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Food and Agricultural Import Regulations and Standards

Kenya FAIRS Report

2004

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Report Highlights:

The report has information on prevailing Kenyan food laws and regulations on labeling, pesticide residues and protection of brands and trademarks. In addition to the above it highlights import procedures.

Includes PSD Changes: No
Includes Trade Matrix: No
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KENYA: Food IMPORT REGULATIONS AND STANDARDS

Date of writing: July 2004

DISCLAIMER: This report has been prepared by the Office of Agricultural Affairs of the USDA/Foreign Agricultural Service in Nairobi, Kenya for U.S. exporters of domestic food and agricultural products. Every effort was made to acquire accurate information but should there be information that is not accurate either because policies have changed or clear and consistent information was not provided FAS Nairobi is not responsible. It is important that U.S. exporters verify the full set of import requirements with Kenyan importers, who are able to link with the local authorities for clarification and/or amplification as necessary.

Please contact this office if you have any comments, corrections or suggestions about the material contained in this report.

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I. FOOD LAWS

Food laws in Kenya are designed to protect safety and to assist consumers. Existing laws on food safety are fragmented and appear in different institutions notably the Kenya Plant Health Inspectorate Service (KEPHIS), Kenya Bureau of Standards (KBS), Department of Veterinary Services (DVS) and Ministry of Health. KEPHIS is a regulatory agency for quality control of agricultural input and produce. DVS has the mandate of national livestock health and control of importation of livestock and livestock products. DVS and KEPHIS are the analogy of APHIS in the U.S. KBS prepares standards relating to products, certification of industrial products and quality inspection at ports of entry among others.

Major Food Laws

1. Public Health Act Cap.242 Laws of Kenya.
2. Radiation Protection Act Cap.243 Laws of Kenya (In the case of Irradiated Foods).
3. Food Drugs & Chemical Substances Act Cap. 254
4. Agriculture Act Cap 318
5. Plant Protection Act Cap.324 (In case of Fruits & Vegetables)
6. Seeds & Plant Varieties Act Cap. 326 (Imported seeds or seed crops with potential to grow when planted)
7. Dairy Industry Act Cap. 336
8. Meat Control Act Cap. 356
9. Animal diseases Act Cap. 364
10. Customs & excise Act Cap. 496
11. The Standards Act Cap 496 (KBS has formulated about 350 standards in various fields)

Note: 1,2,3. are implemented by the Port Ministry of Health officials at the ports of entry.

Note: 4,5,6. are implemented by KEPHIS at the ports of entry.

Note: 7 is implemented by Kenya Dairy Board in liaison with KEBS at the port of entry.

Note: 8 is implemented by DVS in liaison with KEBS at the port of entry

Note: 9 is implemented by DVS in liaison with port Health officials at the port of entry.

Note: 10 is implemented by the Ministry of Finance

Note: 11 Implemented by the Kenya Bureau of Standards (KBS)

The inherent danger in such a scenario is the non-existence of a specific regulatory institution that could respond in time to the needs of the exporting country demands. Suggestions of the formation of one independent reference body that coordinates all issues on food safety into one Act have been floated in various forums but implementation is not expected any time soon.

II. LABELING REQUIREMENTS

Since July 1997, the Weights and Measures Act require that products be labeled with metric measurements and packaged in even units.

Trademark name, date of manufacture, origin and expiry date must be shown in **English** and/or **Kiswahili**.

Labeling requirements on the main panel shall be:

- (i) The brand name or trade name (if any)
- (ii) The Common name of the food

Note - The common name used shall indicate the true nature of the food.

- (iii) (a) A correct declaration of the net contents in metric units according to "Weight and Measures Rule 1971 (sale labeling of Goods): found in Cap.513 of the Weights and Measures Act.
- (b) In addition to the declaration of the net contents, a food packaged in liquid medium shall carry a declaration in the metric system of the drained weight of the food. For the purposes of this requirement, a liquid medium means water, aqueous solution of sugar and salt, fruit and vegetable juices in canned fruits and vegetables only, or vinegar, either singly or in combination.

