia's highest priorities.

Bankruptcy. Ethiopia's bankruptcy regime is relatively untested. Despite a reasonable framework law based on the Swiss bankruptcy code, other laws and practices have encouraged avoidance of the bankruptcy system. To the extent the bankruptcy law is being used, it is being used only for liquidation, not for reorganization. (Should the Government eventually increase privatization of State-owned enterprises, reorganization can be a very effective tool for making them functional and viable in a market economy.) The courts, understandably, are not well versed in bankruptcy practice or procedure, as bankruptcy filings are rare. Surprisingly, however, there seems to be a strong basis for building trustee and reorganization capacity based on existing "private receivership" practices. Current banking collateralization practices and limited commercial credit make it unlikely that much significant change will take place in the near future.

Competition Law. In recent years, Ethiopia has taken affirmative steps to open several sectors of the economy to competition and to encourage and facilitate new entrants into those sectors, including the enactment in April 2003 of a new Trade Practices Proclamation. This legislation states that the Government is committed to "establish a system that is conducive for the promotion of a competitive environment by regulating anti-competitive practices in order to maximize economic efficiency and social welfare." It prohibits anticompetitive behavior and unfair or deceptive conduct by one competitor against another, authorizes regulation of prices for basic goods and services in times of shortage, and requires disclosure on labels of basic consumer information such as weights and measures. The law also provides for the creation of two implementing institutions, the Trade Practices Commission and the Trade Practices Secretariat. The process of introducing free competition into Ethiopia's economy, however, is far from complete. Important sectors remain overwhelmingly dominated by State-owned enterprises, and the

transport, travel operations, and financial services, the financial and trading skills of foreign investors would likely bring an important positive influence on domestic investors and stimulate domestic investment activity. In addition, the Government should review and likely reduce or eliminate its current minimum investment requirements. Moreover, although it has taken many positive steps toward encouraging private investment, the Ethiopia Investment Agency lacks resources in terms of the necessary scale and content of its investment promotion activities; its staffing, equipment, and information resources; and its access to and status with other relevant Government departments and agencies. To undertake effective promotional work, the agency should be strengthened.

International Trade Law. In its current form, Ethiopia's trade regime contains the key provisions that support economic development. The structural adjust program of the 1990s resulted in a streamlined tariff structure with bands and a maximum tariff of 35% and a trade-weight average tariff level of 17%. Notwithstanding these reforms and others implemented in the early part of this decade, a number of additional reforms are needed before the regime satisfies WTO transparency and other trade-facilitation requirements. The Government of Ethiopia's decision in January 2003 to apply for membership into the World Trade Organization presents an excellent opportunity to further modify the trade regime to ensure that Ethiopia's trade policies make a maximum contribution to development and to promoting domestic and foreign investment. Until Ethiopia submits to the WTO its memorandum on its foreign trade regime, however, the accession process will not begin in earnest. In the meantime, a number of impact assessment studies have been completed and a number of training programs have been conducted. In addition, work has been started on revising legislation in the customs and intellectual property areas.

Flow of Goods and Services. Ethiopia suffers from a wide range of legal, institutional, and operational constraints that impede movement of goods and services beyond its borders and thus hinder trade expansion as a source of economic development. Ethiopia's new draft Customs Law should be supported—it not only includes provisions that will facilitate the country's bid for WTO accession, but also provides the foundation for modernization and reform. The country must also continue its development and use of information technology relating to customs and other trade facilitation functions, including streamlining and reducing the paperwork requirement of all the border agencies. Certain border procedures should be consolidated and export assistance programs should be strengthened. Significantly, Ethiopia's system of supporting institutions needs strengthening, especially through the development and capacity-building of trade associations and through initiatives that aim to diminish public-sector suspicion and interference with private sector activity. These and many other topics are detailed in the discussion of Flows of Goods and Services.

Trade-Related Financial Flows (Flow of Money). Ethiopia's foreign exchange regulations represent a major impediment to trade. They clearly contribute to the country's ranking as the lowest among all countries rated (149th) in the 2006 Doing Business category of "Trading across Borders." Ethiopian authorities have expressed concern about the country's balance of trade, which is lopsided in favor of imports, and

retail sector and financial services are, for the most part, closed to competition from foreign firms. Government monopolies also continue to exist in energy and other sectors. Even in those sectors where there have been reduced barriers to foreign competition and privatization of industry and services, expected economic benefits can be short-circuited by private cartels, barriers created by dominant firms, and public regulations. Concurrent with measures that focus on broadening access to capital for private enterprise in Ethiopia, concrete steps should be taken to reduce anti-competitive forces in the Ethiopian economy.

Commercial Dispute Resolution. Despite several decades of dormancy, the Ethiopian legal system that was created in the 1960s provides a solid foundation for the resolution of commercial disputes. The present challenge is to build the capacity of lawyers and judges—many of whom are relatively inexperienced—to better understand commercial transactions so that they may accurately apply that system to business disputes. In addition to the lack of commercial acumen in the legal community, two key issues are the excessive length of time it takes to achieve a final decision in the courts and the generally inexperienced pool of judges that decide the cases. Significantly, the most prevalent form of commercial dispute resolution in Ethiopia is informal mediation and arbitration. From merchants in the sprawling Mercato open-air market in Addis Ababa, to disputes among rural farmers and herders, parties often seek out a mutually trusted mediator or recognized village chief or council to resolve their commercial disputes. Two arbitration and mediation centers have recently been created in Addis Ababa to handle larger and more sophisticated transactions. Although together they have accepted fewer than 20 cases in their first 2 years of operation, the centers offer significant promise for providing businesses with a reliable dispute-resolution mechanism that is speedier and more private than the courts.

Court Administration. Ethiopia's courts have limited reach and limited resources, but are generally well organized and effectively administered within those constraints. Businesses and lawyers praise the organization of pleadings and scheduling, as well as the ease with which they obtain basic information on ongoing cases. As noted, their greatest complaint is the excessive length of time it typically takes to achieve a final resolution. More efficient court administration could decrease case time considerably, including hiring additional judges and staff, segregating and fast-tracking basic commercial disputes from more complicated family matters on the civil docket, and improving information management within the courts and between them and other implementing agencies. Notably, the Supreme Court has initiated a national court reform project, which has offered training for judges and court support staff to implement administrative reforms and to better accomplish complaint resolution, record management, information technology, and customer support. It will take more than training to implement this initiative, however, and the main obstacle to implementation is the lack of resources devoted to the courts.

