

TRADE FACILITATION PROJECT IN KENYA

HANDBOOK ON IMPORTING AND EXPORTING IN KENYA



MINISTRY OF TRADE AND INDUSTRY



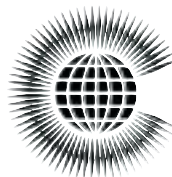
COMMONWEALTH SECRETARIAT

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AND EXPORTING IN KENYA**



MINISTRY OF TRADE AND INDUSTRY



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Foreword

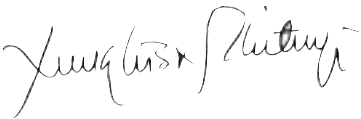
Trade facilitation, which is about expediting the movement, release and clearance of goods including those in transit, plays a critical role in international trade. Because of this key role, the subject of trade facilitation was included in the WTO work programme for study and analysis at the Singapore Ministerial meeting held in 1996. At the fourth Ministerial Conference held in Doha in November 2001, it was agreed that the study process be continued with a view to clarifying GATT Articles V, VIII and X which are relevant to trade facilitation. The conference recognized the need for enhanced technical assistance and capacity building in this area. Trade facilitation is now a subject for negotiation at the WTO, with a view to developing an agreement that is binding on the WTO member countries.

The Economic Recovery Strategy (ERS) 2003-2007 identifies trade and in particular export expansion, as one of the activities that will assist in economic recovery and growth. For this reason, the National Export Strategy (NES) 2003-2007 aimed at stimulating and expanding export trade, was approved by the Cabinet in 2004. The NES identifies trade facilitation as one of the cross-cutting issues that requires attention in order to stimulate growth of exports. It emphasises the need to ensure that government regulations and processes on the movement of goods are efficient, particularly at the borders, so that the business community can carry out trade transactions at the least cost and time. International trade plays a key role in Kenya's economic and social development. It is critical that more Kenyans are encouraged to play a central role in international trade so that they create employment and wealth thereby take charge of the economy.

Recognising the need to build capacity and to effectively participate in the WTO negotiations on trade facilitation, the Ministry of Trade and Industry in 2002, with the assistance of the Commonwealth Secretariat, commissioned a study to assess the situation in Kenya. The study report identified various issues to be addressed and led to the design and launch of the Trade Facilitation Project in Kenya in May 2004. The Trade Facilitation Project aims to reduce the impediments to the smooth flow of trade and make Kenya a preferred destination for business. Several activities to achieve this noble goal were identified in the National Symposium held in Nairobi on 19th August 2004. One of the activities identified for implementation by the project was the development of a handbook and Frequently Asked Questions (FAQ) manual on importing

and exporting in Kenya. This handbook therefore, marks a major milestone of the project.

The handbook and FAQ manual is intended to provide those wishing to participate in international trade with basic information that will assist them to understand and participate effectively in the process. The handbook guides the user on all the key trade facilitation agencies and the role they play. It also provides information on step-by-step procedures for export and import processes. The handbook provides the user with contacts of major trading partners. In summary, the handbook has attempted to gather relevant trade information and put it together so that it is accessible in the most convenient and inexpensive form. It is hoped that the handbook will enable more Kenyans to effectively participate in this sector of the economy.

A handwritten signature in black ink, appearing to read 'Mukhisa Kituyi', written in a cursive style.

Hon. Mukhisa Kituyi
Minister for Trade and Industry

Preface

As Kenya seeks to regain its position as an economic giant in Eastern and Southern Africa, the Government has introduced a number of policies aimed at supporting the vision for a dynamic export-led economy. These initiatives include the publication of a National Export Strategy to consolidate export promotion and development efforts and an increasingly visible presence in international discussions on trade facilitation.

The Commonwealth Secretariat is pleased to have supported the publication of this business guide on importing to and exporting from Kenya. The publication is one of several outputs in a comprehensive programme of support to Kenya to develop and implement a trade facilitation strategy. The project aims to help the country to address bottlenecks to trade and investment and provide concrete recommendations on ways in which the Government could help to improve the business climate by addressing specific trade facilitation constraints. One of the main constraints identified by traders in a recently published Commonwealth Fund for Technical Cooperation (CFTC) funded study on the administrative barriers to trade in Kenya, is the lack of transparency that exporters and importers encounter as they attempt to navigate various trade procedures. Procedures were described as 'usually unclear and inconsistently applied, with officers often having significant discretionary powers, which create uncertainty and unpredictability in the trading environment'.

The handbook attempts to address this constraint in a very practical way by providing small and medium sized entrepreneurs, and in particular first time traders, with all the information they require on international trade. Presented in an easy-to-read, user-friendly format, it provides information on global trade developments of direct relevance to Kenya, details on all the local trade facilitation institutions that a trader may need to contact to conduct business, the documentation requirements for importing to and exporting from Kenya and the rights and obligations of the importer / exporter.

The leading beneficiaries of this handbook are of course, new exporters who form part of the local business community. But there are a number of other beneficiaries as well: potential investors with an interest in setting up in Kenya with a view to exporting and who wish to find information on the country's trade rules in one location. The other key beneficiary is

the government which stands to gain from more efficient trade and increased competitiveness from the positive impact of improved trade on the country's gross domestic product.

I am confident that this handbook will become a popular reference tool and again, I am pleased to have been able to support the process of its development.

A handwritten signature in black ink, appearing to read 'G. Saibel', with a stylized, cursive script.

George Saibel
Director, Special Advisory Services Division
Commonwealth Secretariat

Acknowledgement

This handbook has been developed through a rigorous and participatory process. We acknowledge with deep appreciation all individuals and institutions that contributed to the process. While it is not possible to mention all individuals that made contributions in making the preparation of the handbook a success, we will nonetheless mention a few.

We are indebted to the visionary leadership of the Minister, Hon. Mukhisa Kituyi, who took personal initiative and launched the Trade Facilitation Project in Kenya. Under the continued leadership of the Minister, the project is progressing well and it is envisaged that its objectives will be attained when it comes to an end. This handbook is a major milestone of the project.

Special recognition goes to the Commonwealth Secretariat for funding the Trade Facilitation Project in Kenya. In particular, we are grateful to Mr. George Saibel, the Director, Special Advisory Services Division (SASD) of the Secretariat, for making it possible for the Ministry to access the Technical Assistance for the Trade Facilitation Project and Ms Angela Strachan, Trade Advisor, SASD, for her continued support. She was always available to the technical team and provided invaluable ideas on the dissemination of the handbook.

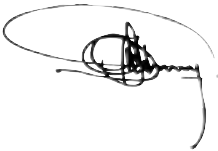
We are grateful to Kenya's Trade Facilitation Project core team. The team is comprised of representatives from trade facilitation institutions namely, Ministry of Trade and Industry, Ministry of Health (Public Health Office), Kenya Revenue Authority (KRA), Kenya Ports Authority (KPA), Kenya Bureau of Standards (KEBS), Kenya Railways Corporation (KRC), the Kenya Police, Export Promotion Council (EPC), Kenya Plant Health Inspectorate Service (KEPHIS), the Kenya National Chamber of Commerce and Industry (KNCCI) and Kenya International Freight and Warehousing Association (KIFWA). We are indebted in a special way to the Chairman of the core team and all the members of the team for their tireless effort to produce the handbook.

We also wish to acknowledge the technical and coordination contributions from Emerging Market Economics (EME) of UK, and ALMACO Management Consultants Ltd, Kenya. Their contributions significantly added value in the process of finalizing the handbook.

Several staff members in the Ministry were instrumental in the planning and preparation of the handbook. I want to extend my gratitude to my predecessor, Dr. Nehemiah Ng'eno, for initiating this process. The Director, Department of External Trade and staff have been the glue behind the whole process and I recognize their efforts.

The handbook is expected to benefit private sector members, especially those that intend to or are already importing into and exporting out of Kenya. The demands of the private sector constituted the main reasons why several private sector organizations were involved in the preparation of the document.

We pay tribute to all the private sector organizations that participated in the workshops which were organized to secure their views and comments. It is because of their participation that this document contains relevant information on international trade procedures.

A handwritten signature in black ink, appearing to read 'David S. O. Nalo', with a large, sweeping flourish above it.

David S. O. Nalo, CBS
Permanent Secretary
Ministry of Trade and Industry

Table of Contents

Acronyms	xii
Definitions	xiv
Map of Kenya	xxiii
Chapter 1: Introduction	1
1.1 Need for a Handbook on Importing to and Exporting from Kenya	1
1.2 The Purpose of the Handbook	2
1.3 Target Users	2
1.4 How to use the Handbook	2
1.5 Methodology	3
1.6 Organization of the Handbook	3
Chapter 2: Overview of International Trade: The Kenyan Perspective	5
2.1 Introduction	5
2.2 The Trade Environment	5
2.2.1 The Geographical Location	5
2.2.2 The Economy	6
2.2.3 Trade Activities	6
2.2.4 Exports from Kenya	6
2.2.5 Imports into Kenya	8
2.2.6 Trade in Services	9
2.2.7 Trade Policy	10
2.2.8 Import and Export Incentives	11
2.2.9 Trade Agreements	16
2.2.10 World Trade Organization	23
Chapter 3: Main Trade Facilitation Institutions	25
3.1 Introduction	25
3.2 Customs Declaration and Clearance	25
3.2.1 Customs Services Department Offices	27
3.3 Port Release	27
3.3.1 Kenya Ports Authority (KPA)	27
3.3.2 Kenya Airports Authority (KAA)	29
3.4 Compliance of Imports with Kenyan Standards	31

3.4.1	Kenya Bureau of Standards (KEBS)	31
3.5	Compliance with Agricultural Standards	33
3.5.1	Kenya Plant Health Inspectorate Service (KEPHIS)	33
3.5.2	The Horticultural Crops Development Authority (HCDA)	35
3.5.3	Pest Control Products Board (PCPB)	36
3.6	Compliance with Health and Safety Standards	36
3.6.1	Port Health Office	36
3.6.2	List of Port Health Offices	37
3.7	Transportation Services	38
3.7.1	Marine Transport	38
3.7.2	Air Transport	39
3.7.3	Rail Transport	40
3.7.4	Road Transport	41
3.7.5	Couriers or Express Operators	42
3.8	Implications of the Different Modes of Transport	42
3.8.1	Rail Versus Road	42
3.8.2	Marine Versus Air	43
3.8.3	Deciding the Mode of Transport	47
3.9	Warehousing Services	48
3.9.1	Customs Bonded Warehouse	48
3.10	Transit Shed Operators	48
3.11	Clearing and Forwarding	49
3.11.1	Kenya International Freight & Warehousing Association (KIFWA)	49
3.11.2	Selecting a Clearing and Forwarding Agent	50
3.12	Security Services	50
3.13	Financial Services	50
3.13.1	Commercial Banks	50
3.13.2	Export-Import Banks (EXIM)	51
3.13.3	Development Banks	51
3.13.4	External Finances	51
3.13.5	Financing Imports	51
3.13.6	Financing Exports	52
3.13.7	The Kenya Bankers Association	53
3.13.8	Selecting a Commercial Bank	53
3.14	Insuring your Goods	53
3.14.1	Insuring Exports	54
3.14.2	Insuring Imports	54
3.14.3	The Association of Kenya Insurers	54
3.14.4	Selecting an Insurance Company	54
3.15	Trade and Investment Promotion	54

3.15.1 Ministry of Trade and Industry – Department of External Trade	55
3.15.2 Export Promotion Council (EPC)	55
3.15.3 Export Processing Zones Authority (EPZA)	56
3.15.4 Kenya Investment Authority (KIA)	56
3.15.5 Trade Associations	57
3.15.6 Sector-Specific Associations	57
Chapter 4: Preparing to Import and Export	61
4.1 Introduction	61
4.2 Obtaining Market Information	61
4.3 Legal Aspects	63
4.3.1 Local and International Legislation	63
4.3.2 Licences, Permits and Certificates	64
4.3.3 Certificates of Origin	66
4.4 Sales Contract	66
4.5 Financial Transactions	67
4.5.1 Preparing for Import Payments	67
4.5.2 Preparing for Export Payments	69
4.6 Hedging against Currency Risks	70
Chapter 5: Importing into Kenya	73
5.1 Introduction	73
5.2 Import Documentation	73
5.2.1 Preparing Import Documentation	74
5.3 Import Procedures	75
5.3.1 Ensuring the Quality of your Goods	75
5.3.2 Importation of Plant Materials into Kenya	76
5.3.3 Valuation of Imports	77
5.3.4 Assessment of Duty	79
5.3.5 Exemption from Duty	81
5.3.6 Prohibited and Restricted Imports	81
Chapter 6: Exporting from Kenya	87
6.1 Introduction	87
6.2 Export Documentation	87
6.3 Export Procedures	88
6.3.1 Valuation of Exports	88
6.3.2 Assessment of Duty	88
6.3.3 Prohibited and Restricted Exports	88

Chapter 7: The Rights and Obligations of the Importer / Exporter	93
7.1 Introduction	93
7.2 Rights and Obligations Regarding Customs Matters	93
7.2.1 General Rights of the Importer/Exporter	93
7.2.2 Your Rights Regarding Customs Duty Assessment and Audit	94
7.2.3 Your Rights Regarding Customs Valuation	94
7.2.4 KRA's Obligations	95
7.2.5 The Obligations of the Importer/Exporter	95
7.3 Rights and Obligations Regarding Quality Standards	96
7.3.1 Your Rights Regarding Quality Standards	96
7.3.2 Your Obligations Regarding Quality Standards	97
7.4 Rights and Obligations Regarding Plant Material Quality Standards	97
7.4.1 Your Rights Regarding Plant Quality Standards	98
7.4.2 Your Obligations Regarding Plant Quality Standards	98
7.5 Rights and Obligations Regarding Public Health Matters	99
7.5.1 Your Rights Regarding Public Health Matters	99
7.5.2 Your Obligations Regarding Public Health Matters	99
Appendix 1: Sources of Information	101
Appendix 2: Frequently Asked Questions	111
Annex 1: Transit Goods	123
Annex 2: Establishing a Business in Kenya	125
Annex 3: Sample Forms	128
Annex 4: References	133

List of Tables

Table 2.1: Key Economic Indicators	6
Table 2.2: Kenya's Top Export Products by Value (2004)	7
Table 2.3: Kenya's Top Suppliers in 2004	8
Table 2.4: Major Import Goods (2004)	9
Table 3.1: Inland Container Freight	43
Table 3.2: Sea Freight Imports to Mombasa	44
Table 3.3: Sea Freight Imports to the Inland Container Depot, Embakasi	45
Table 3.4: Sea Freight Exports Through Mombasa	46
Table 3.5: Air Freight Imports	47
Table 3.6: Air Freight Exports	47
Table 4.1: Certificates of Origin	66

List of Figures

Figure 2.1: Share of Total Exports by Destination (2004)	8
Figure 3.1: Export/Import Institutional Functions at a glance	59
Figure 5.1: Step-by-Step Import Procedures	82
Figure 5.2: Import Procedures Flowchart	86
Figure 6.1: Step-by-Step Export Procedures	89
Figure 6.2: Export Procedures Flowchart	91

Acronyms

ACP / EU	African, Caribbean and Pacific / European Union
AFIPEK	Association of Fish Processors and Exporters of Kenya
AGOA	African Growth and Opportunity Act
AKI	Association of Kenya Insurers
ATI	African Trade Insurance
AWB	Airway Bill
CBIK	Centre for Business Information in Kenya
CBM	Cubic Metres
CCK	Communications Commission of Kenya
CET	Common External Tariff
CIF	Cost, Insurance and Freight
CM	Common Market
CoC	Certificate of Conformity
COMESA	Common Market for Eastern and Southern Africa
CU	Customs Union
DET	Department of External Trade
DoI	Department of Immigration
DRC	Democratic Republic of Congo
EAC	East African Community
EGPSP	Essential Goods Production Support Programme
EPA	Economic Partnership Agreement
EPC	Export Promotion Council
EPZ	Export Processing Zone
EPZA	Export Processing Zones Authority
ERSWEC	Economic Recovery Strategy for Wealth and Employment Creation
EU	European Union
FOB	Free on Board
FPEAK	Fresh Produce Exporters Association of Kenya
FT	Foot
FTA	Free Trade Area
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
HCDA	Horticultural Crops Development Authority
ICD	Inland Container Depot
ICDC	Industrial and Commercial Development Corporation
IDB	Industrial Development Bank
IDF	Import Declaration Form
IPPC	International Plant Protection Convention

JKIA	Jomo Kenyatta International Airport
CAA	Kenya Airports Authority
KAM	Kenya Association of Manufacturers
KAMEA	Kenya Apparel Manufacturers Exporters Association
KEBS	Kenya Bureau of Standards
KEPHIS	Kenya Plant Health Inspectorate Service
KIA	Kenya Investment Authority
KIFWA	Kenya International Freight and Warehousing Association
KNCCI	Kenya National Chamber of Commerce and Industry
KPA	Kenya Ports Authority
KRA	Kenya Revenue Authority
KRC	Kenya Railways Corporation
KTA	Kenya Transport Association
KSAA	Kenya Ships Agents Association
LC	Letter of Credit
MFN	Most Favoured Nation
MoA	Ministry of Agriculture
MoF	Ministry of Finance
MoH	Ministry of Health
MoLFD	Ministry of Livestock and Fisheries Development
MoTI	Ministry of Trade and Industry
MRLs	Maximum Residue Levels
MSE	Medium and Small Enterprise
MUB	Manufacturing Under Bond
NES	National Export Strategy
NPPO	National Plant Protection Organization
OECD	Organization for Economic Co-operation and Development
PSI	Pre-Shipment Inspection
PTA	Preferential Trade Area
PVoC	Pre-export Verification of Conformity
SADC	Southern Africa Development Cooperation
SPS	Sanitary and Phytosanitary
TEUs	Twenty-foot Equivalent Units
THC	Terminal Handling Charges
TREO	Tax Remission for Export Office
UAE	United Arab Emirates
US\$	United States Dollar
VAT	Value Added Tax
WTO	World Trade Organization

Definitions

Ad valorem Duty

This is a duty levied according to the value of the goods. It is usually expressed as a percentage of the value e.g. 20 % of CIF value.