List of Ingredients

Grouped together on any panel, every product shall bear a label declaring on one place a complete list of ingredients, excluding water, in a descending order of proportion by mass, except -

- (a) as otherwise provided in a Kenya Standard
- (b) in the case of dehydrated food which is intended to be reconstituted by the addition of water, the ingredients may be listed in order of proportion by mass in the reconstituted product provided that the list of ingredients is headed by a statement such as 'ingredients when reconstituted'
- (c) in the case of food consisting of a single ingredient

The expiry date shall be clearly declared on the label and instructions for the proper storage of the products, if different from ambient conditions, shall be declared.

The name and address of one or more of the following shall be declared on the label, together with an indication of the capacity in which he has acted:

- (i) Manufacturer
- (ii) Packer
- (iii) Distributor
- (iv) Importer
- (v) Exporter
- (vi) Vendor

The country of manufacture of the product shall be declared.

Irradiated Food – Food that has been treated with ionizing radiation shall be so designated on the label.

MINIMUM SHELF LIFE

The required minimum shelf life is 75% remaining upon arrival in Kenya. If the shelf life is less than required, the goods will be rejected.

Labeling Requirements for GM Foods

There is no current requirement to label GMO foods.

Labeling Requirements for Special Dietary Foods

The labels of all pre-packed special dietary foods shall bear all the information required and where necessary also carry a statement of the type of diet for which the food is recommended.

The permitted artificial sweeteners shall be saccharin, cyclamate, aspartame, acesulfame K or their salts. A food containing a permitted artificial sweetener or its salts shall carry on the label a statement to the effect that it contains (naming the artificial sweetener) a non – nutritive artificial sweetener.

Carbohydrates or Sugar Reduced Foods

A special dietary food recommended for carbohydrates or sugar reduced diets shall be a food that contains not more than 50% of the glycogenic carbohydrates normally present in foods of the same class.

For purposes of this standard a food may be described as sugarless, sugar free, low carbohydrates or by any synonymous terms it contains not more than 0.25 % glycogenic carbohydrates. Where a statement or claim relating to the carbohydrate, sugar or starch content is made on the label of a food, the label shall carry a statement of the carbohydrate content in grams per 100 g.

Calorie Reduced Foods

Special dietary foods recommended for calorie reduced diets shall be foods that contain not more than 50 % of the total calories normally present in foods of the same class. For the purposes of this standard a food may be described as 'low calorie' or by any synonymous term if it contains not more than:

- (a) 15 calories per average serving; and
- (b) 30 calories in a reasonable daily intake

Where a statement or claim relating to the calories content is made on the label of a food the label shall carry a statement of the calorie content in calories per 100 g.

Sodium Reduced Foods

The number of milligrams of sodium contributed by a reasonable daily intake of a special dietary food recommended for a sodium-reduced diet shall not exceed one-sixth the number of milligrams of sodium contained in a reasonable daily intake of the same food. For purposes of this standard a food may be described as 'low sodium' or by any synonymous term if it contains not more than:

- (a) 10 mg sodium in an average serving; and
- (b) 20 mg sodium in a reasonable daily intake

Where a statement or claim relating to the sodium content is made on the label of a food the label shall carry a declaration of the sodium content in milligrams per 100 g.

Guidelines for Date Marking

The product should have the date clearly marked including the date of manufacture (the date on which the food becomes the product as described) and the date of packaging (the date on which the food is placed in the container in which it will be ultimately sold). For certain food products these dates will be the same. The sell by date, use by date (recommended last

consumption date – Expiry date) and the date of minimum durability (will keep at least until 'best before') should be clearly marked.

Storage Instructions – In addition to the date, any special conditions for the storage of food shall be indicated if the validity of the date depends thereon. The following products shall bear prominently the date marking, showing the last day, month and year on which the product may be sold and the proper storage instructions.