Foreign Direct Investment. Too many sectors of Ethiopia's economy are closed to foreign investment. Although some of these sectors are not where international corporations normally operate, the restrictions tend to project a generally negative image to potential foreign investors in Ethiopia. In some of the reserved sectors, in particular air

Until the formation of the EIPO in 2003, responsibility for and control over the various areas of intellectual property were handled by different, unrelated government agencies, none of them with authority concerning IPR. Despite government efforts in collaboration with private sector associations to reduce the sale of pirated music, counterfeit goods (e.g., CDs and DVDs) are available in Addis Ababa most visibly through street vendors. The extent of IPR enforcement at the border is unknown. It would not be unreasonable to expect that Ethiopia's prospects for growth arising from substantial foreign investment may be affected if the Government fails or slows down its efforts to engage in meaningful implementation of its IPR regime.

Cross-Cutting Themes in Legal and Institutional Reform

Along with the findings summarized above, certain cross-cutting themes emerged in the CLIR and Trade Diagnostic in Ethiopia. These themes include the following and are discussed in turn:

- Notwithstanding certain efforts toward reform in recent years, the capabilities and potential of the private sector in the Ethiopian economy are undervalued by the Government, while the Government remains over-invested in participating in and regulating the economy;
- As competitive forces increase across many sectors in the economy, improving access to capital, to markets, and to other types of service providers is essential for private enterprises to flourish;
- Ethiopia has a great deal of promise to emerge from its status as a Least Developed Country, with a number of specific opportunities and advantages that should be seized and exploited in the near future;
- To achieve broad-based and sustainable improvements in the Ethiopian economy, legal constraints against the participation of women must be removed, while institutions that encourage the participation of women in the economy should be supported; and
- Ethiopia's opportunities in legal education represent a powerful source of grass-roots support for commercial law reform in the near and mid-term.

Industrial Policy and Low Competition. Throughout this Diagnostic, a number of constraints to the private sector became evident, suggesting that the State remains reluctant to cede control as the primary economic engine in the Ethiopian economy because of a belief that the private sector will not be able to lead the way toward sustained economic development. The State continues to reserve for a few powerful players—including State-owned companies and Party-owned entities—many of the most viable and economically important commercial opportunities, thereby turning its back on the growth potential presented by freer competition and improved access to productivity-enhancing services for private companies. The State also exhibits insufficient interest in dismantling its cumbersome bureaucracy, widely reputed to discourage domestic and foreign investment. Evidence of these issues includes the following:

pressures on foreign exchange reserves, which are dangerously low. The IMF has recently stated that, although imports are a concern, diminishing reserves are reflective of under-capitalized, over-extended public enterprises, as well as of rising oil prices. The IMF further raises “questions about the desirability of maintaining such tight exchange rate management.” On the other hand, Ethiopia has made significant improvements in the area of microfinance in recent years, thus improving access to capital, particularly for micro-enterprises and small businesses.

Trade-Related Flow of People. In recent years, the Government has eased travel restrictions, streamlined processes, and upgraded automation. Despite earning less than a quarter of the tourist receipts of Kenya and Tanzania, Ethiopia’s tourism sector has experienced robust growth and has significantly closed the gap between neighboring countries. Although tourism currently accounts for only 2% of GDP, the annual increase in the number of visitors from 184,077 in 2004 to 227,398 in 2005, a growth rate of nearly 24%, is encouraging as a future source of income for the country. Much of this increase can be attributed to an easing of rules that govern ownership of hotels and restaurants, which has dramatically improved (the often Spartan) offerings. “Flows of people”—that is, tourism and business travel—is an area where Ethiopia clearly has room to improve and will likely be a key driver of economic growth in the years to come. In addition, the safety of foreign travelers is not considered a real issue, as the crime rate is relatively low compared to other African countries. As with the flows of goods, services, and money, however, Ethiopian institutions need to modernize further.

Financial Crimes. Although Ethiopia is not currently a haven for financial crimes, conditions indicate that the country is highly vulnerable. Ethiopia’s borders are extremely porous; Customs officials are poorly trained and poorly paid; conflicts are common near each of the country’s border areas (Somalia has recently experienced a violent transition to an Islamist government); and, though the banking system is not particularly vulnerable, so much of the economy is cash-based that money flowing in and out illegally simply blends into the informal economy. Ethiopia has made headway in its cooperation with international efforts to bring the legal regime in line with international standards, and is party to 7 of the 12 international conventions and protocols relating to terrorism. The international community has been slow, however, to recognize Ethiopia’s vulnerability, citing its underdeveloped financial infrastructure and lack of economic development as obstacles to crime. In addition, Ethiopia’s Government has lagged recently in preparing its own infrastructure for compliance with international standards. Nonetheless, there is evidence of drugs being routed through Ethiopia as far back as 1994. There is also recent evidence of significant domestic counterfeiting operations, both in foreign and domestic currency, as well as the smuggling into Ethiopia of large amounts of counterfeit foreign currency produced abroad.

Intellectual Property. Within the last two years, Ethiopia has enacted a series of new laws pertaining to major areas of intellectual property rights (IPR), namely, copyright and related rights, plant varieties, and trademarks. In addition, the country is in the process of developing new laws for the protection of geographical indications and for undisclosed information. These actions indicate that IPR is receiving government interest and attention, primarily through efforts of the Ethiopian Intellectual Property Office (EIPO).