African Growth and Opportunity Act (AGOA)

Contained in the USA Trade and Development Act of 2000, this is a non-reciprocal trade agreement that aims to promote trade and economic cooperation between the United States and eligible sub-Saharan countries. Essentially all products of eligible countries have quota free and duty free access to the United States market.

Airway Bill

A document evidencing a contract of carriage between the shipper and airline for carriage of goods. It provides evidence of a contract of carriage, proof of receipt of goods by the carrier, customs declaration and a waybill. (A waybill lists the goods being carried, shows the point of origin, destination, consignor, consignee and transportation charges.)

Anti-dumping Duty

A specific duty levied for the purposes of offsetting the effects of dumping. Goods are regarded as having been dumped if the export price of the goods exported to Kenya is less than the comparable price, in the ordinary course of trade, for the product when destined for consumption in the exporting country and if the importation of the goods causes injury to or retardation of a Kenyan industry.

Bill of Lading

This is a document which serves as evidence of a contract of carriage between the carrier (the ship) and the shipper. It includes the name of the shipper, the ship's name, a full description of the cargo, the ports of embarkation and of destination.

Bonded Warehouse

Any warehouse or other place licensed by the Commissioner of Customs for the deposit of dutiable goods on which import duty has not been paid and which have been entered to be warehoused.

Carriage Coastwise

Conveying goods by sea or air from any part of Kenya to another part of the country.

Certificate of Origin

This is a document indicating the country of origin of goods being imported. It is usually issued by exporting countries, official authorities or by other agencies designated by the governments where the goods originate from. It is used to ensure that goods originating in certain countries get the preferential treatment that they are entitled to.

Commercial Attaché

A representative of a government, located in a foreign country, for the purposes of promoting the foreign trade of his/her country.

Commissioner

This is the Commissioner of Customs appointed according to the Kenyan legislation, to be responsible for the management and control of Customs, including the collection of and accounting for customs revenue.

Common External Tariff (CET)

An identical rate of tariff imposed on goods imported from countries outside a regional trade agreement area e.g. EAC or COMESA.

Common Market

Integration of the markets of the partner states in a regional trade agreement e.g. EAC, COMESA, into a single market in which there is free movement of capital, labour, goods and services.

Community Tariff Treatment

A five year interim tariff imposed on specific goods originating from the Republic of Kenya to the Republic of Uganda, and from the Republic of Kenya to the United Republic of Tanzania under the principle of asymmetry.

Cost, Insurance and Freight (CIF)

The seller pays the costs and freight necessary to bring the goods to the named port of destination as well as procures marine insurance against the buyer's risk of loss or damage to the goods during carriage. The seller contracts for insurance and pays the insurance premium. The costs are then passed on to the buyer (see FOB).

Countervailing Duty

A specific duty levied for the purposes of offsetting a subsidy bestowed directly or indirectly upon the manufacture, production or export of a product.

Customs Bond

A customs bond is a guarantee that the importer will faithfully abide by all laws and regulations governing the importation of goods into Kenya. The purpose of a bond is to guarantee that all customs duties, customs penalties, and other charges assessed by Customs will be properly paid and that all trade procedures will be followed.

Customs Duties

These are taxes levied upon goods on their entry into the country (import duties) or on their exit from the country (export duties).

Customs Entry

This is the documentation required to be filed with the appropriate customs officer to secure the release of imported goods from Customs' custody.

Customs Value

The value of goods for the purposes of levying ad valorem duties of customs.

Destination Inspection

Inspection of imported goods by regulatory authorities at the point of clearance. The inspection is done to determine the quality, quantity, value, duties and taxes applicable. It could also mean inspection by the buyer or his agents of the goods on receipt at the destination to assess whether they conform to the specifications laid down in the purchase contract.

Duty Drawback

This is a refund of all or part of any import duty paid in respect of goods exported or used in a manner or for a purpose prescribed as a condition for granting the refund.

East African Customs Union Protocol

Officially titled the Protocol on the Establishment of the East African Customs Union. This is the protocol establishing the East African Community Customs Union within which non-tariff barriers are eliminated, a common external tariff in respect of all goods imported into the Community is applied and customs duties are eliminated except for some specified circumstances.

East African Customs Management Act

The Act applying to the East African Community partner states regarding the Customs Union.

East African Community (EAC)

The East African Community established by the EAC Treaty of 1999 that is currently made up of the Republic of Uganda, the Republic of Kenya and the United Republic of Tanzania.

Excise Duty

A non-discriminative duty imposed by the Kenyan government on locally produced or similar imported goods. Goods subject to excise duty include wines and spirits, beer, bottled water, soft drinks and cigarettes.

Exemption from Duty

Duty is not charged on the goods specified when imported or purchased before clearance through customs.

Export Processing Zone (EPZ)

A designated part of Customs territory where any goods introduced are generally regarded, in so far as import duties and taxes are concerned, as being outside Customs territory but are restricted by controlled access.

Free On Board (FOB)

The seller fulfils his obligation to deliver when the goods have passed over the ship's rail at the named port of shipment. The buyer therefore has to bear all cost and risks of loss or damage to the goods from that point.

Free Port

A port at which goods can enter free of customs; the goods are usually for re-export.

Identical Goods

Goods which are the same in all respects, including physical characteristics, quality and reputation.

Import Declaration Form (IDF)

This is a form that is prepared by the clearing agent and is required for all imports. It contains a summary of the information contained in the supporting documentation such as the invoice, the packing list, certificate of origin, the seller's and importer's names, addresses and related details.

Letter of Credit (L/C)

A specialized instrument of international trade designed to facilitate trade between exporters and importers. It is issued by a bank to the seller at the

request of a buyer. It guarantees payment to the seller if the terms and condition specified in the L/C are fulfilled.

Manifest

This is a detailed list of cargo being carried on board by a carrier such as aircraft or ship, it includes quantity, identifying marks, consignor and consignee of each item.

Manufacturing Under Bond

This is a facility extended to manufacturers to import plant, machinery, equipment and raw materials tax free, for exclusive use in the manufacture of goods for export.

Most Favoured Nation (MFN)

A trade policy commitment on the part of one nation to extend to another nation tariff rates as low as applies to any other “most favoured nations,” and to treat imports from that nation without discrimination. Thus if a WTO member country grants another country any tariff or benefit on any product it must unconditionally extend this benefit to the like products of other countries. The principle is therefore that member countries should not discriminate among countries, and not treat a country less favourably than another in all matters connected with foreign trade in goods. There are exceptions to the MFN rule for example, preferential treatment under regional trade agreements such as COMESA and EAC.

Packing List

This is a statement listing in detail, the contents of a particular package. It should show marks and number of packages, gross and net weights, measurements, and description of contents of each package.

Partner States

The Republic of Uganda, the Republic of Kenya and the United Republic of Tanzania and any other country granted membership to the East African Community.

Phytosanitary Inspection

Inspection by an agency of a national government to certify that a shipment is free from harmful pests and plant diseases. The agency responsible for phytosanitary inspections in Kenya is KEPHIS.

Preferential Tariff Treatment

This is a situation where a country gives preferential treatment to imports from some countries by imposing lower rates of duty on goods imported from these countries.

Pre - Shipment Inspection

Inspection of goods before they leave the country of origin. Pre-shipment inspection is done to determine the quality, quantity, value, duties and taxes applicable. A report or certificate is issued which should accompany the import clearance documents. The pre-shipment inspection programme in Kenya has been phased out since July 1, 2005. KEBS has taken over the role of inspection of goods with regards to quality. KRA is now charged with destination inspection including scanning, physical verification and examination of the goods before release from customs control.

Principle of Asymmetry

The principle which addresses variances in the implementation of measures in an economic integration process for purposes of achieving a common objective.

Prohibited Goods

Goods whose importation, exportation, or carriage coastwise is prohibited under the provisions of the country's laws.

Proper Officer

Any officer whose right or duty it is to require the performance of, or to perform, the act referred to.

Rate of Exchange

The price at which the currency of one country can be exchanged for the currency of another country.

Refund

The return or repayment of duties already collected. This could be the return of overpaid charges, for example import or export duty paid in error. The Commissioner may also grant a refund of import duty paid in respect of goods which have been damaged or destroyed during the voyage or while subject to Customs control.

Remission

The waiver of duty or refrainment from exacting of duty.

Restricted Goods

Goods whose importation, exportation or carriage coastwise is prohibited, save in accordance with conditions regulating it, or goods whose importation, exportation or carriage coastwise is in any way regulated by or under the Restricted Goods Act or any other written law.

Rules of Origin

These are rules which set the criteria for determining the origin of a product. They are used to differentiate products for preferential or normal treatment. For example, a product which is deemed to originate from a certain country may be eligible for preferential treatment while the same product from a different country is not granted the same treatment.

Similar Goods

Goods which are not alike in all respects but have characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable.

Standard

A Kenya Standard is a precise and authoritative statement of the criteria necessary to ensure that a material, product or procedure is fit for the purpose for which it is intended. Kenya Standards fall into six categories, namely, glossaries or definitions of terminology, dimensional standards, performance standards, standard methods of test, codes of practice and measurement standards. Standards serve as guides for production of goods and provision of services and provide a basis for trade transactions.

Subsidy

Assistance by a government or public body in the production, manufacture, or export of specific goods through direct payments such as grants, loans or measures with equivalent effect such as fiscal incentives e.g. tax credits. Where subsidies are deemed to cause injury to the Kenyan industry, countervailing duties are charged to offset the subsidy.

Tax Remission for Exports Office

This is a scheme administered by the Ministry of Finance that offers incentives to exporters by remitting duty and VAT on raw materials used in the manufacture of goods for export. It also provides for tax remission on inputs to make goods defined as essential for the domestic market.

Taxpayers Charter

This is a document published by the Kenya Revenue Authority setting out the taxpayer's rights and obligations.

Test Report/Certificate

This is a document evidencing compliance with certain requirements or providing the results of tests or analyses done.

Trade/GDP Ratio

This is used as a measure of a country's openness or integration with the world economy. This is a measure of the ease with which goods and services, information, capital and other factors of production flow between the domestic economy and the rest of the world. A high trade-to-GDP ratio indicates greater integration.

Trade in Services

Trade in services is characterized by the movement of the factors of production, mainly, labour and capital. The services can be supplied in four ways, as described by the World Trade Organization's General Agreement on Trade in Services (GATS) namely: cross-border, consumption abroad, commercial presence and the movement of people.

Transit Shed

Any building, appointed by the Commissioner in writing, for the deposit of goods subject to Customs control.

Transaction Value

The price actually paid or payable for the goods when sold for export to the country of importation. This is adjusted by valuation factors, which are the various elements that must be taken into account in determining the customs value.

Value Added Tax (VAT)

An indirect tax on consumption that is assessed on the increased value of goods at each discrete point in the chain of production and distribution, from the raw material stage to final consumption. The tax on processors or merchants is levied on the amount by which they increase the value of items they purchase and resell.

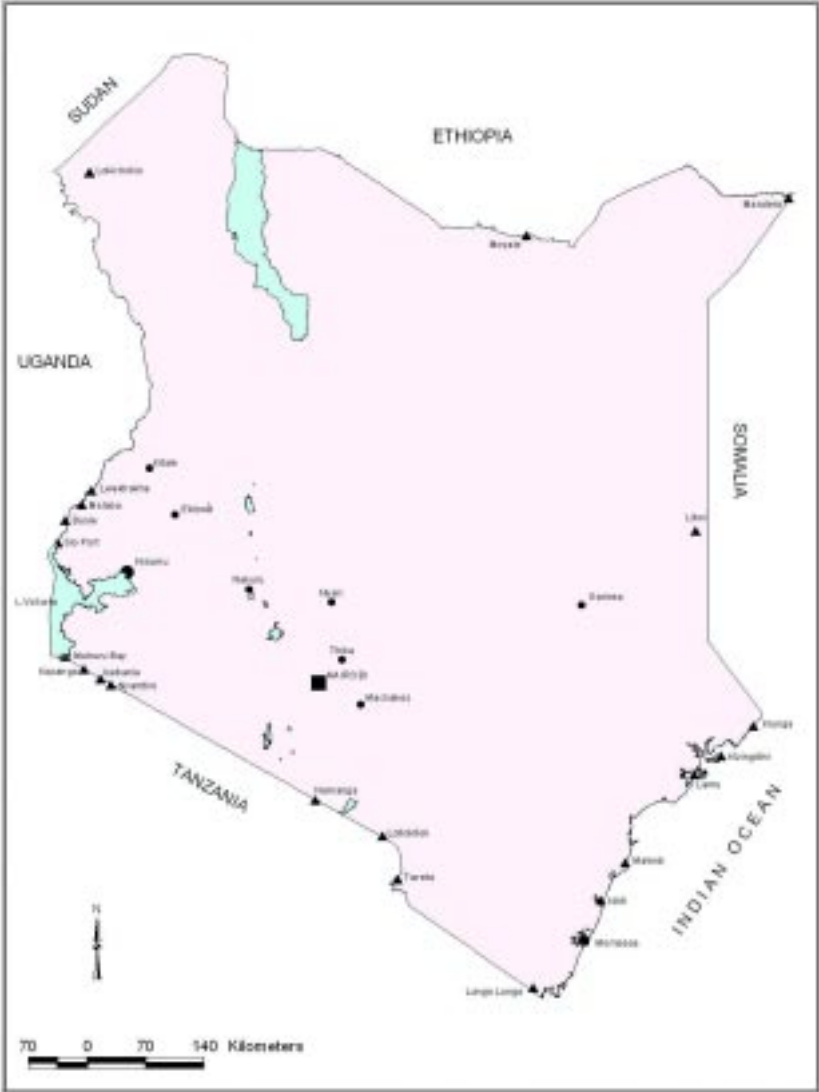
World Trade Organization

This is the global trade organization which succeeded the General Agreement on Tariffs and Trade (GATT). Its main objective is to help trade flow smoothly, freely, fairly and predictably. It has a membership of nearly 150 members.

Zero Rate

Tariff rate at zero percent such as zero percent customs duty charged on the value of an imported product, this means no customs duty is charged.

MAP OF KENYA



Shows the customs border points and other locations of the key trade facilitation institutions.

Chapter 1

INTRODUCTION

1.1 Need for a Handbook on Importing to and Exporting from Kenya

The need to prepare a handbook on importing to and exporting from Kenya arises out of the significant role that international trade plays in economic and social development and the importance of having more Kenyans understand and participate in the process effectively. The export of Kenyan products to several markets in Africa, Europe, the Middle East, Asia and the US, earns millions in foreign currency and generates significant employment opportunities. Kenya also imports several products both for consumption and use in manufacturing. With a liberalized economy and globalization of markets, Kenyan exporters and importers are expected to be more competitive and innovative in international trade if they are to effectively exploit the opportunities that world markets present.

The Economic Recovery Strategy (ERS) 2003-2007 identifies trade and, in particular, export expansion as one of those activities that will assist in economic recovery and growth. For this reason, the National Export Strategy 2003-2007 was prepared and the Cabinet approved it for implementation in 2004. The strategy encourages Kenyans to engage in international trade and identifies sectors and products that provide opportunities for expansion. At the same time, the strategy recognizes the need for trade facilitation to enable Kenyans understand and participate in international trade effectively.

However, international trade transactions are complex and involve many players, regulations, standards and financial relationships. This complexity means that many potential importers and exporters lack adequate knowledge on what needs to be done to transact effectively and, for this reason, they shy away from international trade. If this situation is allowed to continue, Kenya will lose out in international trade.