Products

1. Packed Ultra Heat Treated (U.H.T) liquid milk (long life), fermented milk, yoghurt and cream
2. Canned liquid evaporated milk
3. Packed and canned butter
4. Canned condensed milk
5. Packed and canned milk powder
6. Canned ghee
7. All pre-packed baby foods
8. All pre-packed cereal flours
9. Packed pasta products (macaroni, vermicelli and noodles)
10. Pre-packed biscuits and cookies
11. Pre-packed cakes
12. All packed breakfast cereals
13. Pre-packed flavoured mixed spices
14. Canned and packed vegetables and fruits
15. Bottled and packed tomato sauces, ketchup, paste, puree, juice or whole tomatoes
16. Bottled or packed chilli sauce, mayonnaise, etc
17. Packed dehydrated vegetables and fruits
18. Canned or packed fats or oils
19. Packed or bottled drinks, cordial, squash and juices (excluding carbonated soft drinks in bottles)
20. Packed or canned margarine
21. Canned and bottled beer, cider and Perry
22. Canned non-alcoholic beverages
23. Canned 'githeri'
24. Canned meat and canned fish
25. Canned or packed sausages
26. Packed or canned chocolate drink, cocoa-sugar mixtures and powdered premix drinks
27. Packed chocolate and sweets
28. Canned or packed cheese
29. Packed or canned jams, marmalade and jellies
30. Packed or bottled honey
31. Packed fried peanuts and crisps
32. Packed or wrapped bread
33. Packed tea
34. Packed coffee

Packaging

Where the container is too small to reasonably bear all the information required by this standard, the outer package enclosing the small containers shall be labeled according to this standard and shall be available for consumer's inspection when required.

III. PACKAGING AND CONTAINER REQUIREMENTS

FULL CONTAINER LOAD (FCL)

The term FCL (Full Container Load) designates a container loaded with goods pertaining to one single shipping consignment from one single exporter to one single importer, regardless of the actual volume occupied by the goods inside the container. Thus a FCL container can be either partly or fully loaded. Any container which does not meet this definition, is a LCL (Less than Full Container Load) and is not subject to container loading inspection and sealing.

There are no packaging container size regulations for food products in Kenya. Manufacturers may pack food in any size container. The only restriction relate to the possible contamination of food from the packaging. If package could contaminate food in any way it may not be used.

IV. PESTICIDE AND OTHER CONTAMINANTS

The Pest Control Products Board (PCPB) (established under the Pest Control Products Act, Cap, 346) regulates the importation of pest control products. PCBP relies on FAO guidelines for importation. They refer to the CODEX standards for tolerance levels.

Packaging and Labeling: Follow FAO Guidelines on Good Labeling Practice.

Waste Disposal Methods: Guidelines are under development.

V. OTHER SPECIFIC STANDARDS

Meat & Meat Products

Considering the numerous emerging animal diseases in various countries, the Government of Kenya amended 'The Meat Control Act' (Legal Notice No. 28) to specify that all Meat and meat product imports to Kenya must be approved by a permit delivered by the Director of Veterinary Services of the Kenyan Ministry of Livestock. Imports are allowed after meeting the stipulated sanitary requirements.

Definition: 'Meat Products' includes comminuted meat which is canned, preserved or otherwise treated in hermetic containers, to which has been added any other permitted ingredient, or which has been preserved, canned, cooked, cured or otherwise processed, and any other derivative of meat.

For more information, Importers / Exporters are advised to consult the [Kenya Gazette Supplement No. 8 and Legislative Supplement No. 8 dated 9th February 2001.](#)

Plant Importation

Kenya has set forth regulations/procedures for importation of any form of plant material, such as seeds, cuttings, bud wood, fresh fruits, flowers, plantlets, timber, and agricultural

produce. These regulations are enforced through the Plant Protection Act (Cap 324), The Suppression of Noxious Weeds Act (Cap 325) and the Agricultural Produce (Export) Act (Cap 319). These regulations are aimed at protecting Kenya's agriculture from foreign pests (insects, pathogens).