- Strategic sectors of the economy that are dominated by the State (e.g., financial services, telecommunications) and strategic sectors dominated by party-owned enterprises or politically influential groups (e.g., cement production and distribution) severely limit the possibility for growth of private enterprises in these sectors. Interviewees complained that certain sectors, most notably construction, were severely constrained by the favoritism received by politically connected entities in the process of import licensing.
 - State-owned companies are not organized under the Company Law and thus are not subject to its rules and protective provisions (although they are covered by—and occasionally reorganized under—the Bankruptcy Law).
 - Although foreign investors may now undertake certain activities that were previously reserved for State bodies—including air freight, the import of propane and butane gas, and travel and tourism—certain critical areas remain off-limits to foreign investment, most notably financial services, telecommunications (joint ventures only), shipping, and retail distribution. Foreign exchange accounts, payments, and currency transfers are subject to significant controls and restrictions, as are capital transactions. As discussed in this Report's section on Secured Transactions (social dynamics), the State's policy interest in protecting banks seems to be an overriding concern that competition will lead to failure of the existing banks. The notion that competition will lead to greater market efficiency and improved access to capital for private business and consumers has not yet taken hold.
 - Ethiopia's Competition Law, enacted in April 2003, represents a promising step toward greater competitive freedom in the economy. Unfortunately, the law also contains certain provisions that will continue to protect the anti-competitive nature of various State-owned and even party-owned enterprises. The law in effect grants the State broad and flexible powers to exempt many consumer goods from competition. This power to regulate prices, when viewed in conjunction with the fact that the retail sector is largely closed to foreign companies, suggests a lack of confidence in and commitment to competition as an effective regulator of supply and demand for consumer goods and services. More ominously, it suggests undue political concerns with maintaining control over certain sectors, rather than a more broad-based interest in setting a level playing field as a foundation to a competitive economy.
 - Moreover, Ethiopia's Trade Practices Commission, established in 2003, has the authority to exempt from enforcement of the Competition Law any enterprises that have "significant impact on development and [were] designed by [the] Government to fasten growth and facilitate development" and "basic goods or services that are subject to price regulations." This broad discretion of the Commission to exempt enterprises from the law, and to do so *ex post facto*, does not provide the assurances and predictability that would encourage innovation, expansion or entrance by entrepreneurs whose success depends upon free competition. Rather, it suggests a gratuitous loop-hole for State or party-owned enterprises.
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- In the area of real property, the laws and all persons interviewed made it clear that, even beyond remaining restrictions on the ownership of land by foreigners and nonresidents, State regulation is extensive, multi-layered, and heavy handed. A person's acquisition and actual commercial use of the land that he or she holds can be subject to numerous approval processes at the federal, city, region, woreda,⁶ and kebele⁷ levels which are not always transparent, predictable, or consistent from area to area.
- State intervention in the flow of goods across borders similarly places enormous constraints on economic activity. For example, coffee exports must be inspected by the Coffee and Liquor Unit of the Ministry of Agriculture for quality control purposes after the shipment is loaded for export. This requires the transporter to make an additional stop on the way to the port and is an example of Government involvement in an area usually negotiated and resolved between the private parties to the transaction. Similarly, meat exporters face regulatory restraints with up to 10 institutions overseeing the export process. Most exported agro-products require a minimum of two inspections, which are performed sequentially rather than simultaneously. All these inspections add costs and delays to the shipment.
- The State controls most of Ethiopia's radio and television stations, the primary source of information for a populace that is about two-thirds illiterate. There has been some loosening of control over the media—two private FM radio licenses have been awarded recently, for example, and the private press has felt able to express more criticism of the Government in recent years, although not without significant restraints. However, the Government continues to suffer from an absence of critical feedback and dialogue on its political and economic policies that could be fostered by more liberal media policies.

This Report details these and many more examples of a State apparatus that, although reform-minded in certain respects, remains unwilling at its core to release its extensive control over commerce and allow the emergence of an economy that is truly competitive and dynamic to a degree necessary for its citizenry to take advantage of all of the opportunities that may be available to them. At the same time, the State has not met the country's substantial need for a strengthened national infrastructure that will bolster its ability to transport and export goods to regional and international markets. Unless the State pushes toward greater competition in the economy, which includes increased focus on its infrastructure and reduced concentration on unnecessary bureaucratic constraints, its efforts to date will become nothing more than "half-measures," which could ultimately prove less helpful than no measures at all.

Sharing Top Billing: Better Access to Credit, Markets, and Services. Despite significant advances in economic freedom in Ethiopia and the rationalization of policies that followed, entrepreneurs in just about every economic sector must learn to succeed in a hostile business environment. Small and mid-sized farming concerns and other entrepreneurs who seek to raise their businesses from the ground up face a particularly

⁶ Unit of government equivalent to a local district; made up of kebeles.

⁷ Smallest unit of government, often a neighborhood.

difficult business environment that has not yet adjusted to wholly meet their needs. This Report identifies and discusses the following constraints, both direct and indirect, on access to capital (that is, the ability to borrow money) and access to markets:

- Limited use and availability of funding and modern collateral devices (including leasing);
- Over-regulation of banks;
- Limited credit information;
- Limitation of borrowing power due to “over-collateralization”;
- Problems in identifying land use rights, which in turn undermines the use of land as collateral for lending;
- Insufficient recognition of useable collateral (chiefly, movable and intangible property);
- Minimal borrowing opportunities outside of cities;
- Absence of a national collateral registry of movable goods;
- An underdeveloped system of warehouse receipts;
- Lack of professional expertise among lawyers and judges in credit-related matters; and
- Inadequate physical infrastructure providing access to markets, including poor roads, expensive transport costs, and negligible rail service.

During Ethiopia’s most recent famine in 2003, observers noted that insufficient food resources in Ethiopia were not the culprit, but blamed rather an “incomplete” market system in which the private sector could not meet vital needs for warehouses, crop insurance, transport, and other factors that collectively would have prevented wide-spread hunger.⁸ To meet these needs in the future, individuals and firms would need access to capital, including access to bank loans and access to regional and international markets. The urgency of a broad-based program that would support greater access to capital, markets, and services in Ethiopia—through systems that offer sufficient confidence to lenders—cannot be overstated.

What Works Now and What Could Work Better Soon: Seizing the Short and Mid-Term Opportunities. Notwithstanding the many difficulties Ethiopia faces, the country in fact enjoys a relatively strong basis for commercial law and institutional reform, as well as continued development in trade. For example, this Diagnostic found Ethiopia’s commercial legal framework, though in need of significant updating for modern commerce, to be basically sound. Many other Least Developed Countries present far more formidable challenges in legal reform, which is often considered a prerequisite to meaningful institutional change. Although updating the legal framework should certainly

⁸ *Wall Street Journal*, “Behind the Famine in Ethiopia: Glut and Aid Policies Gone Bad” (July 1, 2003), available at http://www.suu.edu/faculty/tufte/E3020F03/Behind_the_Famine_in_Ethiopia_Glut_and_Aid_Policies_Gone_Bad.pdf.

continue to be a priority, it is one that can and should be achieved in relatively short order.⁹

In addition, against an extremely challenging physical and socioeconomic environment, Ethiopia has pockets of real economic progress that show reform growing from within its network of implementing institutions. These include meaningful steps in recent years toward civil service reform, improvements in Customs procedures, and streamlined procedures in company registration. In light of this progress, the challenge now is to sustain and build upon existing institutional momentum. As detailed in this Report, particular opportunities for short and mid-term reforms—ones that need not be overly complex or expensive—include the establishment of a national collateral registry; bolstering the role of professional and trade associations in contributing to macroeconomic reform and educating their members and the public; empowering and providing technical support to certain critical State players, such as the Trade Practices Commission and the Foreign Investment Agency; and seeing through institutional improvements to the country's system of land ownership.

Moreover, Ethiopia has made choices in recent years that will facilitate further legal and economic reforms. The decisions to join the World Trade Organization has set in motion a number of studies and technical assistance activities which should yield far-reaching benefits even if the process is not moving as quickly as expected. Again, Ethiopia's challenge is to sustain the momentum of reform.

Including Women in the Opportunities of CLIR and Trade Reform. Women's empowerment in the marketplace is still a problem. In recent years, Ethiopia has taken some steps toward integrating women into its commercial sector reforms. However, the status of women remains vastly under-valued in the Ethiopian economy.