1.2 The Purpose of the Handbook

The purpose of this handbook is to provide those wishing to enter into international trade with basic information that will assist them in understanding and participating effectively in the process. It has been realized that information on international trade is scattered in several documents and institutions, which are often unknown to those seeking it. To obtain this information is often costly and time consuming. This handbook has attempted to gather the relevant trade information and put it together so that it is accessible in a convenient and inexpensive form. It is hoped that this handbook will facilitate international trade and enable more Kenyans to effectively participate in this important sector of the economy.

1.3 Target Users

Those intending to enter into international trade for the first time are the target. It is assumed that this category of users know nothing or very little about international trade. The handbook is therefore made simple and practical, showing step-by-step procedures on how to carry out the different transactions required to export or import. Additionally, the handbook provides definitions of terms commonly used in international trade which users must familiarize themselves with. It also provides information on the key players in international trade with whom the user will have to necessarily interact during the course of business.

1.4 How to use the Handbook

The handbook should be used as a guide only. It is recommended that for detailed information and clarity, users get in touch with the relevant authority or organization involved in functions, processes or transactions of interest.

It should be noted that the information contained in this handbook relates to the period of writing. Functions, systems, processes and procedures are dynamic and prone to change from time to time to align with new policies, strategies and practices. While the handbook will be revised periodically, the information contained may change before updates take place and it will be necessary to confirm information with the relevant authority or organization, especially if the version being used has not been updated for some time.

1.5 Methodology

Review of documents, Internet research, interviews with trade facilitation institutions and workshops were used to gather the information in the handbook. Policy and operational documents from the key trade facilitation institutions were identified and reviewed and this was supplemented with Internet research. Senior officers in the trade institutions were interviewed and two workshops were organized. The first workshop was used to gather input from the private sector organizations while the second workshop was used to validate the document.

1.6 Organization of the Handbook

The handbook is organized into seven chapters. Acronyms, mandatory forms and commonly used terms in international trade are defined before the chapters begin. This is important considering the audience the handbook addresses. Chapter One introduces the user to the handbook by providing information on its justification, the purpose it serves, whom it targets, how it should be used and who was involved in its preparation. Chapter Two gives background information on international trade and how Kenya fits into the whole system. Kenya's policy on international trade and the strategies in place to promote trade are discussed. The trade agreements that Kenya is a signatory to are then outlined and their benefits discussed.

The key trade facilitation institutions that importers/exporters will interact with in the course of international trade and their roles are discussed in Chapter Three. Chapter Four outlines the formalities and legal issues that must be complied with before commencing an international trade operation. These include how to get information on markets and legal aspects such as licences, permits and certificates required. Other issues discussed are sales contracts and financing instruments.

Importing into Kenya, including documentation and procedures, is dealt with in Chapter Five. The chapter specifies the documents that need to be completed, the procedures to be followed and who will be involved with import transactions. A step-by-step-process and flowchart are provided for ease of understanding. Chapter Six covers export documentation and procedures and the last chapter provides information on the rights and obligations of the importer and exporter.

Appendix I provides a list of key organizations that can provide practical information pertinent to international trade.

Appendix II provides answers to some of the frequently asked questions on importing and exporting.

Chapter 2

OVERVIEW OF INTERNATIONAL TRADE: THE KENYAN PERSPECTIVE

2.1 Introduction

This chapter provides you as a potential importer or exporter, with an overview of how Kenya interacts with the world as far as trade is concerned. It describes the general trade environment and shows how Kenya's location, economy, trade activities, policies and involvement in international trade agreements are geared towards increasing Kenya's international trade.

2.2 The Trade Environment

2.2.1 The Geographical Location

Kenya is located on the eastern coast of Africa, bordering Somalia to the east; Ethiopia to the north; Sudan to the north-west; Uganda to the west and Tanzania to the south. The Indian Ocean lies to the south-east. Kenya's geographical position makes it a major gateway for trade to the Eastern and Central Africa region.



Relative Map of Kenya

The Port of Mombasa serves Kenya's hinterland as well as the land-locked countries of Uganda, Rwanda, Burundi, Eastern DRC and Southern Sudan. The main international airport, Jomo Kenyatta, is strategically located to serve major markets such as Europe and the Middle East, as well as other African

countries. A fairly good road and rail network facilitates transportation of goods to local and regional destinations.

2.2.2 The Economy

Kenya's economy has been growing over the last 3 years, achieving a growth rate of 4.3 percent in 2004. Table 2.1 provides a brief overview of the country's economic performance over the last 5 years.

Table 2.1: Key Economic Indicators

	2000	2001	2002	2003	2004
GDP, current prices (USD Billions)	10.148	11.208	12.3	14.288	15.615
GDP growth (%)	0.6	4.4	0.4	2.8	4.3
GDP per capita (USD)	337.23	364.79	392.86	448.27	481.72
Exchange rates (year-end)					
Ksh/USD	78.04	78.60	77.07	76.14	77.34
Ksh/GBP	116.41	114.00	123.59	135.50	149.00
Ksh/Euro	72.48	69.56	80.79	95.62	105.33
Inflation rate (%)	10.0	5.8	2.0	9.8	11.6
Short-term interest rates (%) (year-end, 91-day Treasury Bills)	13.47	10.85	8.37	1.41	8.04

Sources: Economic Survey 2004, 2005; IMF World Economic Outlook Database, 2005

2.2.3 Trade Activities

Kenya is a relatively open economy, with a trade to GDP ratio (2001 – 2003) of 58.2 percent.¹ The current Economic Survey shows that in 2004, Kenya's exports totalled Kshs 214,791 million (made up of domestic exports of Kshs 159,061 million and re-exports of Kshs 55,729 million) while imports totalled Kshs 364,205 million. Total exports increased by 17.3 percent while total imports increased by 29.2 percent from the previous year.

2.2.4 Exports from Kenya

You need to familiarize yourself with Kenya's major exports and their destinations. Because these are already established, it will be the best starting point for you. However, as you will see later, there are more

¹ WTO Statistics Database

products and markets that provide you with an opportunity to export/import. For more information on exports, you can visit the Export Promotion Council or the Department of External Trade (DET) at the Ministry of Trade and Industry. However, the current position is outlined below.

In terms of broad economic category, leading in 2004 was food and beverages (47.20%), industrial supplies (24.80%) and consumer goods (21.15%). The top 10 export products by value, shown in Table 2.2, made up 70 percent of the total domestic export earnings.

Table 2.2: Kenya's Top Export Products by Value (2004)

	Commodity	Value (Kshs Million)	% of total domestic exports
1	Horticulture (cut flowers, fruits and vegetables, both fresh and processed)	39,541	24.86
2	Tea	36,072	22.68
3	Iron and steel	7,532	4.74
4	Coffee (unroasted)	6,944	4.37
5	Soda ash	5,359	3.37
6	Fish and fish preparations	4,178	2.63
7	Articles of plastics	3,136	1.97
8	Essential oils	3,121	1.96
9	Tobacco and tobacco products	2,951	1.86
10	Animal and vegetable oils	2,505	1.57
	Total	111,339	70.01

Source: Economic Survey 2005

2.2.4.1 Potential Products for Export

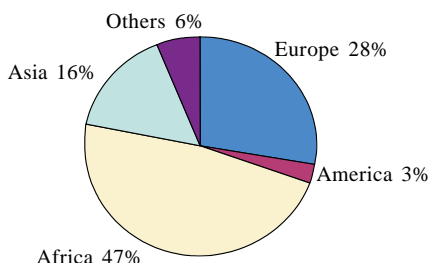
The National Export Strategy 2003-2007 identified the following products that have great potential for export that you could exploit.

- ◆ Leather and Leather products
- ◆ Meat and Meat Products
- ◆ Commercial crafts
- ◆ Financial services
- ◆ Information and Communication Technology
- ◆ Transport services
- ◆ Energy
- ◆ Professional services
- ◆ Freeport services

2.2.4.2 Kenya's Leading Export Destinations

The leading market for Kenya's exports is Africa, taking a 47.5 percent share of all exports in 2004. Uganda and Tanzania are Kenya's top customers. Other major African importers of Kenyan goods are the Democratic Republic of Congo, Egypt, Rwanda

Figure 2.1: Share of Total Exports by Destination (2004)



Source: Economic Survey 2005

and Sudan. By regional grouping, COMESA takes up more than 73 percent of the total exports within Africa while the EAC takes up 54 percent. Kenya's next largest market is Europe which absorbed 27.9 percent of its exports in 2004. The major customers were the United Kingdom, the Netherlands, Germany and France. In Asia, major importers of Kenyan goods in 2004 were Pakistan, India and the United Arab Emirates. The United States of America was the main customer from the American continent.

2.2.5 Imports into Kenya

Kenya's top suppliers in 2004 included the United Arab Emirates, South Africa, Saudi Arabia, the United Kingdom, Japan and India. The top 10 suppliers made up slightly more than 65 percent of Kenya's total imports in that year.

Table 2.3: Kenya's Top Suppliers in 2004

Rank	Country	% of total imports
1	UAE	12.36
2	South Africa	9.51
3	Saudi Arabia	8.66
4	United Kingdom	7.45
5	Japan	6.63
6	India	6.21
7	USA	3.95
8	Germany	3.60
9	China	3.51
10	France	3.35
	Total	65.23

Source: Economic Survey 2005

Major imports by value are shown in Table 2.4. Kenya's main imports include crude petroleum and petroleum products, industrial machinery and motor vehicles.

Table 2.4: Major Import Goods (2004)

	Commodity	Value (Kshs Million)	% of total imports
1	Crude petroleum	45,954	12.62
2	Petroleum products	43,056	11.82
3	Industrial machinery	43,516	11.95
4	Road motor vehicles	24,361	6.69
5	Iron and steel	21,265	5.84
6	Plastics in primary and non-primary forms	15,420	4.23
7	Medicinal and pharmaceutical products	11,607	3.19
8	Chemical fertilizers	11,079	3.04
9	Animal/vegetable fats and oils	8,063	2.21
10	Unmilled wheat	6,754	1.85
	Total	231,075	63.44

Source: Economic Survey 2005

2.2.6 Trade in Services

In 2003, Kenya's imports of commercial services were valued at USD 568 million and exports at USD 832 million.² Transportation and travel made up approximately 95 percent of the total value of commercial services exports. Transportation and travel services also made up two-thirds of the services imports with other commercial services making up one-third of the value of services imports. Other commercial services include communication services, insurance and financial services, professional and technical services such as management consulting, research and development, advertising and engineering.

The trading community has recognized the growing importance of services in international trade and their major contribution to economic and social development. Regional and international trade agreements include measures to increase trade in services, such as facilitating movement of people across borders.

The EAC Treaty describes measures needed to achieve the free movement of persons, labour and services. These include easing border crossing restrictions by citizens of the Partner States, maintaining common standard travel documents for their citizens and availing travelling facilities to

² WTO Statistics Database

persons from other Partner States. The COMESA Treaty also recognizes the need to enhance free movement of persons, labour and services to facilitate trade.

In the Partnership Agreement signed between the ACP countries and the European Community, the EC pledged to support the efforts of the ACP States to strengthen their capacity in the supply of services, particularly services related to labour, business, distribution, finance, tourism, culture and construction, and related engineering services, with a view to enhancing their competitiveness and thereby increasing the value and the volume of their trade in goods and services.

2.2.7 Trade Policy

It is important that you understand the country's trade policy. This information will assist you to align your import and export plans/operations with the opportunities that are created by the trade policy. Trade policies will normally spell out areas of emphasis and what the government is doing to promote trade. Issues like trade incentives, market access, financing of trade and trade agreements with other countries will be addressed. The focal point for Kenya's trade policy is the Ministry of Trade and Industry. You will need to visit their offices at Telposta Towers, Nairobi, or the provincial and district offices to obtain the information you require on trade policy. Some of the trade policies that can benefit you are outlined in the following paragraphs.

The advent of liberalization and globalization has made Kenya focus its trade policy on moving its economy towards a more open trade regime with increased access to its products and services in overseas markets. For this reason, Kenya has pursued an export-led growth strategy from the early 1990s. Kenya allows most imports into the country without restrictions as long as all regulations and standards are complied with. This of course has increased competition to the local producers. Consumers have tended to benefit through reduced prices and improved quality of goods and services.

In its Economic Recovery Strategy for Wealth and Employment Creation 2003 – 2007, the Government of Kenya recognized the trade sector as being strategic to economic recovery. Various measures intended to improve Kenya's competitiveness in international trade have been initiated. These include incentive schemes for the manufacturing sector such as duty/VAT exemptions and remissions on imported inputs; establishment of Export Processing Zones which provide attractive incentives for businesses in the export sector and active participation in regional and international

integration and cooperation schemes such as EAC, COMESA and ACP/EU.

Kenya has undertaken comprehensive trade reforms within the context of EAC and COMESA. In 2005, Kenya, as part of the East African Community, adopted the Customs Union within which non-tariff barriers between the Partner States were eliminated, customs duties were eliminated except for some exports from Kenya to Uganda and Tanzania, and a three band common external tariff in respect of all goods imported into the Community from foreign countries was established. These reforms are expected to increase the market for Kenyan products.

Kenya is part of the Free Trade Area (FTA) created by some COMESA countries in the year 2000, in which no tariffs are levied on COMESA originating products, whilst each member State applies its own regime of tariffs to goods imported from outside the region.

A National Export Strategy has been developed as recommended by the ERSWEC 2003 – 2007. It proposes strategies to improve export performance through increased national competitiveness. Its specific objectives include deepening existing export markets, opening up new markets, diversifying the export mix away from a limited number of traditional exports, enhancing market access for Kenyan exports, strengthening the institutional export support networks through trade facilitation and enhancing the competitiveness of Kenyan exports through value addition, improved quality and reduced cost of production. The NES will initially focus on 10 priority sectors from agriculture, manufacturing and the services sector for the period 2003 – 2005.

The Ministry of Trade and Industry is in the process of developing a Sessional Paper on Trade Policy. To increase trade performance, the government is reviewing trade-related legislation with a view to reducing the number of steps required for importing/exporting goods and services. Other activities include reviewing licensing agreements and supporting the private sector in identifying new markets through organizing export trade fairs and creating awareness on schemes such as AGOA.

2.2.8 Import and Export Incentives

As explained in the previous section, Kenya has adopted an export-oriented growth strategy. To this end, the government has introduced a number of incentives to encourage traders to engage in international trade. This section outlines the incentives which you as an importer or exporter could take advantage of. These include drawback of duty provided for in the EA Customs Management Act, Manufacturing Under Bond (MUB) and Tax Remission for Exports Office (TREGO) schemes. The government

The Kenyan Perspective

has also established Export Processing Zones to provide attractive investment opportunities to export-oriented business ventures.

2.2.8.1 Duty drawback

The EA Customs Management Act provides for drawback of import duty on goods imported for the manufacture of goods which are to be:

- ◆ Exported
- ◆ Transferred to a free port
- ◆ Transferred to an Export Processing Zone

Some conditions apply before you can claim duty drawback. You will need to obtain authorization from the Commissioner of Customs before you begin manufacturing. The goods for export must be a direct result of the imported goods used in their manufacture. The Commissioner determines or agrees to the rate of yield of the operations and prescribes the duty drawback coefficient applicable.

Before you are granted drawback, you will need to present the goods destined for export for examination to the proper officer. A declaration is then required to the effect that the conditions under which drawback may be allowed have been fulfilled and that the goods have actually been exported. You should present the claim for drawback within a period of 12 months from the date of exportation of the goods.

For more information on duty drawback, contact the Commissioner of Customs, or visit any Customs office in the country.

2.2.8.2 Manufacture Under Bond (MUB)

This facility was introduced in 1986 as an export drive policy measure. It aims at promoting industrial production for the export market. The facility allows manufacturers to import plant, machinery, equipment and raw materials tax free, for exclusive use in the manufacture of goods for export. The MUB scheme is facilitated by KIA and administered by KRA and is open to both local and foreign investors. You will require a licence from the Commissioner of Customs to operate a bonded factory.

Specific incentives provided:

- ◆ Exemption from customs/excise duty and VAT on imported plant, machinery, equipment, raw materials and other imported inputs
- ◆ 100 percent investment allowance on plant, machinery, equipment and buildings

For more information you can contact the Managing Director, Kenya Investment Authority (KIA), Nairobi.

2.2.8.3 Tax Remission for Exports Office (TREO) Scheme

The TREO scheme aims at encouraging local manufacturers to export their products by remitting duty and VAT on raw materials used in the manufacture of goods for export. It also provides for tax remission on inputs to make goods defined as essential for the domestic market.