Importers of plant materials must obtain a Plant Import Permit (PIP) from KEPHIS prior to shipment of such plants from the origin regardless of whether they are duty free, gifts or for commercial or experimental purposes. The permit specifies the requirements for plant health indicating prohibitions, restricted quarantine importations, and additional declaration with regard to pre-shipment treatments. The original permit must, therefore, reach the plant health authorities in the country of origin for adherence to Kenya's import permit requirements. All importers of propagating/planting material must observe plant breeders rights. Protected varieties should only be imported/used with the consent of the breeders. Kenya is a member of Union for the Protection of New Varieties of Plants (UPOV).

Any plant consignment arriving in Kenya should therefore be accompanied by a copy of a permit by KEPHIS and an additional health certificate (Phytosanitary certificate, international model or its equivalent) in full adherence to the specifications set out in the permit. Diseased or insect infested plant materials irrespective of value will be destroyed at the point of entry or shipped back to the country of origin at the owners cost.

Genetically Modified Plants and Plant Products

Importation of genetically modified plants or plant products requires authorization by the National Biosafety Committee before an import permit is issued. The National Biosafety Committee stipulates the conditions for the import. Kenya is a signatory to the Cartagena Protocol on Biosafety.

VI. COPYRIGHT/TRADEMARK LAWS

Kenya is a member of the World Intellectual Property Organization (WIPO) World Intellectual Property Organisation WIPO and follows the Paris Convention for the Protection of Industrial Property as well as the Madrid Convention Concerning the International Registration of Marks. Kenya is also a member of the African Regional Industrial Property Organization (ARIPO). African Regional Industrial Property Office ARIPO This is a regional organization of 16 countries namely Kenya, Zimbabwe, The Gambia, Ghana, Lesotho, Botswana, Somalia, Sudan, Tanzania, Uganda, Swaziland, Malawi Mozambique, Sierra Leone, Namibia and Zambia. Kenya is a designated state of Patent Cooperation Treaty (PCT). Inventors wishing to protect their inventions in other African countries may file one application in Kenya and designate any of these countries. An international application may be made through the Patent Cooperation Treaty Countries. This means that an applicant may file one application with Kenya Industrial Property Institute (KIPI) and designate any of the member countries.

KIPI is a Government Department under the Ministry of Trade and Industry. KIPI is responsible for examining, granting and registration of industrial property rights and is mandated to implement two Acts of Parliament namely the Industrial Property Act and the Trademarks Act Cap 506.

Patents: Patents are available for invention in all fields of technology and are the principle for protecting ownership of any device, substance, method of process, which is new, or inventive, they are protected under the Industrial properties Act 2001, which offers 20 years, subject to renewal.

Industrial Design: A new or original design may be registered for up to fifteen years renewed after five years.

Trade Mark: Trade Marks may be protected for ten years and renewed indefinitely upon request by registration under the Trade Marks Act Cap 506. U.S. exporters intending to market a product in Kenya are advised to check with the trademarks office at KIPi to ensure that its mark or name is not already in use.

Utility Models and Techno Visions: Protects any new technologies.

Copyrights: Copyrights are protected under the Copyright Act 2001. The Attorney General's Chambers administer the legislation for automatic rights to copyright

VII. IMPORT PROCEDURE

Imports to Kenya may be entered under any of the following categories.

- a) For direct house use
- b) For warehousing
- c) For use in a bonded factory
- d) For transit
- e) For temporary importation
- f) For use in an export processing zone facility

All imports to Kenya must comply with the KEBS requirements. Goods must be inspected against the specifications provided by the importer and in all instances imported goods must comply with KEBS specifications.