Most of the efforts of the Women's Affairs Office (WAO) in the Prime Minister's Office in the Government of Ethiopia (GOE) have been directed at poverty eradication, education for girls, and violence against women and girls, a focus that has resulted in increased economic opportunities for women. Examples of these reforms include a National Policy on Ethiopian Women, which aims to facilitate the conditions necessary to bring equality between men and women in Ethiopia. In addition, in May 2006 Ethiopia implemented a five-year Plan for Accelerated and Sustained Development to End Poverty, which includes gender as a pillar. Ethiopia also has in place a gender-aware agricultural development pilot program, and a commitment to revising its Civil Code in such a way that allows for men and women to be given the same rights in succession of property.

Nearly three-quarters of the population of Ethiopia is dependent on agricultural livelihoods. As a result, both the Government and various nongovernmental organizations

⁹ Of course, a program of legal reform should necessarily be a dynamic activity that "includes research, debate, negotiation, public education, outreach, institutional capacity building in parliament, revisions of drafts based on local political compromises and a host of other steps." Wade Channell, *Lessons Not Learned: Problems with Western Aid for Law Reform in Postcommunist Countries* (Carnegie Paper No. 57, March 2005), page 9.

(NGO) have focused their capacity-building efforts for women in the agricultural arena. The “Improving Client-oriented Extension Training” program, funded by the Dutch and implemented by the Ministry of Agriculture, is one example of this focus. This program allows for agricultural extension agents to be trained with a gender-aware curriculum that recognizes women as vital co-participants in the traditionally male-dominated areas of field crop and large livestock care. The program also allows for the development of a gender-conscious structure for planning and implementing agricultural development programs based on the findings of the trained agents.

In addition, there is work in progress to revise the country’s Civil Code to accommodate equal property rights for both men and women. The revised Code specifically has the potential to assist women in Private Limited Companies (PLC) with their husbands to govern the family farm. Currently, if a woman is widowed, she is expected to sell the farm or take on another partner, usually a male relative, to continue business. The revised Civil Code would allow a widow to continue her business without the additional male partner. Its complete revision to allow for gender equality throughout the economy should be an immediate priority.

An African proverb says that “Habits are first cobwebs, then cables.” Though progress may seem slow, current activities have the potential to provide a robust platform for removing barriers to gender equality in Ethiopia. A small but determined contingent of grass-roots parties’ seeking women’s equality could benefit from continued technical assistance and support.

The Foundation of Sustained Legal Reform: Opportunities in Legal Education. Legal education is an oft-forgotten yet critical component of the four-cornered foundation for a solid, energetic legal culture. Those four corners comprise legal education, civil society, government/judiciary, and the practicing bar. Each component of this foundation must be strong enough to provide support for, as well as a check against the power of, the others. Although legal education in Ethiopia presents serious and obvious deficiencies, the core of a strong educational ethic, and well-educated and enthusiastic faculty, provide an excellent starting point for development.

Two surprises greet first-time visitors to the Addis Ababa Law Faculty. The first is that the building is literally falling apart. The former residence of the Emperor’s children, and rather eerily still presenting a touch of its faded grandeur, the school has apparently lost much of its structural integrity. Window frames are skewed into decidedly non-rectangular shapes, and, during the week of this Diagnostic, at least 30% of the library’s table space was covered with plaster that had fallen from the ceiling.

The other surprise, consistent with the first only in its visual impact, is the stacks of hundreds of student theses that nearly fill one room of the school. Each student graduating with an LLB must complete one of these carefully supervised papers in English. Most papers were in excess of eighty pages and immediately identifiable as works of very high quality, easily as well researched and written as student papers in Europe and the United States.

These two surprises go a long way in illustrating the troubling irony of legal education in Ethiopia. The students and faculty perform work that far outstrips the ability of the country's infrastructure—as well as the interest emanating from the other three corners of the foundation—to put it to good use. Thus, the theses lie in haphazard stacks in a dark room within the crumbling law faculty building.

Until 1995, the Addis Ababa University (AAU) Law Faculty was the only law school in Ethiopia. (In the past 11 years, seven public law faculties, and at least three private faculties, have been opened. A number of additional faculties, mostly public, are planned over the coming years.) Founded in 1963 by Emperor Haile Selassie near the end of his huge efforts to modernize the Ethiopian legal system, the AAU Law Faculty remains the most respected. The faculty prospered, with the help of a group of foreign legal scholars, until the Derg regime took power in 1974. The school suffered through the regime, as did everyone and all infrastructure, until 1991. In the years since, the school has risen and fallen periodically in Government favor. Recently, it has undergone rather dramatic funding cuts and its authority over admissions and curriculum has been taken away by the Ministry of Education.

A new effort has begun, however, by members of Ethiopia's community of legal educators to make positive changes to the entire system by developing a lengthy draft document entitled *Reform on Legal Education and Training*. The suggestions made in the draft, if adopted by the Government, would allow the AAU Law Faculty to prosper once again, while also allowing for the expansion of opportunities in legal education in Ethiopia.

Though the rule of law is itself an ideal and never perfectly manifested in any society, it is generally assumed that the strength of legal capacities in any society depends upon how broadly and deeply the rule of law reaches into the public psyche. Legal education is a critical component in any program to establish the rule of law in the public psyche.¹⁰ Those who provide the legal service in a working democratic society have immense influence on attitudes toward the law. Those who train lawyers are key to the attitudes and approaches taken by those lawyers in their effect on society.

A focus on legal education has been used with varying degrees of effectiveness throughout the past 30 or more years in attempting to establish the rule of law in states in transition. Early in that period the Law and Development movement was the vehicle of choice for educators and donors, putting the emphasis on judicial reform and training. One assumption was that improvement in the structure of the Government would trickle down to the general public and would in turn lead to strengthened social development. Another was that courts played the same role in transition civil law democracies as in mature and mostly common-law developed nations.

A newer rationale supplanting this top-down approach focuses on legal culture immersion, on the influence of the legal profession on a culture of rule of law, and aims

¹⁰ See Mark K. Deitrich and Nicholas Mansfield, *Lessons Spurned: Legal Education in the Age of Democracy Promotion* (East-West Management Institute Occasional Paper Series, 2006).