TREO encourages Kenyan manufacturers to produce for the export market by granting:

- ◆ Remission of import duty on inputs
- ◆ Exemption of IDF fees on inputs except for payment of processing fee of Kshs 5,000
- ◆ Remission of VAT on inputs
- ◆ Remission of excise duty on fuel oil and kerosene

i) Categories of users of the TREO scheme

There are five categories of users of the TREO scheme, these are:

- ◆ **Direct Exporter**
A manufacturer who imports raw materials for manufacture, then exports the finished product.
- ◆ **Indirect Exporter**
A manufacturer /producer who imports goods for use in the production of goods for supply to another manufacturer for use in the production of goods for export.
- ◆ **Approved Supplier**
A manufacturer or producer who imports goods for use for production of goods to supply to an indirect exporter.
- ◆ **Indirect Manufacturer**
A manufacturer who imports goods for use in the production of goods which are then supplied to another manufacturer or producer for use in the manufacture of goods under the TREO regulations.
- ◆ **Importers under the Essential Goods Production Support Programme (EGPSP):**
Manufacturers who import goods for use in the domestic market under the following categories:
 - ◆ Pharmaceutical and medicament manufacturers
 - ◆ Official aid funded projects
 - ◆ Publishers of educational books
 - ◆ Manufacturers of supplies to international airlines
 - ◆ Importers of white refined sugar
 - ◆ Manufacturers of paper for packing liquids
 - ◆ Oil Refineries – Crude palm Olein and Stearin

The Kenyan Perspective

You must be gazetted before being allowed to participate in the TREO scheme.

ii) Application for Tax Remission

The Kenya Association of Manufacturers facilitates this scheme which is administered by the Ministry of Finance. You should apply to the Ministry for duty/VAT remission through KAM.

The application for remission must be supported by:

- ◆ An export order or contract for specified export goods or a letter of credit
- ◆ A detailed production plan
- ◆ A list of goods to be imported
- ◆ Tariff classification, quantity, value and amount of duty/VAT to be waived

You will have to undertake to pay duty on the imported goods that have not been used in the production of approved exports or indirect exports or have not been transferred to an approved bonded factory or to the next production phase. A security bond will need to be posted covering the taxes and is cancelled only after the Reconciliation Declaration has been verified and approved by the TREO office and any unused imported goods have been re-exported or duty has been paid.

To get more information on TREO, you can visit the Kenya Association of Manufacturers in Westlands, Nairobi, or the Ministry of Finance, TREO office, Treasury Building in Nairobi.

2.2.8.4 Export Processing Zones (EPZ)

The Export Processing Zones programme was established in 1990. The aim of the project was to promote export-oriented industrial investment within designated areas. EPZ investors are entitled to attractive fiscal incentives coupled with simplified operating procedures and superior business and industrial infrastructure. EPZs are managed by the Export Processing Zones Authority which provides facilitation and aftercare services to new and existing investors.

The following are the incentives you would enjoy as an EPZ investor:

i) Fiscal Incentives

- ◆ 10 year Corporate Tax holiday and 25% thereafter
- ◆ 10 year Withholding Tax holiday on remittance of dividends

- ◆ Duty and VAT exemption on raw materials, machinery and other inputs
- ◆ Stamp duty exemption
- ◆ 100% investment deduction over 20 years on initial investment

ii) Procedural Incentives

- ◆ Rapid project approval and licensing (30 days)
- ◆ Operation under essentially one licence issued by EPZ Authority
- ◆ No minimum investment level and unrestricted investment by foreigners
- ◆ Access to offshore borrowing
- ◆ Operation of Foreign Currency accounts - no exchange controls
- ◆ Autonomous control of investment proceeds
- ◆ Exemption from Industrial Registration Act, Factories Act, Statistics Act, Trade Licensing Act and Imports, Exports and Essential Supplies Act
- ◆ Work Permits for senior expatriate staff
- ◆ On-site Customs documentation and inspection
- ◆ One-stop-shop service by the EPZ Authority for facilitation and after care

iii) Physical Infrastructure Benefits

- ◆ Ready factory buildings for rent or purchase
- ◆ Serviced land for construction of buildings
- ◆ Office premises
- ◆ Water, sewerage and electricity supply
- ◆ Landscaping, garbage disposal, street cleaning services
- ◆ Illuminated perimeter fence and 24-hour security
- ◆ Accessible Customs offices

The EPZA issues two types of licences, the enterprise licence and the developer/operator licence. The enterprise licence is issued to firms engaged in export- oriented manufacturing or processing; commercial activities such as bulk breaking, re-labelling, grading and repackaging; and services including brokerage and consultancy. You will need to submit a project proposal outlining, among other things, your intended activity, the production process, the target market and the proposed level of investment.

For the developer/operator licence, you will need to apply for designation of the land area as an EPZ as well as for the licence itself. You should own the land or lease it for a minimum of 30 years.

The Kenyan Perspective

For more information on Export Processing Zones, contact or visit the EPZA headquarters at Athi River or their website: www.epzakenya.com.

2.2.9 Trade Agreements

Kenya is a signatory to bilateral, regional and international trade agreements that aim at facilitating and increasing trade. The agreements provide certain preferential treatment that you as a Kenyan stand to benefit from as you carry out your business. You should therefore try to keep yourself updated about these agreements and find out what opportunities they provide to your business.

2.2.9.1 Regional Trade Agreements

Kenya is a member of the EAC and COMESA trade agreements within the African Region. Membership entails extending preferential tariffs to goods imported from member states subject to agreed conditions (the Rules of Origin). Goods originating in Kenya also enter into the other member countries at preferential rates. This provides an incentive to import from or export to other countries in the regional trading bloc.

i) East African Community

The East African Community was established by Article 2 of the EAC Treaty of 1999. The EAC Partner States comprise of the Republic of Kenya, the Republic of Uganda and the United Republic of Tanzania. The Partner States may grant membership to other countries subject to specified terms and conditions. The Treaty stipulates that the East African Customs Union and a Common Market be established as transitional stages to and integral parts of the Community.

Kenyan goods enter the member countries at preferential tariffs while similar treatment is given to goods imported from EAC member states. The EAC countries are Kenya's largest buyers, with Uganda and Tanzania importing approximately Kshs 55 billion worth of goods in 2004. Trade with EAC countries has been growing over the years with exports to this region increasing by around 21 percent from 2003.

a) EAC Customs Union

The EAC Customs Union was established by Protocol in 2004. Its objectives are to:

- ◆ Further liberalize intra-regional trade in goods on the basis of mutually beneficial trade arrangements among the Partner States

- ◆ Promote efficiency in production within the Community
- ◆ Enhance domestic, cross border and foreign investment in the Community
- ◆ Promote economic development and diversification of industrialization in the Community

The features of the Customs Union include common import duty rates applied to third party goods (Common External Tariff), a common set of customs rules and procedures including documentation, a common trade policy that guides the trading relationships with third countries or trading blocs outside the Customs Union and duty free and quota-free movement of tradable goods within the constituent customs territories.

The Customs Union is being carried out over a transitional period of 5 years. The level of development of each of the Partner States was taken into consideration and the principle of asymmetry adopted in the phasing out of internal tariffs, in order to provide firms located in Uganda and Tanzania with an adjustment period. Non-tariff barriers have been eliminated. Policies relating to trade between the Partner States and other countries have been harmonized and a Common External Tariff has been adopted. This will facilitate formation of one large single market and investment area. A single customs territory will enable the member countries to enjoy economies of scale with a view to bringing about faster economic development.

b) Benefits of the Customs Union

- ◆ By moving towards the creation of one economic region through the Customs Union, EAC will create a single market of over 90 million people and a combined GDP of around USD 30 billion. This will promote investment in the region as the larger market with less customs clearance formalities will be more attractive to investors.
- ◆ The region's producers will have a level playing field as uniform competition policy and law, customs procedures and external tariffs on goods imported from third countries or non-member countries will be imposed. This should assist the region to advance in economic development and poverty reduction.
- ◆ The Customs Union will offer a more predictable economic environment for both investors and traders across the region, as a regionally administered Common External Tariff and trade policy will tend to be more stable.
- ◆ Private sector operators based in the region with cross-border business operations will be able to exploit the comparative and competitive advantages offered by regional business locations, without having

The Kenyan Perspective

to factor in the differences in tariff protection rates and added business transaction costs arising from customs clearance formalities. The regionally based enterprises will also get better protection, as enforcement of the Common External Tariff will be at a regional level.

- ◆ Consumers in the member states will benefit from price reductions where adjustment of the national external tariffs to the Common External Tariff results in lower tariffs, for example, on finished goods.
- ◆ Global developments show gravitation towards regional trading blocs. The Customs Union signals both economic and political stability that will catalyse favourable evaluation and investment in the region.

For details, contact the EAC Desk, Ministry of Trade and Industry, Telposta Towers, which will provide you with more information on the EAC. You could also visit the EAC website: www.eac.int.

ii) Common Market for Eastern and Southern Africa (COMESA)

COMESA was formed in 1994 to replace the Preferential Trade Area. COMESA has 21 member states with a total population of over 385 million, making it a major market place for both internal and external trade. The main objective of cooperation in Trade, Customs and Monetary Affairs is to achieve a fully integrated, internationally competitive and unified single economic space within which goods, services, capital and labour are able to move freely across national borders.

Kenyan goods enter the member countries at preferential tariffs while similar treatment is given to goods imported from COMESA member states. The COMESA region absorbed Kenyan exports worth almost Kshs 75 billion. Trade with COMESA countries has been growing over the years, with exports to this region increasing by around 21 percent between 2003 and 2004.

COMESA is involved in a programme of cooperation in Trade, Customs and Monetary Affairs which has the objective of creating a fully integrated region where goods, services, capital, labour and persons move freely. It will achieve this by removing all physical, technical, fiscal and monetary barriers to intra-regional trade and commercial exchanges through the following stages of integration:

- i. A Preferential Trade Area (PTA) with *lower* tariffs applied to intra-regional trade originating in member countries than to extra-regional trade.
- ii. A Free Trade Area (FTA) in which *no* tariffs are levied on goods from other member States whilst each member State applies its own regime of tariffs to goods imported from outside the region.

- iii. A Customs Union (CU) involving free trade amongst the member States but with a Common External Tariff (CET) according to which every member State applies the same tariffs on goods from outside the region.
- iv. A Common Market (CM) with free movement of capital and labour, considerable harmonisation of trade, exchange rate, fiscal and monetary policies, internal exchange rate stability and full internal currency convertibility.
- v. An Economic Community with a common currency and unified macroeconomic policy.

The Preferential Trade Area operated up to 30th December 2000. In the same year, the Free Trade Area (FTA) came into effect with Djibouti, Egypt, Kenya, Madagascar, Malawi, Mauritius, Sudan, Zambia and Zimbabwe eliminating their tariffs on COMESA originating products. The objective of the FTA is to create an integrated market for trade in goods and services and to increase the COMESA region's competitive advantage as a production base for goods geared for the world market. The Customs Union is the next stage in COMESA's agenda for integration and a Road Map outlining programmes and activities whose implementation is necessary before the launching of the Union has been developed.

The current members of the COMESA trading bloc are: Angola, Burundi, Comoros, Djibouti, DR Congo, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Sudan, Swaziland, Seychelles, Uganda, Zambia and Zimbabwe.

For more information on COMESA, visit www.comesa.int or contact the COMESA desk, Ministry of Trade and Industry, Telposta Towers, Nairobi.

2.2.9.2 Non - Reciprocal Market Access Arrangements

These are trade preferences that may not be mutually applying, such as the preferences extended to Kenya under the African Growth and Opportunity Act (AGOA) of the USA, the Africa, Caribbean and Pacific/ European Union (ACP/EU) Cotonou Partnership Agreement and the Generalized System of Preferences (GSP). Kenyan goods enter the USA, EU and other developed countries at lower tariffs making them more attractive.

i) The African Growth and Opportunity Act (AGOA)

The African Growth and Opportunity Act (AGOA), contained in the United States of America Trade and Development Act of 2000, promotes

The Kenyan Perspective

increased trade and economic cooperation between the United States and eligible sub-Saharan countries. The Act aims to:

- ◆ Promote increased trade and investment between the United States and sub-Saharan African countries by providing eligible African countries with unprecedented liberal access to the U.S. market. Essentially all products of these eligible countries will have quota free and duty free access to the almost 10 trillion dollar United States market.
- ◆ Promote economic development and reform in sub-Saharan Africa, moving across a wide range of industries, granting tangible benefits to entrepreneurs, farmers and families.
- ◆ Promote increased access and opportunities for U.S. investors and businesses in sub-Saharan Africa.

Kenya was the first country to be designated an AGOA beneficiary country in the Sub-Saharan Africa region. The AGOA initiative has revitalized the textiles and apparel industry, which has seen substantial growth in recent years. Export flows of apparel to the USA grew from Kshs 2.3 billion in the year 2000 to Kshs 17.6 billion in 2004. Investment in this sector also expanded in the same period, from Kshs 1.2 billion to Kshs 9.7 billion. This sector currently employs approximately 40,000 people.

a) Manufacturing under AGOA

You are required to take the following steps to take advantage of the AGOA facility:

- i. Obtain a Certificate of Registration for manufacture. The application forms are available from the Registrar of Industries in the Ministry of Trade and Industry or from the nearest District Industrial Development Office and details of the products which are intended for export to the USA will be provided.
- ii. After receiving the application, the Registrar of Industries carries out a physical inspection of your premises for verification of capital equipment, labour and inputs used or to be used in the production of the goods.
- iii. The Registrar prepares 4 copies of the Certificate of Registration for manufacture which are distributed as follows:
 - ◆ Original to you (the applicant)
 - ◆ Duplicate to the Director, Department of External Trade
 - ◆ Triplicate to Customs Services Department
 - ◆ Quadruplicates retained by the Registrar of Industries

The Certificate is issued annually to registered manufacturers in Kenya and you will be required to apply for an amendment to the Certificate every time changes, such as a change of equipment in the business premises, take place.

- iv. Obtain a Certificate of Origin and Visa. The application is made through the Kenya Association of Manufacturers, who scrutinize the documents before forwarding them to the Customs Services Department. A photocopy of the Certificate of Registration should be attached to every application for the Certificate of Origin. If the goods fulfil the requirements of originating from Kenya according to AGOA, then a Certificate of Origin and a visa stamp are issued by the Customs Services Department. The visa demonstrates that the goods for which benefits are claimed were in fact produced in Kenya according to the rules of origin required to claim those benefits and is used to prevent illegal trans-shipment and use of counterfeit documentation. Information contained on the visa includes the date of the visa, the quantity of goods being shipped, the preference grouping the goods qualify under and a country code.
- v. You must undertake to preserve all records relating to the production of the goods to be exported for a period of at least 7 years. Such records include the number of workers, actual quantities produced, work that is subcontracted (done outside your premises) and the machinery used.

For more information on AGOA and the products eligible for preferential treatment under this scheme, visit the AGOA desk in the Department of Industry at the Ministry of Trade and Industry. The AGOA website, www.agoa.gov, is also useful.

ii) ACP/EU Cotonou Partnership Agreement

The European Union is Kenya's main trading partner outside of Africa. The main players are the United Kingdom, the Netherlands, Germany and France. According to the Economic Survey 2005, the EU accounted for 26.45 percent of Kenya's exports in 2004, with a value of nearly Kshs 57 billion. This was made up of mainly agricultural products, with vegetable products accounting for 72.8 percent of EU imports from Kenya.³ The ACP/EU Cotonou Partnership Agreement is a trade, aid and political agreement signed in Cotonou, Benin, between 77 African, Caribbean and Pacific (ACP) countries and the European Union. The partnership's main

³ European Union website: Bilateral Trade Relations - Kenya

The Kenyan Perspective

objectives are sustainable development of the ACP States, their smooth and gradual integration into the world market, and eradication of poverty. This shall be achieved through support for economic development, social and human development, and regional cooperation and integration.

Under the Cotonou Agreement, trade preferences are granted unilaterally by the European Union. The rules of origin stipulate the conditions under which this preferential access is to be enjoyed by the beneficiary countries. Exports from Kenya to the European Union are entitled to duty reductions and freedoms from all quota restrictions. Trade preferences include entry of all industrial products and a wide range of agricultural products at duty free rates.

This arrangement will be replaced by reciprocal Economic Partnership Agreements (EPAs) that will set up an entirely new framework for trade and investment flows between the EU and ACP, at the latest by 1st January 2008. This is in line with WTO rules. The non-reciprocal Lomé IV trade preferences will continue to be applied during the interim period (2000-2007).

For more information on the ACP/EU, visit www.acp.int or contact the KEPLOTrade Project, Ministry of Trade and Industry, Telposta Towers, Nairobi.

iii) Generalized System of Preferences (GSP)

This is a non-reciprocal system of providing some countries with preferential treatment for their goods when exporting to developed countries. The GSP programme was negotiated under the auspices of the United Nations Conference on Trade and Development (UNCTAD) and its objectives are to increase the export earnings of countries receiving preferential treatment, promote their industrialization and accelerate their rate of economic growth. Kenya has been granted this preferential treatment by OECD countries such as Canada, USA, Australia, Switzerland, Norway, Sweden, Finland, Austria and Japan.