For grain samples of different sizes (depending on the size of the load) are taken from each lot delivered to the depot of the buyer and these are tested for compliance with the acceptance standards. The results determine the grade into which the whole lot from which the sample came is classified. For instance typical variables used in grading grain include:

- The moisture content of the grain
- The percentage of broken kernels
- Degree of discoloration in the grain
- The percentage of material other than grain in a sack or load

Inspection is carried out at the ports of Kenya by KEBS. Inspection covers food, beverage, vegetable oils and fats as well as certain other non-food products. The Bureau allows imported commodities into the country upon issuance of a certificate of Release. Imports that are tested by KEBS and found not to comply with the requirements of the relevant KEBS standards are not allowed into the Kenyan market. The importer has to return them to the country of origin at their cost or have them destroyed.

Requirements for Importation

A customs declaration in the prescribed form (C63) is a requirement for clearance of imports. A customs Clean Report of Finding (CCRF) supports the prescribed form where the pre-shipment inspection is needed. Import duties are then paid or a bond guarantee executed if

they satisfy all the requirements for entry for importation. Bond guarantees are required for temporary importation of goods, goods entered into a bonded warehouse, bonded factory, for transit or EPZ. In all cases the guarantees are discharged on application and production of proof that imports have been transited or entered into bonded factory as the case may be.

PRE-SHIPMENT INSPECTION (PSI)

Cotecna and Intertek Testing Services International Limited are the two Preshipment Inspection (PSI) companies contracted by the GOK. The PSI companies have been contracted to, *inter alia*, provide the following services:

1. Process and input into a database the Import Declaration Form (IDF). The IDFs should be serially numbered by month of issue, and the information transferred electronically to the Kenya Revenue Authority/customs, the Ministry of Finance and Planning and the Central Bank of Kenya.
2. Implement an effective risk analysis system in order to rationalize the PSI resources by targeting mostly problematic imports for inspection.
3. Confirm if the type, quality and quantity of goods conform to the importer's declaration. The inspection must also detect perishable goods with short or due expiry dates, dangerous or illegal cargoes.
4. Make arrangements with the importer and exporter to perform physical inspection of shipments subject to PSI previous to their shipment. Perform the inspection within two working days (48 hours) after the goods become available for inspection in the country for export in accordance with the schedule of goods and the types of inspection to which they are subject.
5. Perform laboratory analysis when needed and forward the results to KRA/customs. The contractor and tamper-proof seals applied to the container should witness the loading of full container loads.

Import shipments with an F.O.B. value of more than \$ 5,000 must undergo pre-shipment inspection (PSI). COTECNA Inspection, a Swiss firm, inspects shipments originating from the United States. In addition to a Clean Report of Findings (CRF) certifying that the goods are consistent with the invoice, the inspection agency also furnishes a valuation certificate or a bill of lading that enables the Government of Kenya to determine the correct duty. The import declaration fee, which includes a PSI fee, is 2.75 % of the export (C.I.F.) value. A 15 % penalty is applied for local inspection if an advance inspection is not done. Goods airlifted by courier services are not subject to PSI if their value does not exceed \$ 10,000. At the beginning of this decade the GOK started implementing WTO Customs Valuation Agreement. Under the Agreement Kenya must use the transaction value for customs valuation of goods imported from other WTO signatories. For non-WTO members, Kenya will continue to use its PSI system of valuation.

Other Fees and Charges

Other than the Import Declaration Fee of 2.75 % of C.I.F. value, agricultural imports are charged a fee of 1 % of C.I.F. value to support KEPHIS. The Kenya Bureau of Standards charges an inspection fee of 0.2 % of C.I.F. value on all imports.

ONLINE SERVICES

1. **IDF Application Form C.61 download**
2. **Kenya Tariff Book online**
3. **http://www.kephis.org/plant_import_permit.pdf
Phytosanitary Certificate**

MAJOR REGULATORY AGENCIES**1. Kenya Plant Health Inspectorate Service (KEPHIS)**

Office of the Managing Director
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