No.	Type	Recommendation	Priority	Duration
		state the procedures for obtaining each approval and the time limit within which a proper application must be granted.		
4.	Legal reform	Simplify many of the rigid rules in the present proclamations, such as the numerous separate limits on maximum lease terms for specific activities and specific geographic areas. These changes could be made using several methods, such as law revisions, website-posted rules, and so on. The methods should be determined centrally at the federal level.	High	Medium
5.	Legal reform/ Outreach	Because land leasing is so important, standardize and publish clear and objective rules for: <ul style="list-style-type: none"> • Leasing land rights from the State, • Selling, subleasing, and otherwise transferring those lease rights, • Negotiating or otherwise setting rental amounts, • Establishing or assuring renewal rights, and • Ensuring that ownership of buildings is not severed from underlying land lease rights. 	High	Long
6.	Legal/Institutional reform	Because land as a financing device is so important, standardize and publish rules for mortgaging land rights, including those presented in the preceding bullet point.	High	Short
7.	Institutional reform	Encourage an open and transparent market by establishing or encouraging land marketing agencies and systems for listing available properties, prices, and other terms.	High	Long
8.	Legal/ Institutional reform	Encourage investment in Ethiopia by making the rules for land use by foreign persons clearer and more secure. Consider the following: <ul style="list-style-type: none"> • Allow certain foreign persons (such as long-term residents and persons or companies making investments of more than a specified amount) to have land use rights the same as or similar to those of Ethiopian citizens, and • Issue a formal regulation or law clarifying matters about which there may now be uncertainty, such as rules for: foreign ownership of buildings and other attachments on land; companies or joint ventures that are partly foreign-owned; the holding of land by Ethiopian citizens for the benefit of foreign persons; and eliminating or reducing investment license 	High	Long

No.	Type	Recommendation	Priority	Duration
		requirements for foreign holding of residential property.		
9.	Legal/Institutional reform	Continue and encourage expansion of the land policy, survey, titling, and expropriation/compensation and urban leasing policy projects described above.	High	Long
10.	Legal education/ Outreach	Establish training programs for federal, municipal, regional, woreda, and kebele officials on all of the above.	High	Medium

Secured Transactions Law

No.	Type	Recommendation	Priority	Duration
1.	Legal reform	Ethiopia's pledge law should be rewritten to expressly permit the use of intangible and tangible movable property, including future interests in such property and proceeds from such property. In addition, the law should specifically permit the use of purchase money security interests in order to create greater flexibility in secured lending and greater competition between lenders. Values expressed in foreign currency should also be expressly permitted to encourage cross-border and international secured lending.	High	Medium
2.	Legal/Institutional reform	Ethiopia needs a national system of collateral registration. Best practices from other countries where a registry that allows for pledges of movable property, as well as both tangible and intangible property, should be considered and implemented in the formation, implementation, and public education about a national collateral registry.	High	Long
3.	Legal reform	The leasing law should be amended as part of an overall legal reform related to secured lending. Lease interests should be registered in the national registry for movable property. Currently the law requires registration of the actual lease contract (not just a public claim on the leased assets) at the Ministry of Industry and Trade. Although this alone does not significantly hinder leasing, it adds unnecessary costs that could be better handled through a national pledge registry system.	High	Short
4.	Legal education/ Outreach	Significant outreach should be made to Ethiopia's community of banks and other lenders, for the purpose of educating them about and building confidence in the	High	Short

No.	Type	Recommendation	Priority	Duration
		idea of secured lending in movable and intangible property. Strategies should be devised to dismantle the norm of over-collateralization and inappropriate use of collateral. The banking association should be strengthened as an important means of increasing understanding and use of the many flexible options and opportunities in secured lending.		
5.	Legal education/ Outreach	The goals behind Ethiopia's enactment in 2003 of a Warehouse Receipts Law should be reinforced through continued donor support and State initiative focused on public education about the purpose and functions of such a system.	Medium	Medium
6.	Legal reform	The over-regulation of banks must be evaluated and altered as a means for releasing constraints on lending in Ethiopia.	High	Long

Bankruptcy Law

No.	Type	Recommendation	Priority	Duration
1.	Legal education	Efforts should be undertaken by the community of implementing and supporting institutions—including creditors and accountants—to learn about and more frequently access the option of reorganization. As noted, the possibility of reorganization or protection arises not only from law, but also from knowledge of the law, and such knowledge is quite limited at this time.	High	Long
2.	Legal/Institutional reform	For more effective implementation of the law, bankruptcy regulations should significantly detail and clarify the role of the commission and the trustees.	High	Long
3.	Education/ Outreach	For the purpose of fair and efficient auctioning services, courts should either hire competent auctioneers or delegate the services to those with experience. Auctioneers should also be regarded as a good source of competent valuation services.	Low	Medium
4.	Institutional reform	Any bankruptcy reform efforts should include input from international lenders and international experts to ensure that amendments will meet appropriate international standards and, more important, provide protections needed to enable lenders to	High	Short

No.	Type	Recommendation	Priority	Duration
		increase access to affordable credit.		

Competition Law and Policy

No.	Type	Recommendation	Priority	Duration
1.	Legal education/ Outreach	Engage in a broad and concerted effort to form and educate a body of academics, lawyers, judges, and consumer NGOs. Specifically: <ul style="list-style-type: none"> • Courses in competition law and policy should be introduced to the law faculties; • Courses in industrial organization should be introduced to the economics faculties; and • Judges should be given the opportunity to participate in judge training offered internationally. 	High	Long
2.	Institutional reform	Empower the Trade Practices Commission to: <ul style="list-style-type: none"> • Focus on law enforcement that has the greatest benefit to consumer welfare; • Create literature and hold conferences to educate the business and legal community on matters of competition policy and law enforcement; and • Advocate on behalf of competition within the Government. 	High	Long
3.	Institutional reform	Give the commission a budget for a staff of lawyers and economists (comparable to new agencies in Vietnam, have more than 20 economists and lawyers) sufficient to conduct its own decisions and to publish and publicize them.	High	Long
4.	Institutional reform	Plan for removing the secretariat and commission from under the authority of the Ministry of Trade and Industry.	High	Long
5.	Institutional reform	Give to either the Trade Practices Commission or some prosecutorial body the authority and resources to initiate investigations and to prosecute cartels and abuses of dominance in the name of and on behalf of the consuming public.	High	Long
6.	Strategy/Education	The foreign donor community should provide technical assistance to the Trade Practices Commission and the judicial training center in understanding and applying	High	Long

No.	Type	Recommendation	Priority	Duration
		concepts of consumer welfare and market power. Some of this training could benefit from involvement of other African countries so that a common regional understanding can emerge. South Africa's competition law enforcement bodies have already benefited from substantial assistance and are now at a more developed level and could assist as a mentor.		