2.2.9.3 Bilateral Trade Agreements

Kenya also has bilateral trade agreements with a number of other countries such as Argentina, Bangladesh, Bulgaria, China, the Czech Republic, India, Iran, Lesotho, Nigeria, Pakistan, Poland, Romania, the Republic of Korea, Thailand and Russia.

Under these agreements, Kenya and its bilateral partners accord each other the MFN treatment in all matters with respect to their mutual trade relations. These agreements have been used as instruments for promoting

trade and improving economic relations between Kenya and these countries.

2.2.10 World Trade Organization

The World Trade Organization came into being in 1995 as the successor to the General Agreement on Tariffs and Trade (GATT) and is the only international organization dealing with the global rules of trade between nations. The WTO has nearly 150 members, accounting for over 97 percent of world trade. Around 30 other countries are negotiating membership.

The WTO's main objective is to help trade flow smoothly, freely, fairly and predictably. This is done through:

- ◆ Assisting developing countries in trade policy issues, through technical assistance and training programmes
- ◆ Cooperating with other international organizations
- ◆ Administering trade agreements
- ◆ Acting as a forum for trade negotiations
- ◆ Settling trade disputes
- ◆ Reviewing national trade policies

Kenya is a founding member of the WTO. It accords at least MFN treatment to all its trading partners. In order to effectively implement Kenya's obligations under the WTO, a National Committee on World Trade Organization (NCWTO) was formed in 1995 to assist the government in adapting its economic and trade policies to the requirements of all the agreements administered by the organization.

The World Trade Organization website, www.wto.org, and the WTO Desk at the Ministry of Trade and Industry, Telposta Towers, Nairobi, will provide you with more information on the WTO-Kenya relationships and benefits.

Chapter 3

MAIN TRADE FACILITATION INSTITUTIONS

3.1 Introduction

Exporting and/or importing goods in Kenya involves several activities. You will make arrangements for customs declaration and clearance, transportation (both local and overseas), storage, insurance, financing, standards verification, phytosanitary inspection, port release, security and other activities. This will bring you into contact with several organizations, both public and private, that provide these services. This chapter provides you with information on who you will deal with and the services they will provide. Figure 3.1 shows the import/export process and institutions at a glance.

3.2 Customs Declaration and Clearance

For you to export from and import goods to Kenya, you need to declare and clear with the Customs Services Department of KRA. The KRA Customs Services Department is established by an Act of Parliament Cap 472 of 1978 and has the mandate of customs and excise administration. It administers the East African Customs Management Act, 2004. It works in collaboration with other regulators such as KPA, KEBS, KEPHIS and Port Health. Its specific responsibilities are to:

- i) Collect and account for Customs and Excise taxes such as import duty, excise duty and VAT on imports
- ii) Collect trade statistics on imports and exports
- iii) Protect society from illegal entry and exit of prohibited goods such as weapons and illegal drugs
- iv) To implement and enforce bilateral, regional and international trade agreements/ arrangements

The Customs Services Department is currently undertaking a Reform and Modernization Programme aimed at transforming it into a modern customs administration in accordance with a range of internationally

Main Trade Facilitation Institutions



Courtesy of KRA

A KRA Customs Services Department Mobile Scanner

agreed standards and best practices. Business processes are being reviewed, with a view to adopting modern and flexible customs procedures that are based on post clearance verification and risk analysis. This will facilitate trade as well as enhance efficient collection of revenue. A number of projects are already underway. From July 2005, Customs introduced the Trade-X system which enables it to receive and process customs declarations and manifests using an Internet-based transaction processing system. Scanners have been introduced at the port of Mombasa to carry out non-intrusive verification of cargo. Projects to be implemented soon include a Community Based System that will allow electronic exchange of documents and information and is linked to all the relevant regulatory authorities; an Internet Reference System enabling interested parties to access relevant statutory information and simulate transaction costs; and a payment system that facilitates payment of duties and taxes through electronic funds transfer.

The Customs Services Department processes the customs declaration entry lodged by you or your agent. They check among other things, that the entry and supporting documents are in order and the correct customs duty has been paid. The Customs Services Department must give you a release order before goods can be released to you.

Customs procedures are mandatory in the movement of goods across borders and Customs offices are based at all major entry/exit points countrywide.

3.2.1 Customs Services Department Offices

The following are some of the stations where customs services are provided:

- ◆ Times Tower, Nairobi
- ◆ Kilindini, Mombasa
- ◆ Jomo Kenyatta International Airport, Nairobi
- ◆ Internal Container Depot, Embakasi (Nairobi)
- ◆ Malaba border post
- ◆ Kisumu
- ◆ Eldoret International Airport
- ◆ Namanga border post
- ◆ Isebania border post
- ◆ Liboi border post
- ◆ Lokichogio



Times Tower.

3.2.1.1 Working Hours

The offices are open Monday to Friday between 8.00 a.m. and 5.00 p.m.

More information on the Kenya Revenue Authority and the Customs Services Department can be obtained from KRA, Times Tower Building or from their website: www.revenue.go.ke.

3.3 Port Release

The goods you will export and/or import will be transported by sea, air or road. Goods coming by sea are first received at the Port of Mombasa. The port is managed by the Kenya Ports Authority. Goods arriving by air are received at any of the major airports. These airports are managed by the Kenya Airports Authority. The goods will be released to you after you have cleared with the Customs Services Department and other relevant regulatory authorities such as KEBS, KEPHIS and Port Health. The process for release is described in Chapter 5.

3.3.1 Kenya Ports Authority (KPA)

Kenya Ports Authority is by the laws of Kenya, mandated to manage all the seaports in Kenya. All cargo received and shipped into Kenya by sea is received by Kenya Ports Authority and the cargo is only released subject

Main Trade Facilitation Institutions

to compliance with Customs Services Department regulations.

Kenya Ports Authority provides directly or indirectly, docking services such as pilotage, berthing, stevedoring, shore handling of cargo and bunkering to all ships docking in Mombasa. KPA has developed a port master plan which describes the activities that it intends to undertake to improve its services and transform it into a modern port. These activities, some of which are already ongoing, include expanding the existing container handling facilities; acquisition of modern cargo handling equipment; investing in a programme of Information Technology which will cover every aspect of port operations, from cargo tracking to customs clearance and management of shore-side equipment; enhancing the role of private sector participation in provision of port services and development of a Free Trade Zone within the port environs.

If your goods are shipped by sea, you will need to use Kenya Ports Authority services for which you have to pay before cargo is released. The port of Mombasa handles cargo to Kenya and other countries of East and Central Africa. Container traffic increased to 438,597 TEUs in 2004, from 380,353 TEUs in 2003. The port throughput was 12.92 million tonnes in 2004.



Courtesy of KPA

KPA Container Terminal.

3.3.1.1 Inland Container Depots (ICDs)

Besides the port of Mombasa, KPA also manages two ICDs in Kisumu and Nairobi. KPA has established ICDs, technically referred to as “Dry Depots” at Embakasi, Kisumu and Eldoret with the objective of bringing services

closer to port users. The Eldoret ICD is not yet operational. The ICDs are linked directly to Mombasa Container Terminal by a special regular “Raitainer” service. This realizes maximum benefit of containerization of cargo, which is the current trend and avoids over-investment



Courtesy of KPA

ICD Nairobi.

in port facilities and storage capacity. The ICDs are strategically located to serve the hinterland with the provision of container facilities. You are encouraged to use these facilities to realize cost savings and release your time for other activities. However, before you use them you need to consider other factors such as the length of time it will take to get the goods.

3.3.1.2 Working Hours

Mombasa Port is open 24 hours for discharge of cargo. ICDs open from 8.00 a.m. to 6.00 p.m. on weekdays. On Saturdays, they operate from 8.00 a.m to 3.00 p.m. for cargo delivery. They are closed on Sundays.

More information on Kenya Ports Authority can be obtained from KPA headquarters in Mombasa, the Inland Container Depots or the KPA website: www.kpa.co.ke.

3.3.2 Kenya Airports Authority (KAA)

The Kenya Airports Authority was established by an Act of Parliament, the KAA Act Cap 395 of 1991, under the laws of Kenya. Among its other duties, it is the responsibility of the KAA to provide air transport infrastructure in the country.

The core business areas of the organization are:

- ◆ The provision of air transport infrastructure, excluding meteorological and air traffic control services
- ◆ Offering facilities for passenger well-being and comfort
- ◆ Provision of airport safety and security

Jomo Kenyatta International Airport, which is the main international gateway to Kenya, is the biggest and busiest airport in the East and Central Africa region. JKIA is a landlord port and many of the services are provided by private operators. If you want to send your goods by air, then you

would go through a transit shed operator which acts as an agent of the airlines.

Cargo transport, through JKIA in particular, has seen substantial growth over the last 10 years with increasing exports of fresh flowers, horticultural produce and dry cargo to Europe and other destinations.



Courtesy of KAA

Aerial view of JKIA.

The state-of-the-art Nairobi Cargo Centre and other freight centres have been established to exploit the increasing demand for air freight services in Kenya. Air cargo traffic through JKIA in the year 2004 was 183,111 tonnes up from 166,244 tonnes in 2003. Cargo throughput for 2004 at all airports was 236,259 tonnes.

KAA intends to create more capacity at the airports to cater for the increase in passenger and cargo traffic. This will be done through the expansion of the facilities. Eldoret International Airport is being developed as a major hub for certain types of cargo such as textiles and electronics. KAA is providing incentives to international cargo operators to land at Eldoret, these include reduced landing and navigation fees.

3.3.2.1 List of Airports managed by KAA

Below are some of the airports operated by KAA through which you can export/import your goods:

- ◆ Jomo Kenyatta International Airport, Nairobi
- ◆ Moi International Airport, Mombasa
- ◆ Eldoret International Airport
- ◆ Lokichogio Airport
- ◆ Wilson Airport, Nairobi

3.3.2.2 Working Hours

Airports are open 24 hours, 7 days a week, for cargo handling.

For more information on airport operations, contact Kenya Airports

Authority at Jomo Kenyatta International Airport or visit the KAA website: www.kenyaairports.co.ke.

3.4 Compliance of Imports with Kenyan Standards

Following the expiry of the PSI contracts on 30th June 2005, and the establishment of the Pre-export Verification of Conformity (PVoC) to standards by Kenya Bureau of Standards (KEBS), goods destined for Kenya are expected to demonstrate compliance with Kenya standards or approved specification before shipment. This is in accordance with the Imports Order LN No 78 of 2005. Importers are free to consult the KEBS for any clarification.

3.4.1 Kenya Bureau of Standards (KEBS)

KEBS was established by the Standards Act, Chapter 496 of the laws of Kenya and started its operations in July 1974. Its aims and objectives include preparation of standards relating to products, measurements, materials, processes, etc. and their promotion at national, regional and international levels; certification of industrial products; assistance in the production of quality goods; improvement of measurement accuracies and dissemination of information relating to standards. One of its key mandates is inspecting the quality of goods entering Kenya to ensure compliance with the set standards. This task will mainly be discharged through the PVoC programme. The primary objective of applying PVoC is to ensure quality of products, health and safety, and environmental protection for Kenyans. Among the benefits expected, besides products being shipped conforming to standards and regulations, PVoC is expected to:



Courtesy of KEBS

KEBS Quality Control building.

- ◆ Block unfair competition from sub-standard products and especially stop the influx of counterfeit products
- ◆ Speed up release process of imports
- ◆ Reduce importation costs
- ◆ Reduce the number of destructions or re-exportation of consignments

Section 3.4.1.2 provides further information on the PVoC programme.

Main Trade Facilitation Institutions

Besides inspecting the quality of imports at the ports of entry, KEBS as indicated, is also involved in preparation of standards and their promotion at national, regional and international levels and the dissemination of information relating to standards, among other things.

3.4.1.1 Obtaining the Standards

You can obtain Kenyan standards from KEBS Headquarters, Nairobi. You can also visit their website, www.kebs.org, to check the catalogue of standards that are available. A fee is paid to acquire the standards.

3.4.1.2 Pre-export Verification of Conformity (PVoC)

The Pre-export Verification of Conformity (PVoC) to Standards programme is a conformity assessment and verification procedure applied to specific imported products at the respective countries of export, to ensure their compliance with the applicable Kenyan Technical Regulations and Mandatory Standards or approved equivalents.

The realization of PVoC is dependent on close cooperation and appointment of competent conformity assessment bodies (inspection agency and/or certification bodies). KEBS has appointed Intertek and SGS to operate the PVoC programme on its behalf, depending on the country of supply. Each company is responsible for specified countries which fall under its zone of responsibility.

Key elements undertaken in PVoC process are physical inspection prior to shipment, sampling, testing and analysis in accredited laboratories, audit of product manufacturing process and documentary checks of conformity with regulations and standards. KEBS has also established offices at all major entry points to carry out post shipment verification.

KEBS has developed the product scope covered by the PVoC programme based on health and safety issues, security and environmental protection. These products are known as Regulated Products. The Certificate of Conformity is a mandatory Customs clearance document for Regulated Products.

Under the PVoC programme, all imported goods that do not meet the requirements of Kenya Standards or approved specification will not be allowed entry into Kenya. Only goods found to comply with the said specifications or are accompanied by a Certificate of Conformity (CoC), will gain entry into the country

Further details on the PVoC programme can be obtained from KEBS PVoC offices or from their website: www.kenyapvoc.com.

3.4.1.3 List of KEBS Offices

KEBS has established offices in the following towns and major ports of entry:

- ◆ KEBS Headquarters, Nairobi
- ◆ Mombasa
- ◆ Kisumu
- ◆ Nakuru
- ◆ Nyeri
- ◆ Garissa
- ◆ Mombasa Port
- ◆ Inland Container Depot, Nairobi
- ◆ Inland Container Depot, Kisumu
- ◆ Jomo Kenyatta International Airport
- ◆ Wilson Airport
- ◆ Eldoret Airport
- ◆ Busia
- ◆ Namanga
- ◆ Isebania
- ◆ Lunga Lunga
- ◆ Malaba
- ◆ Namanga
- ◆ Taveta
- ◆ Liboi

3.4.1.4 Working Hours

KEBS offices are open between 8.00 a.m. and 5.00 p.m. Monday to Friday.

3.5 Compliance with Agricultural Standards

If you are dealing with the export and/or import of agricultural products you will need to conform to certain phytosanitary and other standards that have been put in place and that are enforced by different bodies falling under the Ministry of Agriculture, as described below.

3.5.1 Kenya Plant Health Inspectorate Service (KEPHIS)

You will deal with KEPHIS if you are importing or exporting plants and plant material. KEPHIS was established in 1996, as a regulatory agency for quality control of agricultural input and produce and is concerned with all matters related to plant health. It is the designated competent authority on phytosanitary issues.



Courtesy of KEPHIS

A KEPHIS officer inspecting a consignment.

The mandate of KEPHIS includes testing, certification, quarantine control of seeds and planting materials; grading and inspection of plant and plant produce at the ports of entry/exit; testing and monitoring the presence of harmful residue agrochemicals on agricultural produce, soils and water systems; development and implementation of standards on both imported and locally produced seeds; approval of all import and export permits for plants and seed; implementation of the national policy on the introduction and use of genetically modified plant species, insects and micro-organisms in Kenya.

Kenya has very stringent plant introduction and certification procedures that are set to ensure that foreign injurious pests, disease and noxious weeds are not brought into the country. All phytosanitary measures are based on international standards as contained in the International Plant Protection Convention (IPPC) and World Trade Organisation (WTO) agreement on Sanitary and Phytosanitary (SPS) regulations and guidelines. The Plant Protection Act (Cap 324), the Suppression of Noxious Weeds Act (Cap 325) and the Agricultural Produce (Export) Act (Cap 319) provide the legal framework through which the authority carries out the phytosanitary regulation service.

The Plant Protection Services unit ensures that foreign injurious pests, diseases and noxious weeds are not introduced or spread when importing plant material into the country.

The Grading and Inspection Section offers regulatory service to import and export of plant materials at exit/entry points. The plant inspectors ensure that the plant produce being exported or imported are of high quality. Phytosanitary certificates are issued for export consignments meeting the quality standards. Plant materials failing to meet the standards are destroyed or prohibited from leaving or entering the country.

3.5.1.1 List of KEPHIS Offices

- ◆ KEPHIS Headquarters, Karen
- ◆ Jomo Kenyatta International Airport
- ◆ Nakuru
- ◆ Mombasa
- ◆ Kitale
- ◆ Border points

3.5.1.2 Working Hours

KEPHIS Headquarters is open from 8.00 a.m. to 5.00 p.m. and operates 24 hours at the ports and airports.

For more information on phytosanitary requirements, contact KEPHIS or visit www.kephis.org.

3.5.2 The Horticultural Crops Development Authority (HCDA)

If you wish to export fresh produce, then you need to be licensed and you will deal with HCDA.

