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## Kenya

### FAIRS Country Report

### FAIRS Annual Report

**2008**

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**Report Highlights:**

The passage of the Biosafety Bill 2008 into law is underway. The Government of Kenya requires additional information in phytosanitary certificates stating the GMO content

Report Highlights: Other Specific Standards - plant importation

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Includes PSD Changes: No  
Includes Trade Matrix: No  
Annual Report  
Nairobi [KE1]  
[KE]

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## I. FOOD LAWS

Food laws are implemented to ensure the safety and protection of consumers from food risks. There are more than 22 Acts that govern food safety. The existing laws on food safety are fragmented and appear in different institutions notably the Kenya Plant Health Inspectorate Service (KEPHIS), Kenya Bureau of Standards (KEBS), Department of Veterinary Services (DVS) and Ministry of Health. Public Health is a regulatory agency responsible for ensuring that food for human consumption is safe for consumers. KEPHIS is a regulatory agency responsible for plant health protection and quality control for agricultural inputs and produce. DVS has the mandate of animal health protection. KEBS 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. 472
11. The Standards Act Cap 496 (KEBS has formulated about 4,4000 standards in various fields of which 563 are food standards)
12. Weights and measures Acts Cap. 513

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 (KEBS)

The fragmented nature of mandates of regulatory institutions hinders the efficiency in providing timely response to the requirements of exporting countries. Suggestions to form one independent reference body that coordinates all issues on food safety under one Act have been floated in various fora but implementation is not foreseen in the near future.

## II. LABELING REQUIREMENTS

Since July 1997, the Weights and Measures Act Cap 513 require that products be labeled with metric measurements and packaged in even units.

Trademark name, date of manufacture, country of origin, expiry date and storage instructions 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.

Where both the inner and the outer labels are used on a package of food, the label declarations required by these regulations should appear on both the inner and outer labels. Food sold in bulk is exempted of label declarations.

Labeling information not to appear at the bottom of the container.

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

**MINIMUM SHELF LIFE**

For imported foods 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**

KEBS stipulates that imported GMO foods be accompanied with a certificate of analysis. KEPHIS requires additional declaration in phytosanitary certificates stating the genetic modification status of the product.

**Labeling Requirements for Special Dietary Foods**

These are foods which are specifically processed or formulated to satisfy particular dietary requirements which exist because of particular physical or physiological condition and/or specific diseases and disorders and which include foods for infants and young children.

Mandatory labeling of pre-packaged foods for special dietary uses include;

1. Name of the food (the designation 'special dietary, special dietetic' or an appropriate equivalent term may be used) and characterizing essential feature for which the food is intended.
2. List of the ingredients in descending proportion
3. Nutritional labeling – which shall include
  - a. The amount of energy per 100g or 100ml of the food as sold/per specified quantity of the food as suggested for consumption expressed in Kilo calories
  - b. Grams of protein per 100 g or 100 ml
  - c. Available carbohydrate per 100 ml
  - d. Fat content
4. Net Content and Drained weight
5. Name and physical address of manufacturer, distributor, packer exporter, importer and vendor
6. Country of Origin
7. Lot Number or Batch Number
8. Manufacturing date
9. Expiry date
10. Fill of container
11. Storage instruction
12. Quantitative labeling of ingredients
13. Irradiated food must be declared

Claims must be avoided. I.e. this food is suitable for special dietary use or food that has its own natural composition shall not be designated as 'special dietary'

***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.

The Food and Drugs Substance Act spells out in detail label declarations not required and exemptions of label declarations.

### **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).

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.

## **III. PACKAGING AND CONTAINER REQUIREMENTS**

### **Packaging Material**

The product shall be packed in food grade containers, which shall safeguard the hygienic and qualities of food.

## **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. FOOD ADDITIVE REGULATIONS**

The food safety and control mechanisms are operated under the laws of the Public Health Act Cap 242 and the Food Drugs and Chemical Substances Act Cap 254. The Food Drugs and Chemical Substances Act spells out the food standards, labeling and additives regulations. Where a standard for food is prescribed in the Act the food shall contain only the ingredients included in the standard. If the standard includes an ingredient to be used as a food additive for a specific purpose, that ingredient shall be a food additive set out in the recommended list set out in the second schedule for use as an additive. Where a standard for a food is not prescribed in the regulations the food shall not contain any additive except the food additives set out in the regulations. That food additive shall be incorporated in the food in a quantity within the limits prescribed for that food and food additive in those tables. Where no specifications for a food additive are set out in any part of these regulations or established under the Standards Act the Codex Alimentarius Commission which implements the Joint FAO/WHO food Standards Programme applies.