Commercial Dispute Resolution

No.	Type	Recommendation	Priority	Duration
1.	Legal/Institutional reform	Foster commercial expertise within the courts by creating separate commercial and family divisions, and otherwise endeavor to assign similar cases to the same judges.	High	Long
2.	Legal education	Include commercial law courses in the judicial training center curriculum.	High	Short
3.	Legal reform	Adopt a law on arbitration that clarifies arbitration's authority and jurisdiction. Preparing for the new law should include a process of research, debate, negotiation, public education, outreach, institutional capacity-building, and revisions of drafts based on local political compromises and many other steps.	Medium	Medium
4.	Legal/Institutional reform	Initiate a formal program by which the courts require parties to pursue mediation/arbitration as a first-instance approach.	High	Long

Court Administration

No.	Type	Recommendation	Priority	Duration
1.	Institutional reform	Create a separate commercial division in each federal court, and endeavor to retain the same judge in that division for a sustained period of time.	High	Long
2.	Institutional reform	Create a separate family law division of the courts to segregate more basic civil/commercial disputes from the more complicated family docket.	High	Long
3.	Analysis	Conduct a feasibility study to introduce a formal mediation requirement as a first	High	Short

		step for commercial disputes, with possible implementation through the law on arbitration currently being considered.		
4.	Institutional strengthening	Provide additional resources to refurbish courthouses and provide better communications infrastructure.	Low	Long
5.	Institutional strengthening	Provide resources to gradually introduce a more comprehensive uniform case management system.	Medium	Medium

Foreign Direct Investment

No.	Type	Recommendation	Priority	Duration
1.	Legal reform	The Government should review FDI exclusions with the intention of reducing the number of sectors closed to FDI to a minimum level.	High	Long
2.	Legal reform	Ethiopia should revisit and reduce its minimum capital requirement for investments.	High	Short
3.	Institutional strengthening	To undertake effective promotional work, the Ethiopian Investment Agency should be strengthened.	Medium	Long
4.	International agreements	WTO accession will stimulate FDI by signaling to potential investors that Ethiopia has bound itself to rules that are investor friendly. Therefore, the Government should speed up the accession process.	High	Short

International Trade

No.	Type	Recommendation	Priority	Duration
1.	International agreements	Move forward with the WTO accession process as quickly as possible.	High	Short
2.	Institutional reform	Strengthen the mechanism for stakeholder consultations on trade policy matters. A formal consultation mechanism with the private sector and civil society needs to be established.	High	Long
3.	Capacity-building	The Ministry of Trade and Industry needs to employ staff with adequate	Medium	Long

No.	Type	Recommendation	Priority	Duration
		check for law enforcement violations or criminal associations. Continue to simplify the tariff and customs procedures and ensure transparency in all customs matters. Establish internal controls and audit processes/systems to prevent breaches of integrity, and establish audit trails to identify and uncover violations.		
6.	Legal/Institutional reform	Publish standards for cargo clearance and all Customs services and provide appeals for Customs decisions.	High	Short
7.	Institutional reform	Automate Customs processes, building in internal audits and controls, and use and expand systems for direct deposit of customs duties and fees to financial institutions.	High	Medium
8.	Institutional strengthening	Develop a Customs code of conduct based on the Minister of Revenue's code, which is a list of core values and includes a table of discipline that addresses integrity at all levels of the organization. This code of conduct should establish a "bright line" for integrity violations so that employees are able to clearly delineate violations and wrongful acts.	Medium	Short
9.	Institutional strengthening	Establish an internal organization within ECuA to oversee and protect the integrity of the organization, its systems, and its employees. The border agencies should be the first agencies in the Ethiopian Government to have the services of their own internal affairs unit of investigators.	Low	Long
10.	Institutional/Legal reform	Create an environment in which importers and carriers feel safe bringing integrity issues to the attention of management.	Medium	Medium
11.	Institutional strengthening	Make it clear to the trade community that corruption on the part of Customs or the trade will not be tolerated. Ensure that appropriate sanctions are in place for both Customs and business violators.	Medium	Long
12.	Institutional transformation	Importers who display excellence, and are competent and compliant, pose little risk to Customs. ECuA should consider establishing a special program for compliant large importers to speed their goods through Customs formalities. This approach could be implemented immediately while the major reforms and programs proceed. Numerous countries have adopted this "Account Management" approach to allow their limited resources to focus on high-risk shipments while providing tangible benefits to legitimate businesses. Treating	High	Medium

No.	Type	Recommendation	Priority	Duration
		management as well as technical expertise to cover the WTO, AGOA, COMESA, ACP-EU negotiations, and other bilateral agreements. Staff members need skills in trade policy analysis, formulation, and negotiation.		
4.	Strategy development	The Ministry of Foreign Affairs, in consultation with MoTI, should ensure that officials representing Ethiopia abroad are well equipped to deal with trade negotiations.	High	Short
5.	Institutional strengthening	MoTI should play an active role in the promotion of Ethiopian exports through initiatives such as the EU Everything But Arms Initiative and AGOA. The services of the Ethiopian Quality and Standards Authority need to be improved to enable Ethiopian products to compete in the international market.	Low	Long

Flow of Goods and Services

No.	Type	Recommendation	Priority	Duration
1.	Legal reform/ Education	Support and enact the new Customs Law reform.	High	Short
2.	Institutional strengthening	Continue development of information technology (ASYCUDA++ Ethiopian Customs Automated System), including single-administrative-document and single-window concepts. In addition, continue streamlining and paperwork reductions already begun.	Medium	Long
3.	Institutional strengthening	Competitive salaries should be paid to Customs IT staff to ensure continuity and retention of talented employees.	Medium	Medium
4.	Legal reform	The penalties for border operations that are corrupt, inept, non-standard, and slow are severe. These policies should be rationalized.	Medium	Short
5.	Institutional strengthening/ Capacity-building	Pay a salary that is commensurate with a professional position of honor and trust that will attract high-quality personnel, and that will support a reasonable standard of living without the need for supplementary income. Establish high standards for recruits and check backgrounds, finances, and references prior to employment. Periodically reinvestigate all personnel for the reasonability of financial worth and	High	Long

No.	Type	Recommendation	Priority	Duration
		these companies as accounts, appointing Customs-employed account managers, and instituting a special set of compliance, risk criteria, and post-release audits for select companies could allow many legitimate companies “green line” or expedited service and separate their shipments from the flow of riskier imports.		
13.	Institutional transformation	Consolidate other border agency functions (such as Health and Agriculture) at Customs clearance stations by ensuring adequate staffing, training of Customs Officers in other control authorities’ commodity jurisdiction and problem identification, and integrate forms, manual processes, and automation.	High	Medium
14.	Legal reform	Establish alternate currency controls and limit Customs transactions to traditional Customs matters for letter of credit and other banking concerns.	High	Short
15.	Institutional transformation/ Legal reform	<p>Improve the export incentive program through the following initiatives:</p> <ul style="list-style-type: none"> • Replace the required time-consuming submission of yearly estimates and their approval by instituting a system of spot checks and periodic review of exporter files. • Expand export incentives to parties other than the actual exporter. Incorporate the ability for a domestic supplier to claim a refund of imported duties on taxes on goods sold to a final exporter. • Revise the export process by streamlining procedures and using the principles of selectivity. One-stop processing centers for exports should be implemented at the major trading centers where the exporter can conclude all required authorizations. A plan should be developed for the use of selective Customs and other agency inspections on routine exports. This could be started in the cut flower trade and would eliminate the need for reimbursable inspectors stationed at each farm, a significant cost factor for the grower. Most nations, even those in a development stage, have eliminated or dramatically reduced export inspections, leaving this responsibility primarily with the importing country. 	High	Short
16.	Analysis	An audit of the cool-chain process from the cold stores at the farms, cooled local transport, adequate airport facilities, and handling should be studied and a plan for improvement implemented. Lack of high-quality cool-chain management	Medium	Short