The Horticultural Crops Development Authority (HCDA) was established under the Agriculture Act, Chapter 318. The Authority is responsible for developing, promoting, coordinating and regulating the horticultural industry in Kenya. The roles of HCDA include:

- ◆ Licensing fresh produce exporters
- ◆ Ensuring that all players adhere to international quality standards for fresh produce, including Maximum Residue Levels for pesticides
- ◆ Advising growers, exporters and processors on marketing of horticultural produce and its post harvest handling
- ◆ Disseminating appropriate information to investors, exporters and producers for planning purposes
- ◆ Collaboration with the stakeholders in the development and promotion of the sub-sector

Main Trade Facilitation Institutions

- ◆ Registration of horticultural nurseries, inspection of the same for the purpose of certification, and training of nurserymen.

HCDA operates from its headquarters in Nairobi but also has field offices in Central and Rift Valley provinces. More information on HCDA is available from www.hcda.or.ke.

3.5.3 Pest Control Products Board (PCPB)

When dealing with import and/or export of pest control substances, it is required that you register with the PCPB. The PCPB offices are based at KARI Headquarters on Waiyaki Way.

PCPB was established under the Pest Control Products Act (Cap 346). Its functions are to regulate the importation, exportation, manufacture, distribution and use of products used for the control of pests. These products must be registered with PCPB and organizations involved in this sector must sign a code of conduct based on the FAO code which requires stringent control in manufacture, packaging, labelling and distribution of pest control products. Importation of these products is subject to prior authorization by PCPB.

3.6 Compliance with Health and Safety Standards

If you intend to trade in products that can have an impact on the health and safety of Kenyans, then you will need to comply with the relevant standards. Such products include food, drugs and chemical substances. The Public Health Department in the Ministry of Health regulates the importation and/or exportation of these products and is governed by the Public Health Act Cap 242 and the Food, Drugs and Chemical Substances Act Cap 254. The Chief Public Health Officer is represented at the ports of entry/exit by port public health officers.

3.6.1 Port Health Office

Port Health Offices are present in all the major ports of entry/exit in Kenya. They are mandated to oversee health and safety aspects of imports and exports including:

- ◆ Prevention of introduction and spread of infectious diseases in the country
- ◆ Vectors and rodents control on vessels and within the ports
- ◆ Regulation of food, drugs and chemical substances entering or leaving the ports to prevent injury to health.

The Minister of Health is empowered to restrict or prohibit entry into Kenya of any persons, animals or things from specified areas; impose requirements regarding medical examination, detention, quarantine, disinfection, vaccination, isolation and medical surveillance of persons entering or goods introduced into Kenya.

The Minister makes regulations regarding importation or exportation of food, drugs, chemical substances and cosmetics. Port Public Health Officers may stop, search or detain any aircraft, ship or vehicle believed to be carrying articles subject to the Act, and open and examine any package containing such articles and may seize and detain any such articles where regulations have been contravened.

Food products suspected of being contaminated are seized and samples sent to the National Public Health Laboratory Services or the Government Chemist for analysis. The results of the tests determine whether the consignment can be released for sale to the public, is shipped back to the country of origin or destroyed. Drug inspectors check that imports have been permitted by the Pharmacy and Poisons Board, that the drugs are

registered in Kenya and are of acceptable quality, among other things. The Radiation Protection Board ensures protection from harmful radioactive substances. Radioactive analysis is facilitated by the Nuclear Science Department at the University of Nairobi.



Courtesy of Port Health Office, JKIA

A Port Health officer conducting radioactive analyses on imports.

3.6.2 List of Port Health Offices

The Port Health Office operates at all points of entry and exit. These include:

- ◆ Jomo Kenyatta International Airport
- ◆ Mombasa Port
- ◆ Eldoret
- ◆ Kisumu

Main Trade Facilitation Institutions

- ◆ Namanga
- ◆ Malaba
- ◆ Liboi

3.6.2.1 Working Hours

Normal working hours are Monday to Friday, 8.00 a.m. to 5.00 p.m.

3.7 Transportation Services

As an exporter or importer, one regular decision that you will be making is the mode of transport to move goods from source to destination. Because different modes of transport have different costs and delivery duration implications, this is an important and critical decision. The different modes of transport i.e. marine, air, rail and road are discussed in this section. Those who provide the services are also identified. The costs of each mode are indicated and guidelines on choice are outlined.

3.7.1 Marine Transport

This is the most likely mode of transport you will use to move your goods to and from Kenya's customers and suppliers located around the world. It is preferred to air transport because it is cheaper and more convenient for heavy and bulky cargo. Marine transport is available at the Port of Mombasa which serves all cargo originating from and destined to world ports, and at Lake Victoria for cargo movement between Kisumu and Jinja and Port Bell in Uganda, and Mwanza and Musoma in Tanzania. The Port of Mombasa is a busy port and in 2004, 1779 ships docked to load and unload cargo. Marine transport in Kenya is regulated by the Kenya Maritime Authority which was formed in 2004.



Ships docked at the terminal.

Courtesy of KPA

To organize marine transport, you will need to deal with a shipping agent. Shipping agents connect exporters/importers to the ship carriers that will

carry his/her goods. You need not get directly involved as your clearing and forwarding agent can do this for you.

3.7.1.1 Kenya Ships Agents Association

There are several shipping agents in Kenya with offices in Mombasa and Nairobi. The Kenya Ships Agents Association, which is their umbrella body, can provide you with further details.

3.7.2 Air Transport

Besides marine transport, air transport is available for you to move goods to and from Kenya. Air transport is preferred for urgent cargo, perishable cargo or light cargo but it is comparatively more expensive.



Courtesy of Kenya Airways

Loading an aeroplane.

Kenya is considered the regional hub for air transport and a number of airlines are available to carry your cargo. Cargo may be carried on scheduled passenger planes, charter planes or on freight only aircraft. In 2004, JKIA, which is the main air gateway to Kenya, handled 59,927 aircraft flights and served 25 scheduled airlines flying to 50 local and international destinations.

To arrange for air transport you need to get in touch with your clearing and forwarding agent.

3.7.2.1 List of Airports

You can handle your cargo from any of these airports:

- ◆ Jomo Kenyatta International Airport
- ◆ Moi International Airport, Mombasa
- ◆ Wilson Airport
- ◆ Eldoret International Airport
- ◆ Lokichogio airport

3.7.3 Rail Transport

You can use rail transport to move goods to and from COMESA and EAC countries. You can also use the rail to move goods to and from Mombasa and also within towns served by rail in Kenya. Kenya's railway network is comprised of 1,876 km of single line meter gauge tract. The main line runs from Mombasa on the Indian Ocean through Nairobi to Malaba on the border with Uganda. Other lines are to Nanyuki and Kisumu. Tanzania is served by rail through Taveta. In 2004, 1.89 million tonnes of cargo were ferried by rail. The rail transport is managed by the Kenya Railways Corporation.

3.7.3.1 Kenya Railways Corporation (KRC)

Kenya Railways Corporation is a State Corporation established in 1978 through an Act of Parliament (Cap 379). It is responsible for the management of rail transport.

The Corporation is in both freight and passenger transportation business. It provides freight services within the country and also handles transit traffic to and from countries such as Uganda, Rwanda, Burundi, DRC Congo, Tanzania and other COMESA countries. Use of block trains has been adopted to improve on transport line wagon turnaround. KRC recently launched the Seamless Train Service to Kampala allowing for cargo to be transported from the point of embarkation to its destination without breakage. It also operates Raitainers (container-carrying trains) daily between Kipevu, Mombasa, and the Inland Container Depot at Embakasi, Nairobi.



Courtesy of Kenya Railways

A specialized Raitainer service from Mombasa to upcountry.

3.7.3.2 List of KRC Stations

The following are some of the stations where KRC services are available:

- ◆ Mombasa
- ◆ Voi
- ◆ Athi River
- ◆ Nairobi
- ◆ Naivasha
- ◆ Nakuru
- ◆ Kisumu
- ◆ Eldoret
- ◆ Malaba
- ◆ Kipkelion
- ◆ Thika
- ◆ Nyeri
- ◆ Maragua
- ◆ Nanyuki

You can access the services directly from KRC or use your clearing and forwarding agent to organize the movement of your cargo.

3.7.3.3 Working Hours

Services are available at any of the above stations from Monday to Friday between 8.00 a.m. and 5.00 p.m.

3.7.4 Road Transport

Approximately 75 percent of the import-export traffic uses the roads for the transportation of goods. Road transport operators use trucks, trailers or tankers to transport the goods on a network of 63,292 kilometres of classified roads.

3.7.4.1 The Kenya Transport Association (KTA)

The Kenya Transport Association is the umbrella body representing the interests of road haulage operators. You can get in touch with the KTA headquarters in Mombasa for any information on road transport. Major transporters are members of the Association. Again you can arrange for the transport of your goods yourself or use your clearing and forwarding agent.

3.7.5 Couriers or Express Operators

As an exporter or importer, you will come across situations where you want to send a parcel to arrive at a destination within a few days or hours. Express or courier operators provide this service across the world. They facilitate movement of documents and small packages using scheduled airlines or their own carriers.

3.7.5.1 The Courier Industry Association of Kenya (CIAK)

The Courier Industry Association of Kenya is the representative body for couriers/express operators. There are a number of express/courier firms that are registered with CIAK as well as with the Communications Commission of Kenya, which is the regulator. These firms range from internationally established companies to locally registered companies. You can consult CIAK for more information on the industry and for a list of their members.

3.7.5.2 Selecting an Express/Courier Company

You will need to consider the following criteria when selecting an express/courier company:

- ◆ Relations with the KRA Customs Services Department
- ◆ Membership of CIAK
- ◆ Infrastructure/facilities
- ◆ Track and trace capabilities
- ◆ Security of shipments
- ◆ Credibility
- ◆ Funding/working capital
- ◆ Costs

3.8 Implications of the Different Modes of Transport.

The different modes of transport have different timing and cost implications. You will need to consider the different options to get the best value for the transportation of the goods.

3.8.1 Rail Versus Road

Import/export goods in Kenya are moved largely by road which accounts for approximately 75 percent of the total traffic. Rail makes up the remaining 25 percent. Road haulage is predominantly in the private sector while the

government owned Kenya Railways provides rail transport. Comparative rates for road and rail transport for a 20 and 40 foot container are shown in Table 3.1.

Table 3.1: Inland Container Freight

ROAD	20 ft container US\$	40 ft container US\$
Mombasa – Nairobi	563 - 850	938 - 1000
Nairobi – Mombasa	438 - 500	563 - 625

Source: EPZA 2005: Production Factor Costs in Kenya.

RAIL	Loaded container		Empty container	
	20 ft US\$	40 ft US\$	20 ft US\$	40 ft US\$
Mombasa - Nairobi	468	900	408	840
Nairobi - Mombasa	252	480	60	120

Source: Kenya Railways

The cost of rail transport may be comparable, or cheaper in some instances, to that of road transport, but transportation by rail is usually slower. It may take up to 3 weeks for a container to be delivered from Mombasa to Nairobi by rail. Road transport takes approximately 1 week.

3.8.2 Marine Versus Air

The following tables show the indicative rates for sea and air freight imports and exports of loose cargo (i.e. not containerized), a 20 and 40 foot container. It is possible to negotiate cheaper rates in the market in the case of large quantities of regular shipments.

Table 3.2: Sea Freight Imports to Mombasa

	Item	Loose cargo US\$	20 ft container US\$	40 ft container US\$
1	Agency Fees 1% of CIF value (Min.)	43.75 per bill of lading	100 per container	150 per container
2	Customs Incidentals & Documentation per Shipment	25	25	25
3	Inland Transport Mombasa – Nairobi			
	Loose Cargo	36.25/ton/CBM		
	Up to 15 tons	N/A	562.50	N/A
	Above 15 tons	N/A	875	N/A
	Up to 30 tons	N/A	N/A	1125
4	KPA Charges			
	Shore handling	12/ton	150/move	180/move
	Stripping and re-stuffing for customs verification	N/A	75/move	150/move
	Storage*	1.50/ton	20/day	40/day
	Merchant Shipping Fee	Kshs 10/ton/CBM	Kshs 10/ton/CBM	Kshs 10/ton/CBM
5	Shipping Line Charges			
	THC	8/CBM	80	80
	Delivery Order Fees	35	35	35
	Container Deposit	N/A	500	1,000
	Cleaning	N/A	5	10
	Lift on/off	N/A	20	20
6	VAT, currently 16%, on above items			

Source: EPZA 2005: Production Factor Costs in Kenya, KPA

** For containerized cargo, storage charges are not raised for the first 7 consecutive days including Saturdays, Sundays and Public Holidays. The free period for conventional cargo (loose cargo) is 10 days for cargo being transported by road and 15 days for cargo being transported by rail. Storage charges apply after the expiry of the free period.*

Table 3.3: Sea Freight Imports to the Inland Container Depot, Embakasi

	Item	Loose cargo US\$	20 ft container US\$	40 ft container US\$
1	Agency Fees 1% of CIF value (Min.)	43.75 per Bill of Lading	100 per container	150 per container
2	Customs Incidentals & Documentation per Shipment	25	25	25
3	KPA Charges			
	Shore handling	12/ton	150 each	180 each
	Stripping & re-stuffing for customs verification	N/A	75 each	150 each
	ICD Handling	6/ton	40 each	40 each
	Storage*	N/A	15/day	30/day
	Merchant Shipping Fee	Kshs 10/ton/ CBM	Kshs 10/ton/ CBM	Kshs 10/ton/ CBM
4	Shipping Line Charges			
	Railage	8/CBM	755	1,510
	THC	35	70	80
	Delivery Order Fees	N/A	35	35
	Container Deposit	N/A	500	1,000
5	VAT, currently 16%, on above items			

Source: EPZA 2005: Production Factor Costs in Kenya, KPA

Main Trade Facilitation Institutions

**Storage charges are not raised for the first 4 consecutive days including Saturdays, Sundays and Public Holidays, from arrival date of a Railtainer at the ICD. The storage charges apply after the free period expires.*

Table 3.4: Sea Freight Exports through Mombasa

	Item	Loose cargo US\$	20 ft container US\$	40 ft container US\$
1	Agency Fees 1% of CIF value (Min.)	43.75 per Bill of Lading	100 per container	150 per container
2	Customs Incidentals & Documentation / Shipment (per Bill of lading)	25	25	25
3	KPA Charges			
	Shore handling	8/ton	100/move	120/move
	ICD Handling	4/ton	40 each	40 each
	Storage*	0.50/ ton	10/day	20/day
	Merchant Shipping Fee	Kshs 10/ton/ CBM	Kshs 10/ton/ CBM	Kshs 10/ton/ CBM
4	Local Transport (Nairobi- Mombasa)	15/ton/CBM	312.50 each	500 each
5	Shipping Line Charges			
	Freight	As per agreed rates		
	THC	8.30/CBM	70	80
	Bill of Lading Fee	35	35	35

Source: EPZA 2005: Production Factor Costs in Kenya, KPA

**For both containerized and conventional cargo, storage charges are not raised for the first 11 consecutive days including Saturdays, Sundays and Public Holidays. The storage charges apply after the free period expires.*

Table 3.5: Air Freight Imports

	Item	Charges (US\$)
1	Agency Fees 1% of CIF value (Min.)	1% of CIF value (Min.) 18.75/AWB
2	Customs Incidentals & Documentation	25/AWB
3	Customs Verification	6.25/verification
4	Handling	0.013/kg. Min. US\$ 3.13
5	Transport within City Limits	0.044/kg. Min. US\$ 6.25
6	Value Added Tax (V.A.T.)	16% on all the above

Source: EPZA 2005: Production Factor Costs in Kenya.

Table 3.6: Air Freight Exports

	Item	Charges (US\$)
1	Agency Fees 1% of CIF value (Min.)	1% of CIF value (Min.)18.75/AWB
2	Customs Incidentals & Documentation	25/AWB
3	Packing & Removals	0.63/Kg.
4	Export Bond Fees	2.50/Shipment
5	Handling	0.013/kg. Min. US\$ 3.13
6	Transport within City Limits	0.013/kg. Min. US\$ 3.13/AWB
7	Value Added Tax (V.A.T.)	16% on all the above

Source: EPZA 2005: Production Factor Costs in Kenya.

Air freighters may include other charges such as fuel surcharge, freight surcharge, insurance, etc which are normally charged per kilogram.

3.8.3 Deciding the Mode of Transport

The decision on which mode of transport to use to ship your goods will depend on the following factors:

- ◆ **The delivery time:** Sea freight is slower than air freight, therefore, if you are importing or exporting goods needed within a short period of time, you might consider using the latter mode of transport. For smaller packages, using express or courier service may be preferable, especially if the time factor is critical. The same considerations apply for inland transport, i.e. rail or road.