Food additives used as oxidants, sweeteners, colorants, curing agents, flavor enhancers, flavorants or preservatives, in a given foodstuff must appear on the label. The label on any pre-packed food additive or blend of food additives must comply with all labeling requirements. The common chemical name of the product should be used on the labels. Any substance for use as a food additive will carry a statement of the amount of each additive present, or a complete list of the food additive present in descending order of their proportion as well as directions for their use which if followed shall produce a food not containing such additives in excess of the maximum levels of use prescribed by the regulations stated in the Act.

## **V. PESTICIDE AND OTHER CONTAMINANTS**

The Pest Control Products Board (PCPB) (established under the Pest Control Products Act, Cap, 346) regulates the importation and registration of pest control products for use in the country. 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.

## **VI. OTHER REGULATIONS AND REQUIREMENTS**

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

Effective 29<sup>th</sup> September 2005, KEBS implemented the Pre-Export Verification of Conformity to Standards (PVoC) programme. This is a conformity assessment and verification procedure applied to specific goods and products. KEBS appointed SGS and Intertek to operate the PVoC on its behalf, depending on the country of supply.

All consignments listed as products covered (<http://www.kenyapvoc.com/#>) must obtain a certificate of conformity (COC) issued by the PVoC country offices prior to shipment. The certificate is mandatory. In exceptional cases, at the sole discretion of KEBS, consignments without COC undergo destination inspection after receiving the appropriate application from the importer. Such consignments will be subject to a penalty of 15 % of the CIF value of the goods plus 15 % bond and the testing and inspection costs. All other expenses incurred at destination will be borne solely by the importer.

The primary objective of the PVoC is to ensure quality of products, health and safety, and environmental protection for Kenyans. PVoC undertakes physical inspection prior to shipment, sampling testing and analysis in accredited laboratories, audit of product process, documentary checks and assessment of conformity to Kenyan standards. Where there is no Kenya standard international standards apply.

There are three routes for certification namely;

Route A: Consignment inspection and testing

Route B: Product registration, inspection and limited testing

Route C: Product licensing

Route A is mainly for first time exporters, route B for frequent exporters and Route C for manufacturing companies that are consistent with shipment compliance. The website provides more details (<http://www.kenyapvoc.com/#>).

## FEES

Route A: 0.47 % of FOB value subject to a minimum of USD 180

Route B: 0.425 % of FOB value subject to a minimum of USD 180

Route C: 0.25 % of FOB value subject to a minimum of USD 135

## VII. 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.

The Food Drugs and Substances Act spells out the standard for meat its preparations and products.

## 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). These regulations are aimed at protecting Kenya's agriculture from foreign pests of plants.

Importers of plant materials and other regulated articles must obtain a Plant Import Permit (PIP) from KEPHIS prior to shipment of such plants from the country of export regardless of whether the plant materials are duty free, gifts or for commercial or experimental purposes. The permit specifies the requirements for plant health and gives additional declaration with regard to pre-shipment treatments. The original permit must, therefore, reach the plant health authorities in the country of export for adherence to Kenya's import 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 in accordance with requirements of Union for the Protection of New Varieties of Plants (UPOV) of which Kenya is a member.

Any plant consignment arriving in Kenya should therefore be accompanied by a copy of a permit from KEPHIS and a Phytosanitary certificate (plant health certificate) in full adherence to the specifications set out in the permit. Non-compliant consignments, irrespective of value, shall 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 formulates guidelines and conditions for activities with GMO in conformance with provisions of the Cartagena Protocol on Biosafety of which Kenya is a signatory. Kenya has a Draft Biosafety Bill and an approved National Biotechnology Policy. The National Biotechnology Policy 2006 outlines the safety procedures for biotechnology in the context of research development, technology transfer and commercialization of products. The passage of the Biosafety Bill into law is at an advanced stage.