No.	Type	Recommendation	Priority	Duration
		negatively affects flower export production and Ethiopian flowers from being recognized as consistently high quality, and prevents operators from receiving the maximum prices.		
17.	Institutional development	Establish a national transport association to address the significant lack of human capacity in modern business transport practices and technology within the transport sector and provide a focal point for identification and resolution of industry issues. The RTA could spearhead this effort and it or the Chamber could be funded to provide training that would significantly increase fleet efficiency and lower costs.	Low	Short
18.	Institutional strengthening	Improve the quality of the Customs Clearance Agent sector and create a partnership between it and the Customs Service. Establish a working group of Customs Clearance Agents and Customs officials to promote a better working relationship. This could start by identifying training needs and scheduling short seminars for the trade. As this relationship progresses, plans could be developed for effective shared oversight of the industry and voluntary reporting of suspected activity. Without acknowledgement of the valuable contribution a reliable and professional Customs Clearance Agent community can make to facilitation of the Customs process, reform will remain a slow and difficult process.	High	Medium
19.	Institutional Strengthening	Train all border officials on the distinction between the roles of the freight forwarder and the Customs Clearance Agent and on the requirements that each firm or individual performing these tasks must possess a specific license to do so. Then perform spot checks to ensure compliance.	High	Short
20.	Institutional strengthening	Support the efforts of the donor community in reestablishment of the formal PPPF mechanism. When reinstated its practices regarding agenda setting, participation, and follow-up must be strengthened and the concept extended to the regions.	High	Long
21.	Institutional development	Establish a national transport association to address the significant lack of human capacity in modern business transport practices and technology within the transport sector, and provide a focal point for identification and resolution of industry issues. The RTA could spearhead this effort and it or the Chamber could	Medium	Medium

No.	Type	Recommendation	Priority	Duration
		be funded to provide training that would significantly increase fleet efficiency and lower costs.		
22.	Strategy development/ Training	Develop a plan to establish, manage, and operate a fully functional dry port system to maximize cost and time reduction. This would include outside experts and training on procedures and operational requirements. Private stakeholders should become full partners in ongoing dialog. The trade's knowledge of trade patterns, practices, and problems in the private sector can be used to minimize mistakes on implementation and ensure competitive pricing for services. Issues such as inefficient and redundant processing must also be resolved within this framework.	Medium	Long
23.	Institutional strengthening/ Analysis	Improve the quality of the Customs Clearance Agent sector and create a partnership between it and the Customs Service. Establish a working group of Customs Clearance Agents and Customs officials to promote a better working relationship. This could start by identifying training needs and scheduling short seminars for the trade. As this relationship progresses, plans could be developed for effective shared oversight of the industry and voluntary reporting of suspected activity. Without acknowledgement of the valuable contribution a reliable and professional Customs Clearance Agent community can make to facilitation of the Customs process, reform will remain a slow and difficult process.	Low	Long
24.	Strategy development	Redesign the Coffee Exporters Association to align with the current reality of the industry. Traditional roles within the sector are changing, and one party often plays multiple roles, such as producer and exporter.	High	Short

Flow of Money

No.	Type	Recommendation	Priority	Duration
1.	Legal reform	Ethiopia should open up the banking sector to greater competition, including foreign investment.	High	Long
2.	Legal reform	Currency requirements that are trade-restrictive and inconsistent with IMF Article VIII should be identified and eliminated. The overwhelming documentary	High	Short

No.	Type	Recommendation	Priority	Duration
		requirements to obtain foreign currency, especially when it comes to the private sector, should be significantly reduced.		
3.	Policy strategy	Access to credit, which under current circumstances represents a serious and specific impediment to income growth, should be addressed in a broad-based manner, involving changes at both the policy level and the grass-roots initiatives level for individuals and small borrowers. In particular, access to financial services for the poor should be a priority, with an emphasis on rural areas.	High	Long
4.	Legal reform	Treatment of MFIs under the same regulatory framework as commercial banks ignores the lessons learned in other African countries and should be modified.	High	Short

Flow of People

No.	Type	Recommendation	Priority	Duration
1.	Institutional development	Continue to upgrade and modernize the Investment Commission. The Government should assist the Investment Commission in attracting more foreign investors to Ethiopia and in assisting them in their trade and investment activities across the country. The Government should also develop a comprehensive personnel system for the Investment Commission that would upgrade candidate qualifications, improve recruitment procedures, and establish job-specific performance and evaluation standards.	High	Long
2.	Technology update	Modernize and upgrade automation for people-processing at the border. Development of a stronger information technology system should be pursued. This upgrade should include an enhanced risk-analysis system.	Medium	Short
3.	Strategy development/Outreach	Promote Ethiopia's brand. Ethiopia's brand as a place to do business is currently very weak. A promotion campaign that includes further streamlining of the process for entry of people should be carried out.	High	Long
4.	Outreach	Continue to upgrade and modernize the Investment Commission. The Government should assist the Investment Commission in attracting more foreign investors to Ethiopia and in assisting them in their trade and	High	Long

No.	Type	Recommendation	Priority	Duration
		investment activities across the country. The Government should also develop a comprehensive personnel system for the Investment Commission that would upgrade candidate qualifications, improve recruitment procedures, and establish job-specific performance and evaluation standards.		