- ◆ **The nature of the cargo:** This sometimes determines the mode of transport to be used. Bulky and heavy cargo, for example industrial plants and machinery, can only be transported by ship, which is better suited to carry this type of cargo. On the other hand, perishable goods such as fresh foods, need to get to their markets quickly to avoid loss, thus air freight is preferable.
- ◆ **The cost:** You will need to consider the cost of the different modes of transport taking into account the aforementioned factors. The cheaper mode of transport is not necessarily the better option if it is slower and results in a loss, for example, perishable goods that have gone bad and are destroyed before they reach their market.
- ◆ **Delivery point:** Depending on the nature of the goods, you may need them delivered to your doorstep. For inland transport, this will be possible by rail if there is a siding. However, the most preferable is road or courier services.

3.9 Warehousing Services

You may need to have your goods warehoused for a while for various reasons. Warehouses provide storage facilities for goods after they are offloaded from the vessel or before they are loaded on to the vessel. Goods are also warehoused as they await transportation to the next destination. Several companies provide warehousing services at a fee. Your clearing and forwarding agents will help you if you need this facility.

3.9.1 Customs Bonded Warehouse

You may find that you do not have enough funds to clear your goods immediately they arrive. In the event that this happens, you can use Customs bonded warehouses. Customs bonded warehouses provide secure facilities in which goods can be held without immediate payment of local duties and taxes that are due on the goods. Duty is paid when the goods are removed from the warehouse. Of course you will pay storage charges.

The Customs warehouses are available in a number of towns in Kenya, including Mombasa and Nairobi. Your clearing and forwarding agent can provide you with more information.

3.10 Transit Shed Operators

If your cargo is transported by air you will need the service of a transit shed operator. These provide a transit handling service by receiving cargo from the vessel and delivering it to the transporter or vice versa, through a transit shed where customs clearance is required. They act as agents of

the airline, handling the manifests for imports and exports on their behalf. Transit sheds are not normally used to store goods. Transit shed operators currently operating in Nairobi include:

- ◆ Kenya Airfreight Handling Ltd
- ◆ African Cargo Handling Limited
- ◆ Siginon Freight Ltd
- ◆ Swissport Cargo Services



A transit shed at JKIA

3.11 Clearing and Forwarding

As you get yourself into the import and export business, you will find that clearing and forwarding of your cargo is an involving process and that you need expertise and infrastructure to cope with the multiple transactions. There are established firms that have accumulated adequate expertise and infrastructure in this field that you can use. They act as agents for the Customs Services Department and are licensed to provide declaration services on behalf of the Commissioner of Customs. They also provide you with logistics management of your cargo from source to destination. It is their responsibility to ensure that your goods are delivered to their destination in good condition and in good time while at the same time complying with Customs and other statutory requirements. They will charge you a fee for the services they provide.

3.11.1 Kenya International Freight & Warehousing Association (KIFWA)

Kenya International Freight and Warehousing Association (KIFWA) is the umbrella body for clearing and forwarding agents, freight agents and warehousemen in Kenya. It is responsible for promoting high standards of service to clients and enforcing the Code of Conduct of the Association among its members. KIFWA maintains professionalism through training its members and vetting licensing applications for new Customs agents.

KIFWA works in collaboration with the other main trade-related institutions such as Kenya Ports Authority, Kenya Railways Corporation, Kenya Airports Authority and Kenya Revenue Authority to enhance delivery of services.

3.11.2 Selecting a Clearing and Forwarding Agent

The list of Clearing and Forwarding agents is long. There are currently more than 850 registered agents. These agents range from large to small. KIFWA can provide you with more information on clearing and forwarding agents. In selecting the agent, you need to consider the following criteria:

- ◆ Registration with Customs Services Department
- ◆ Membership of KIFWA
- ◆ Infrastructure
- ◆ Proximity
- ◆ Experience
- ◆ Credibility
- ◆ Funding/working capital
- ◆ Costs

3.12 Security Services

Security agents play a key role in the imports / exports process. The world has become more aware of the need for security in recent years due to terrorist threats and other illegal activities. Anti-terrorist, anti-smuggling and anti-narcotic agents are usually stationed at border points to guard against these illegal activities.

3.13 Financial Services

Export and import businesses require substantial funding to meet the purchase price of the goods, freight charges, insurance, duties and taxes. If for some reason you are unable to raise funds by yourself (own sources), you can use borrowed funds. Both short-term and long term funding can be obtained from the following sources.

3.13.1 Commercial Banks

Commercial banks would normally provide you with short-term finances. To access such funds you will need to be a customer of the bank. The bank may also require you to provide collateral to secure the funds that they will lend to you. If the bank is going to handle your payments to foreign suppliers, then it must be acceptable to those suppliers.

For international business, you will need to use international or local banks that are well established with branches or correspondent banks in other countries. Small banks may have a disadvantage because they may

not have adequate infrastructure and the necessary experience to handle international business.

3.13.2 Export-Import Banks (EXIM)

A number of countries have established Export-Import banks whose main activity is to promote export and import trade. These banks have organized credit facilities with some banks in Kenya which you can access. Normally, the credit is available if you are exporting or importing goods and services to or from the sponsor country.

Information on the current arrangements can be obtained from the Central Bank of Kenya, commercial banks or from foreign embassies in Nairobi. China and India are some of the countries with such arrangements. The Industrial Development Bank appears to have a lead in these arrangements.

3.13.3 Development Banks

Although these banks specialize in long term development funding, you can access funding for import and export activities. The Industrial and Commercial Development Corporation (ICDC) and the Industrial Development Bank (IDB) are some of the banks that offer services in this area.

3.13.4 External Finances

Global facilities to finance the private sector in establishing investments in various sectors geared towards export promotion are available. You need to visit the Central Bank, commercial banks and the Ministry of Trade and Industry to obtain information on such programmes. Currently, the European Investment Bank (EIB) operates such a facility through all major commercial banks.

3.13.5 Financing Imports

A number of short term financing instruments can be employed by the importer. These include:

- ♦ **Import finance loans** – This facility allows an importer to access finance to pay for imports and use the proceeds from the sale of the imported products to pay the loan. The cost of this facility is the market rate of interest plus some miscellaneous upfront charges.
- ♦ **Bankers' acceptances** – This is a negotiable short-term money market instrument created by a bank to provide credit for financing a specific

import transaction. The bank accepts a time draft drawn on itself, substituting its own credit for the credit of the buyer. The title to the draft is endorsed to the bank to finance its customers by sourcing funds through the money market.

3.13.6 Financing Exports

Exporters can use the following short term trade finance instruments:

- ◆ **Pre-shipment finance (pre-export finance)** – This facility is extended to exporters for export-related production. The amount of credit obtained is usually limited to a percentage of the agreed sales price and repayment is structured to ensure self-liquidation through export proceeds, i.e. the lender is refunded when the buyer pays. The cost of the facility is the market rate of interest plus miscellaneous processing charges.
- ◆ **Forfeiting** – This method involves the sale of receivables e.g. bill of exchange or promissory note, by an exporter to his bank for discounting. The exporter receives the value of the receivables less the standing charges and interest charge for the period remaining to the maturity of the bill of exchange.
- ◆ **Post-shipment finance** – This covers a wide range of financing methods that can be used once the goods have been shipped. If the reputation and creditworthiness of the buyer is good, the bank can discount the receivable.
- ◆ **Buyer's credit** – This is a facility granted by a lender to a buyer at the request of the buyer or the seller. It is used in large structured project-financing packages, normally for large export orders of machinery and equipment.
- ◆ **Escrow accounts** – This is an account opened by borrower with a bank, usually overseas, into which the export revenues are paid and these are used to service future debt payments or pay third parties for services rendered. The creditors obtain extra security for their loans and priority in debt service. The banking authorities of the exporter's country need to approve the escrow accounts.
- ◆ **Export credit guarantee** – This is a form of insurance for which a premium is paid. It covers political and commercial risk. The guarantee can be offered to the bank as security for credit. Thus, while the export credit guarantee does not provide actual funds to exporters, it facilitates access to pre/post-shipment finance from banking

institutions. In Kenya, the Africa Trade Insurance Agency provides export credit guarantees covering political risk.

- ♦ **Export credit insurance** – This is an insurance policy against risk of non-payment by an overseas buyer. It can be helpful in obtaining post-shipment finance from a bank.

3.13.7 The Kenya Bankers Association (KBA)

The Kenya Bankers Association is the umbrella body for banks. There are about 40 commercial banks in Kenya that you could approach for financial services. You may obtain a full list of the commercial banks operating in Kenya from the KBA offices in Nairobi.

3.13.8 Selecting a Commercial Bank

The Central Bank of Kenya and the Kenya Bankers Association can direct you to the banks that offer trade services. The Central Bank of Kenya regulates the banking industry in Kenya. In order to encourage competition within the industry, it frequently publishes the charges for selected services offered by the different banks in the local newspapers. This may help you determine which bank to approach for trade services.

3.13.8.1 Criteria for selecting the banks

The criteria for selecting the financing mode and institution could include:

- ♦ Cost of funds
- ♦ Flexibility of the mode
- ♦ Proximity of the bank
- ♦ Capacity to fund your requirements
- ♦ The period of credit

3.14 Insuring your Goods

There are many risks associated with international trade. The movement of goods from one place to another increases the risk of damage and loss of the goods. Cargo insurance covers the risk of physical damage to your goods or their loss in transit by any of the modes of transport mentioned previously.

Insurance companies play an important role in the insurance of goods. You need to ensure that the goods exported or imported have cover from the beginning of their journey until their arrival. In some cases, the buyer will need to pay for this cover, in other cases, it is built into the cost of the goods.

3.14.1 Insuring Exports

Many exporters arrange insurance and freight but pass on the cost to the buyer. This is known as Cost, Insurance and Freight (CIF). Some buyers prefer this option because they get the benefit of the insurance even if this insurance cost is ultimately passed on to them. As an exporter, you run the risk of not getting paid for the goods if damage or loss occurs in transit and they were not adequately insured.

3.14.2 Insuring Imports

Insuring import cargo mitigates against risks. If your supplier has not already insured the goods, you should do this yourself. Information on which companies offer insurance services for international trade can be obtained from the Commissioner of Insurance in the Ministry of Finance, who regulates the industry, or from the Association of Kenya Insurers, detailed in the next section.

3.14.3 The Association of Kenya Insurers

The Association of Kenya Insurers (AKI) is the umbrella body for insurance companies in Kenya. Currently there are about 40 insurance companies operating in Kenya most of which can provide you with the relevant insurance services. The AKI offices in Nairobi can provide you with further information.

3.14.4 Selecting an Insurance Company

The criteria for selecting an insurance company include:

- ◆ Credibility of the company
- ◆ Proximity of the company
- ◆ The size of their portfolio
- ◆ Experience of the company in handling similar business
- ◆ The premium (cost)

3.15 Trade and Investment Promotion

From time to time you will need information that will assist you to grow and improve your business. This may include information on markets, locating foreign buyers and suppliers, products exported from Kenya and incentives available to exporters and importers. There are both public and private sector organizations that will provide you with this information.

3.15.1 Ministry of Trade and Industry – Department of External Trade

The Ministry is responsible for trade development policy and implementation. It promotes greater trade between Kenya and its regional and international trading partners and works towards reducing the risk and costs of trade to businesses and consumers. The Department of External Trade is specifically concerned with Kenya's trade with other countries. Further information can be obtained from the Ministry's website: www.tradeandindustry.go.ke.

3.15.2 Export Promotion Council (EPC)

The Government of Kenya established the Export Promotion Council (EPC) in August 1992 with the primary objective of removing bottlenecks facing exporters and producers of export goods and services, in order to increase the performance level of the export sector.

EPC's strategic goals include diversifying Kenya's exports by opening new markets; consolidating targeted and existing export markets; enlarging Kenya's export supply base by assisting new export enterprises, including MSEs and promoting new products for export; increasing the competitiveness of Kenya's export products and promotion of value addition; and creation of export awareness and entrenchment of an export culture in Kenya.

EPC uses a sectoral approach in its operations and has identified six (6) priority sectors including horticulture and other agriculturals, textiles and clothing, commercial crafts and MSEs, fish and livestock products, other manufactured goods and services other than tourism. The services provided to these sectors include: export markets development, product development and adaptation, trade information and delivery services, trade policy facilitation and development of exporting skills. EPC also acts as the African Trade Insurance Services liaison office. The African Trade Insurance Agency (ATI) is an Export Credit Agency supported by the World Bank and the European Union mainly providing insurance against political and credit risks including guarantee on working capital and performance security bonds, non-payment of supplied goods and services, guarantee on import/ export of capital equipment and machinery and transit and diversion risks.

You can contact the EPC offices or visit their website: www.epckeny.org for more information.

3.15.3 Export Processing Zones Authority (EPZA)

The Export Processing Zones (EPZ) programme in Kenya was established in 1990 with the enactment of the Export Processing Zones Act, Cap 517. This scheme, which is managed by the EPZ Authority, promotes export oriented industrial investment within designated zones. Investors in the EPZs enjoy attractive fiscal incentives, simplified operating procedures and superior infrastructure. The EPZ Authority provides facilitation and after care services to new and existing investors. This ensures faster set up and smoother operations at lower costs.

There are currently over 40 operational enterprises in the EPZs performing a variety of activities and representing investors from Kenya, the US, Europe and Asia. Normally, EPZ enterprises must export at least 80 percent of their output. EPZ sales into the customs territory are treated as normal imports into Kenya and are liable for payment of import duties and taxes.

3.15.4 Kenya Investment Authority (KIA)

The Kenya Investment Authority (KIA), formerly named the Investment Promotion Centre (IPC), was established by the Government of Kenya through the Investment Promotion Act 2004, with the mandate of promoting private investments in Kenya by both local and foreign investors.

KIA provides investors and potential investors with information on investing in Kenya. It issues investment certificates and assists in obtaining any necessary licences and permits. Other services include:

- ◆ Assistance in the identification, appraisal and approval of investment projects.
- ◆ Assistance with site location and factory building.
- ◆ Organisation of visits and meetings with public agencies and economic operators.
- ◆ Identification of joint venture partners.
- ◆ Processing of applications for duty free import of machinery, equipment, raw materials and spare parts.
- ◆ Assistance in obtaining work and residence permits for foreign investors and expatriate staff.

KIA is also mandated to review the investment environment and make recommendations to the Government and others, with respect to changes that would promote and facilitate investment, including changes to licensing requirements.

For more information on investing in Kenya, contact KIA or visit their website: www.investmentkenya.com.

3.15.5 Trade Associations

These associations advocate for the interests of their members at various fora and facilitate a consultative process. Joining an association would provide a channel for airing your concerns to the relevant authorities, as the association would have more influence than an individual or single business. There are several associations, some encompassing various sectors of the economy and others being specific to particular sectors of the economy. Some examples are provided in the following sections.

3.15.5.1 Kenya National Chamber of Commerce and Industry (KNCCI)

KNCCI is a multi-sectoral organization whose membership is open to all parties involved in income generating activities. Its services include providing market information to importers and exporters, training traders and organizing trade events. The type of information provided includes: foreign trade statistics, trade opportunities available, national and regional trade regulations, list of exporters and importers in a particular sector and trade events such as trade fairs.

3.15.5.2 Kenya Association of Manufacturers (KAM)

KAM is also a multi-sectoral organization with a membership of nearly five hundred. It was constituted in 1959 to unite industrialists and serve as a voice for manufacturers in Kenya. KAM's vision is to drive the industrialization process in Kenya; its mission is to promote competitive local manufacturing in liberalized markets. It works closely with all the major industrial players in sectors such as building and construction, chemical and allied industries, food and beverages, motor vehicle and accessories, pharmaceutical and medical, textiles and apparels. You can visit www.kam.co.ke or contact the KAM offices for more information.

3.15.6 Sector-Specific Associations

Several sector specific associations exist. Their role is to promote their particular interests in international trade. A few are given below:

3.15.6.1 Fresh Produce Exporters Association of Kenya (FPEAK) for horticultural produce exporters.

- 3.15.6.2 Kenya Flower Council (KFC)** for flower growers and exporters.
- 3.15.6.3 Eastern and Southern Africa Leather Industries (ESALIA)** for leather and leather products producers and exporters.
- 3.15.6.4 Association of Fish Processors and Exporters of Kenya (AFIPEK)** for the fish and fish products industry.
- 3.15.6.5 Kenya Apparel Manufacturers and Exporters Association (KAMEA)** for the apparel and textiles industry.