**Other Standards included in the Food, Drugs and Chemical Substances Act cap 254 are,**

- Labeling Special Dietary and Policy
- Food Additives
- Food colours
- Poisonous Substance in Food
- Sweetening agents
- Poultry, poultry Meat, their preparations and products
- Marine and Fresh Water Animal Products
- Milk products
- Non-Nutritive Sweeteners
- Fruits, Vegetables and their products
- Alcoholic Beverages
- Soft Drinks
- Tea
- Coffee
- Baking powder agents
- Grain and Bakery Products
- Fats and Oils
- Spices, Dressing and Seasoning
- Salt
- Vinegar
- Cocoa Products

#### **VIII. COPYRIGHT AND/OR 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 offer 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

## IX. IMPORT PROCEDURES

### Procedure

IDF application services will be issued by Kenya Revenue Authority (KRA) custom services. The IDF form is sent to KEBS electronically by Kenya Revenue Authority (KRA). KEBS passes it to partners, in the U.S. case to SGS. SGS sends automated request to exporter in the U.S. (Request for Certification (RFC)). Exporter fills RFC and request for inspection depending on the route (A, B or C). Conformity assessment activities are carried out by SGS and they issue a certificate of Conformity (COC). A copy of COC is sent to KEBS and the products are shipped. Imported goods will be subjected to customs clearance procedures. Importers are encouraged to declare and submit forms C52 reflecting the true amount and value of import.

The Customs and Exercise Department has embarked on an extensive modernization program of electronic cargo tracking system, X-Ray scanners and the newly acquired Customs Computer System nicknamed Simba. The benefits include streamlining of cargo clearance procedures, strengthening of customs controls among others (a paper less process). The Simba 2005, shipping agent Manual of instructions can be found on the web <http://kra.go.ke>.

A customs declaration in the prescribed form (C63) is a requirement for clearance of imports. 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.

### Other Fees and Charges

Other than the Import Declaration Fee of 2.25 % of C.O.B. 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.

### Useful Resources

The following provide links to custom tariffs and other resources.

- [EAC Common External Tariff 2007](#) (pdf)
- [EAC Customs Management Regulations 2006](#) (pdf)
- [EAC Customs Forms](#)
- [EAC Customs Management Act 2004](#) (pdf)
- [EAC Gazette Legal Notice 15th Sept 2005](#) (pdf)
- [EAC Common External Tariff 2005](#) (pdf)
- [Customs Tariffs 2005/2006](#) (XLS)
- [Customs & Excise Act CAP 472](#) (pdf)
- [EAC Customs Union Protocol](#) (pdf)

**APPENDIX 1. GOVERNMENT REGULATORY AGENCY CONTACTS****1. Kenya Plant Health Inspectorate Service (KEPHIS)**

Office of the Managing Director

PO Box 49592, Nairobi

PH: 884545/882308/882933

FX: 882265

[kephis@nbnet.co.ke](mailto:kephis@nbnet.co.ke)

<http://www.kephis.org>

**2. Kenya Revenue Authority**

Office of the Commissioner General

Times Tower Building, 30<sup>th</sup> Floor

P.O. Box 48240 – 00100 GPO

Nairobi, Kenya

Tel: 254 20 2817700/7800, 254 20 343342

Fax: 254 20 341342

Email: [cic@kra.go.ke](mailto:cic@kra.go.ke)

<http://www.revenue.go.ke>

**3. Kenya Bureau of Standards (KEBS)**

Managing Director

P.O. Box 54974, 00200 Nairobi

Tel: +54 20 502211, 502543/45, 602350/1

Fax: +254 20 503293

Email: [info@kebs.org](mailto:info@kebs.org)

Website: [www.kebs.org](http://www.kebs.org)

**4. Director of Veterinary Services**

Private Bag 00625, Kabete

Nairobi

Tel: +254 20 631383/2231/1287

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Email: [cvfovetlabs@kenyaweb.com](mailto:cvfovetlabs@kenyaweb.com)

**5. Ministry of Trade and Industry**

Kenya Industrial Property Institute

P.O. Box 51648, 00200

Nairobi

Tel: +254 20 602210/11

Fax: +254 20 606312

Website: <http://www.kipo.ke.wipo.net>

Email: [Kipi@swiftkenya.com](mailto:Kipi@swiftkenya.com)

**6. Attorney-General's Chambers**

P.O. Box 40112, 00200

Tel: +254 20 227461

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**7. Pest Control Products Board**

Chief Executive Secretary,

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Nairobi

Tel: +254 20 4450242/4446115

Fax: +254 20 4449072

Email: [pcpboard@todays.co.ke](mailto:pcpboard@todays.co.ke)

**KENYA: Food IMPORT REGULATIONS AND STANDARDS**

Date of writing: July 2008

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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