Financial Crimes

No.	Type	Recommendation	Priority	Duration
1.	Institutional reform/Legal reform	Technical assistance projects are badly needed. Financial crimes law, investigation, and enforcement are complex. For Ethiopia to comply with international standards and become party to the latest money-laundering and anti-terrorism conventions, Customs, the police, and the NBE badly need help developing implementation skills.	High	Long
2.	Legal reform	Pass the draft proclamation into law. Too much time has passed since the law was drafted. Virtually nothing can be done in the way of investigation or enforcement until there is a law in place.	High	Short
3.	Legal education	Train lawyers. The legal profession will gradually become the watchdog component of a financial crimes framework. The lawyers will work with the FIU in investigation, prosecute the crimes, become the judges that adjudicate the cases, and will be the principal organs for defending liberties that may be at risk under the law itself or the poor/political application of the law.	Medium	Long
4.	Legal education	Introduce programs in the law faculty. New financial crimes faculty, curricula, and possibly a clinical program to defend civil liberties threatened in prosecutions are an excellent way to use law faculty resources, train the next generation of judges and lawyers, train law faculty members, and benefit the public.	Medium	Long

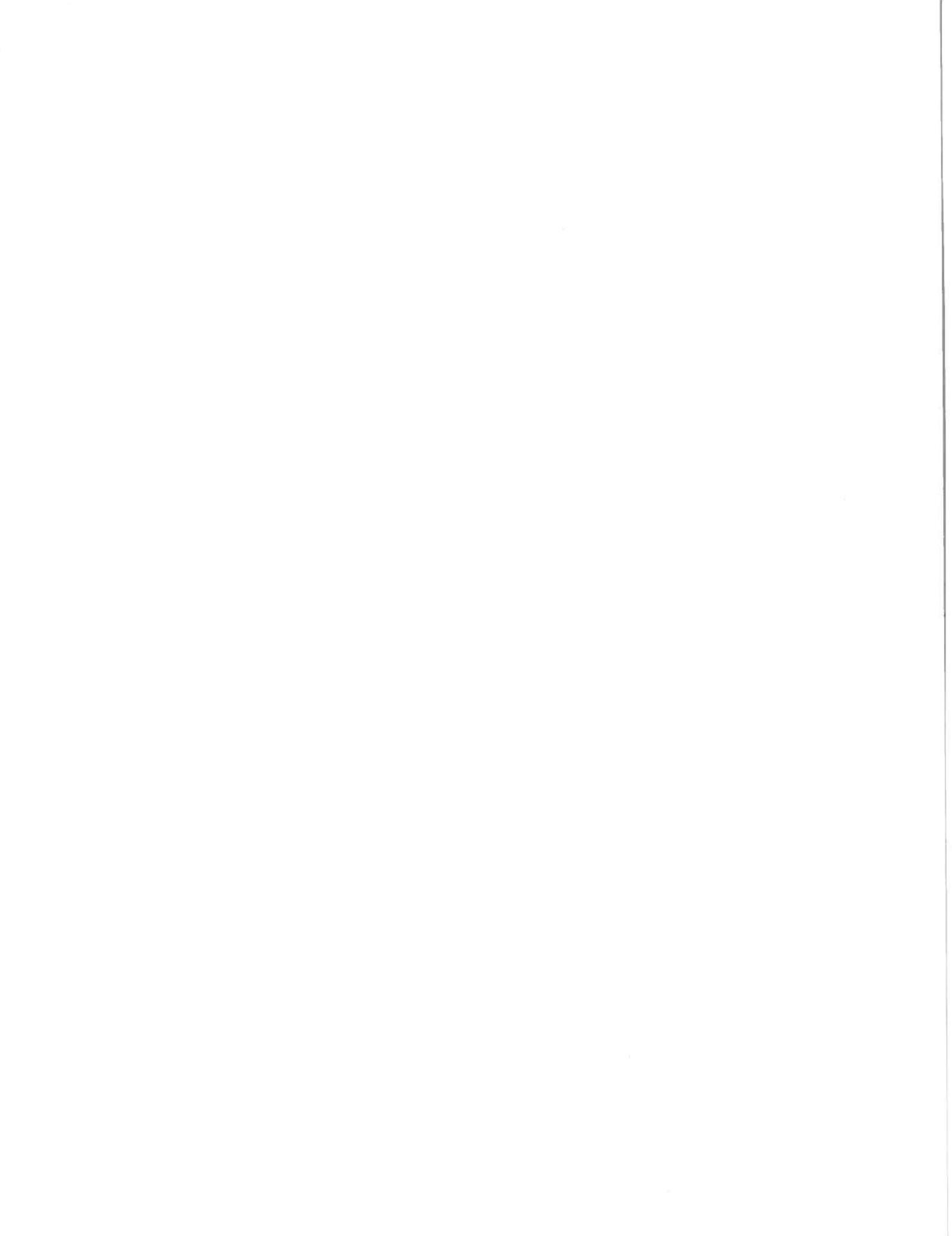
Intellectual Property Rights

NOTE: The following recommendations draw on the Five Year IPR Strategic Plan (2006/2007–2009/10) drafted by the EIPO. The Plan sets forth a number of goals and objectives, including the ones listed below.

No.	Type	Recommendation	Priority	Duration
1.	Legal reform	Develop a national IPR policy that will be integrated into the national development policy to be submitted to the Government by the end of 2006; which will include development of a model of institutional IPR policies to HLRIs and R&D organizations based on the national IPR policy, to be submitted to institutions by the end of the second quarter of 2007.	Medium	Medium
2.	Legal reform	Develop legislation to make the national IPR legal framework comprehensive and integrate it with the international IPR system; which will include: <ul style="list-style-type: none"> • Preparing draft laws on geographical indications and trade secrets for submission to the Council of Ministers by March 2007; • Preparing draft trademark and copyright regulations for submission to the Government by December 2006; • Amending the Proclamation Concerning Inventions, Minor Inventions and Industrial Designs by the end of 2008 for purposes of making it TRIPS-compliant; and • Studying three WIPO-administered IPR treaties and submitting accession proposals to the Government by June 2007. 	High	Short
3.	Institutional reform and outreach	Increase the number of users of the IPR system by 15% each year during the plan period, which will include: <ul style="list-style-type: none"> • Initiating and strengthening IPR awareness programs in universities, R&D organizations, and business establishments during the plan period; • Undertaking at least three IPR awareness programs for the general public every year during the plan period; • Initiating incorporation of IPR courses into the curriculum of primary and secondary schools by the end of 2006; and • Strengthening the offering of IPR law course in eight HLRIs during the plan period. 	Medium	Long
4.	Institutional	Improve the quality of service delivered to EIPO customers in the protection of	Medium	Long

No.	Type	Recommendation	Priority	Duration
	strengthening	IPR and the provision of technological information contained in patent documents.		
5.	Legal reform	Initiate protection and exploitation of intangible assets related to export products.	Low	Medium
6.	Legal reform/ Education	Promote commercialization of IPR assets.	Medium	Long
7.	Compliance reform	Strengthen enforcement of IPR.	Medium	Long
8.	Strategy reform	Enhance cooperation with local and foreign organization on IPR matters.	Medium	Long
9.	Strategy reform	Use IPR to enhance export revenue.	Medium	Long





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