Figure 3.1: Export/Import Institutional Functions at a glance

Functions/ Process	Trade and investment information	Kenya quality standards	Phyto-sanitary conformity	Health and safety conformity	Finance and insurance	Customs declaration clearance • Customs • Payment of duties	Port release	Marine transport • Air transport • Rail transport • Road transport
Institution	<ul style="list-style-type: none"> • Ministry of Trade and Industry (MoTI) • Export Promotion Council (EPC) • Kenya Investment Authority (KIA) • Export Processing Zones Authority (EPZA) • Kenya Association of Manufacturers (KAM) • Kenya National Chamber of Commerce and Industry (KNCCI) • Sector Associations e.g FPEAK, AFIPEK, ESALIA, KAMEA 	<ul style="list-style-type: none"> • Kenya Bureau of Standards (KEBS) 	<ul style="list-style-type: none"> • Kenya Plant Health Inspectorate Service (KEPHIS) 	<ul style="list-style-type: none"> • Port Health Office 	<ul style="list-style-type: none"> • Banks (KBA) • Insurance companies (AKI) 	<ul style="list-style-type: none"> • Customs Services Department KRA • Banks • Clearing and Forwarding Agents (KIFWA) 	<ul style="list-style-type: none"> • Kenya Ports Authority 	<ul style="list-style-type: none"> • Shipping agents (KSAA) • Airline agents • Kenya Railways • Kenya Transport Association

Chapter 4

PREPARING TO IMPORT AND EXPORT

4.1 Introduction

This chapter helps you prepare for international trade by providing you with necessary information, such as how and where to obtain market information, how to contact foreign suppliers or buyers, the elements of a sales contract, how to arrange for payments and how to ensure compliance with Kenyan and international legislation and standards. It also outlines some of the permits, licences and certificates required before you can import or export your goods.

4.2 Obtaining Market Information

You can obtain information on the market from a variety of sources. The Kenya National Chamber of Commerce and Industry (KNCCI) provides information on imports and the local market as well as on potential foreign markets. Information on export markets can also be obtained from the Export Promotion Council (EPC) in Nairobi and the Export Processing Zones Authority (EPZA). Commercial attachés at locally based embassies of foreign countries provide information on trade opportunities in their countries. Some countries may not be represented by an embassy in Kenya, for example, United Arab Emirates. For trade information on the UAE and other Arab countries, you can contact the Joint Kenya Arab Chamber of Commerce. Besides providing information on the market, these institutions can also put you in touch with potential trade partners who may be interested in trading with Kenya. Sector Associations such as FPEAK, AFIPEK and ESALIA also provide information on markets. You can also seek advice from established importers and exporters. A business directory can provide contact details of importers/exporters of particular products, as well as those of other organizations involved in international trade.

The Internet is a valuable source of information on trade. Visiting the website of the country you are interested in trading with provides a lot of information that you can use to make your decisions. Trade related websites of those countries also give specific information that would be

Preparing to Import and Export

useful to potential trade partners, for example, trade statistics, market information, local regulations regarding international trade and taxes applicable. Examples of such websites include:

- ◆ <http://export-help.cec.eu.int> - This is an online Export Helpdesk service provided by the European Commission to facilitate market access for developing countries to the European Union. The Helpdesk provides relevant information required by developing country exporters interested in supplying the EU market.
- ◆ <http://www.cbi.nl> - The Centre for the Promotion of Imports from Developing Countries (CBI) is an agency of the Netherlands Ministry of Foreign Affairs which assists companies in developing countries to export to the West European market.
- ◆ <http://www.buyusa.gov/kenya/en/> - If you are interested in sourcing products and services from the United States, this website can provide guidance.
- ◆ <http://www.jetro.go.jp/> - If you are interested in Japan as an import source or export market, then the Japan External Trade Organization (JETRO) website would be useful.

Visits to your potential market, participating in trade exhibitions and foreign missions provide you with first hand information. As an exporter, the information would afford you the opportunity to assess your competition from locally produced products and other exporters already in the market. This also enables you to meet potential trade partners face-to-face. The EPC organizes trade exhibitions and you can contact them for information. Attending trade exhibitions held in Kenya by foreign firms is also a way of contacting potential trade partners and getting some information on their markets.



Courtesy of EPC

Participants at a trade exhibition.

4.3 Legal Aspects

4.3.1 Local and International Legislation

You should ensure that you comply with Kenyan and international legislation in trade transactions. A number of documents exist to guide traders on the requirements of the country regarding trade transactions. The EA Customs Management Act has superseded the Kenyan Customs and Excise Act with the coming into force of the Customs Union in January 2005. The Act provides guidance on the legislation surrounding imports and exports of goods in such areas as import and export procedures; computation of duties; refund, remission and drawback of duty; and restricted and prohibited goods. Other laws are specific in their application, for example, the Standards Act for quality standards. As an exporter, you should also be aware of the regulations in the importing country governing the product you wish to export. Your potential buyer could provide you with this information.

4.3.1.1 Laws of Kenya that Impact on Trade

The following are some of the Laws of Kenya that impact on trade. The list is not exhaustive and some of the laws will only affect you if you are trading in a particular sector.

- ◆ The East African Customs Management Act 2004
- ◆ Finance Acts
- ◆ Imports, Exports and Essential Supplies Act Cap 502
- ◆ Trade Licensing Act Cap 497
- ◆ Banking Act Cap 488
- ◆ Insurance Act Cap 487
- ◆ Value Added Tax Act Cap 476
- ◆ Export Processing Zones Act Cap 517
- ◆ Standards Act Cap 496
- ◆ Industrial Property Act Cap 509
- ◆ Foreign Investment Protection Act Cap 518
- ◆ Public Health Act Cap 242
- ◆ Food, Drugs and Chemical Substances Act Cap 254
- ◆ Pharmacy and Poisons Act Cap 244
- ◆ Mining Act Cap 306
- ◆ Trading in Unwrought Precious Metals Act Cap 309
- ◆ Plant Protection Act Cap 324
- ◆ Suppression of Noxious Weeds Act Cap 325
- ◆ Agricultural Produce (Export) Act Cap 319
- ◆ Agricultural Act Cap 318

Preparing to Import and Export

- ♦ Dangerous Drugs Act Cap 245
- ♦ Fisheries Act Cap 378
- ♦ Kenya Communications Act 1998
- ♦ Tourism Industry Licensing Act Cap 381
- ♦ Hotels and Restaurants Act Cap 494

4.3.2 Licences, Permits and Certificates

This section outlines some of the licences, permits and certificates you are required to obtain to import or export goods.

4.3.2.1 Trade Licence

All importers and exporters must be licensed under the Trade Licensing Act, Cap 497. The licences are issued by the respective District Trade Development Officers under the Ministry of Trade and Industry.

4.3.2.2 Exporter's Code Number

All businesses involved in exports are required to have a code number issued by the Customs Services Department. This is issued on presentation of a copy of either the Certificate of Incorporation or the Trade Licence or the Certificate of Registration of Business Name.

4.3.2.3 Import Licences

Import licences are generally not required except for a few items that are restricted for security, health or environmental reasons as detailed in the Imports, Exports and Essential Supplies Act (Cap 502).

4.3.2.4 Export Licences

Export licences are generally not required except in cases touching on public and food security; conservation of wildlife and natural resources and preservation of national heritage. The export licences are issued by the Department of Internal Trade on production of authority or permit from the relevant government agency. Products requiring export licences include military equipment, antiquities and works of art, wood-charcoal and timber, products related to endangered species such as rhino horns, and live animals other than livestock and domestic pets.

4.3.2.5 Product Specific Permits and Certificates

Some products require special permits and certificates before they can be imported or exported. The following are a few examples:

i) Imports:

- 1) Plants and plant products
 - ◆ Plant Import Permit from KEPHIS.
 - ◆ Phytosanitary Certificate from a competent authority in the exporting country
- 2) Drugs and Pharmaceuticals
 - ◆ Import permit from Pharmacy and Poisons Board
- 3) Live animals
 - ◆ Veterinary Import Permit from the Department of Veterinary Services, Ministry of Livestock and Fisheries Development
 - ◆ Health Clearance Certificate
- 4) Used motor vehicles (originating from Japan and Dubai)
 - ◆ Certificate of Roadworthiness

ii) Exports:

- 1) Fish (the following documents can be obtained from the Department of Fisheries)
 - ◆ Processing licence
 - ◆ Fish movement permit
 - ◆ Certificate of compliance with KEBS for fish handling and processing
 - ◆ Export permit
 - ◆ Health certificate
- 2) Plant and plant products
 - ◆ Phytosanitary Certificate
- 3) Horticultural products require the following additional certificates and permits
 - ◆ Export permit from Horticultural Crops Development Authority (HCDA)
 - ◆ Compliance with traceability of produce, hygiene, maximum residue level (MRL), good agricultural practices (GAP) and proper post harvest handling procedures.
- 4) Mineral based products
 - ◆ Permit from the Commissioner of Mines and Geology

4.3.3 Certificates of Origin

Certificates of origin are issued by the Customs Services Department of KRA depending on the export destination. This certificate indicates the origin of the goods so that they can enjoy preferential treatment on entry into the export market, depending on the trade arrangement between Kenya and the importing country. The Kenya Bureau of Standards issues the Ordinary Certificate of Origin for countries listed in Table 4.1 below as well as to any other country at the request of the importer.

Table 4.1: Certificates of Origin

	Region/Countries	Source	Type of Certificate
a)	COMESA Countries	KRA	COMESA Certificate of Origin
b)	European Union	KRA	EUR-1 Form
c)	USA, Japan, Australia, Canada, etc	KRA	GSP Form
d)	Middle East, India, Russia, Eastern and Central Europe	KEBS	Ordinary Certificate of Origin
e)	AGOA	KRA	Textile Certificate of Origin

Source: EPC

4.4 Sales Contract

In international trade, buyers and sellers are located in different countries, may speak different languages and have different laws. A sales contract is necessary to set out the terms of the sales transaction and guard against misunderstandings that could be costly to business.

A sales contract must include the following information:

- ◆ The parties involved i.e. the buyer and seller are identified
- ◆ The description of the goods being sold
- ◆ The quantity of the goods e.g. kilogrammes, litres
- ◆ The price of the goods in the agreed currency
- ◆ The delivery terms
- ◆ The payment terms

Other information that could be included is:

- ◆ The duration of the contract
- ◆ The obligations of the seller and buyer
- ◆ Dispute settlement procedures
- ◆ Definitions and interpretations within the context of the contract.

4.5 Financial Transactions

Financial arrangements for imports and/or exports are normally more complex than those for domestic trade. Most of the payments are upfront and therefore you need to determine the funds you require and make adequate arrangements for sourcing these funds. You will make payments and/or receive proceeds in foreign currency. International banks will be involved. The exchange rates may fluctuate and, in the process, you may receive less proceeds than you expected or be required to pay more than originally planned. This section explains what you need to do to ensure that payments and receipts are handled well.

4.5.1 Preparing for Import Payments

4.5.1.1 Ensure you have a Bank Account

You will need to use a bank account to make payments. Open a bank account with one of the reputable banks. It is advisable to use a large bank because it will have a worldwide network and is likely to have better experience. It is also likely to be less costly. If you import regularly from a particular country, it may be advisable to maintain a foreign currency bank account.

4.5.1.2 Ensure Adequate Funds

Payment for imports is likely to be required upfront. You need to determine the total cash outlay you require for each import transaction. The cost components are:

- ◆ Purchase price
- ◆ Freight
- ◆ Insurance
- ◆ Customs duty and taxes
- ◆ Port charges
- ◆ Local transport
- ◆ Clearing agent fee
- ◆ Bank charges

You will need to pay most of these costs upfront. If you cannot raise the funds from your own sources, then you can use the avenues discussed in Section 3.13.

4.5.1.3 Agree on the Mode of Payment

There are three modes of payment that you can use:

i) Irrevocable documentary credit

This is the most frequently used method for paying for imports and also one of the costliest. It is irrevocable because it cannot be amended or cancelled without the agreement of all the parties concerned. It is considered the most secure because the buyer is assured that the seller will only be paid when the goods have been delivered. The seller is also assured that the buyer will obtain the goods only when payment has been made. The security of the transaction is assured by the buyer's bank, which issues the letter of credit specifying the conditions to be fulfilled before payment is released, and the seller's bank, which informs the seller that the L/C has been issued and may guarantee it. When the seller has fulfilled all the conditions set out in the L/C, s/he submits the appropriate shipping documents to the bank and collects payment.

ii) Open account

This method does not provide security to the exporter but is cheaper as banking and other costs are avoided. The exporter sends the shipping and other documents to the buyer personally. The buyer then pays the exporter by bank transfer on receipt or after an agreed period, if credit is provided.

iii) Documentary collection

Also called *cash against documents* (CAD). The shipping documents are handed over to the exporter's bank for forwarding to the buyer's bank, with instructions to release them to the buyer on payment of the exporter's invoice. If the exporter has provided credit to the buyer, then s/he can draw a bill of exchange on them requiring them to accept the bill when they collect their documents. This is called *documents against acceptance* (DAA)

iv) Cash-in-advance

Where the exporter is unsure about the buyer's credit worthiness or ability to pay, s/he can ask for cash in advance.

4.5.1.4 Agree on the Currency

Selecting the currency in which you transact is important because some currencies fluctuate more frequently than others. The most commonly used currency is the US Dollar. However, companies in some countries, such as the UK, Germany, France, the UAE and Japan may require that you use their currencies. Try to use a currency that is likely to be stable.

4.5.1.5 Seek Advice from your Bank

Before you conclude the mode of payment with the supplier, obtain advice from your bank. Bankers have experience in handling import payments and will assist in risk assessment. This may reduce costs incurred in making foreign payments.

4.5.1.6 Negotiate with the Bank when Buying Foreign Currency

Some banks will give you better than posted buying rates especially when the payment is large. Negotiate for a better rate with your manager before payment.

4.5.2 Preparing for Export Payments

4.5.2.1 Ensure you have a Bank Account

As discussed above, ensure that you have an account with a reputable bank. If you will be a regular exporter you should open a foreign currency bank account. This may save on the time and cost involved in foreign currency conversion.

4.5.2.2 Ensure Adequate Funds

Just as in imports, you will need funds to prepare for your exports. Determine the amount of funds required and set the funds aside. The cost of an export will constitute:

- ◆ Raw materials
- ◆ Cost of production, packaging and labelling
- ◆ Transport to port of exit
- ◆ Insurance to port of exit
- ◆ Freight
- ◆ Customs duty and taxes

Preparing to Import and Export

- ◆ Freight forwarder fee
- ◆ Port charges

4.5.2.3 Agree on the Mode of Payment

As an exporter you should use an irrevocable letter of credit because it is guaranteed by a bank. However, your customer may request you to consider other modes of payments. You need to consider the credibility of the buyer before you decide on any other mode.

4.6 Hedging against Currency Risks

As an importer or exporter, you will find yourself exposed to foreign exchange risk arising from your need to either buy or sell currency relating to a trade transaction. Movements in exchange rates can work in your favour and enhance profitability but, equally, they can have the opposite effect and seriously erode profit margins or lead to a loss.

The exporter loses money if the currency s/he is paid in falls against the local currency, while the importer will have to pay the overseas supplier more if their currency rises against the local one. Hedging covers the trader against any risk of loss by ensuring that they pay or receive the equivalent of the amount originally expected. The mechanisms of hedging are called derivatives, which allow a trader to cover the risks of price and currency fluctuations.

Some examples are:

- ◆ **Forward Foreign Exchange Contract:** One can buy or sell foreign currency 'forward' from a bank to fix the exchange rate in advance. This enables you to ensure that you will have the correct amount at the time of settlement. The advantage of this method is that you are certain of the amount of foreign currency you will receive or sell. However, you will not be able to benefit if the exchange rate then moves in your favour as you will have entered into a binding contract. High costs are the chief disadvantage associated with forward contracts, especially for small transactions.
- ◆ **Currency Options:** Currency options give one the right, but not the obligation, to buy or sell currency at a given date for a given amount. A currency option will protect you against adverse exchange rate movements in the same way as a forward contract does, but it will also allow the potential for gains should the market move in your favour. For this reason, a currency option is often described as a forward contract that you are not obliged to comply with. This type

of product will always involve a premium of some sort, which might be a cash amount or it could be factored into the pricing of the transaction. Option premiums are determined by time until expiration and volatility of exchange rates. All else held constant, the higher the volatility of exchange rates and the longer the time until expiration of the option, the greater the premium will be.

Chapter 5

IMPORTING INTO KENYA

5.1 Introduction

Having gone through the preliminary procedures outlined in the previous chapter, you are now ready to import. This chapter takes you through the documentation and procedures associated with the actual import process. Section 5.2 describes the required documentation and Section 5.3 outlines the procedures. Figure 5.1 and 5.2 present a step-by-step mapping and flowchart of import procedures respectively.

5.2 Import Documentation

A typical import clearing transaction requires the following documents:

- ♦ **Supplier's invoice**
Your supplier will provide you with the invoice for the goods sold to you. The invoice provides the details of the goods such as description of the goods, price and quantity.
- ♦ **Packing list**
Provides the details of the contents of a particular package. Also provided by the supplier.
- ♦ **Bill of lading / airway bill**
Document evidencing a contract of carriage of goods between a shipper and a carrier of goods (ship or airline). The supplier will send the document to you after s/he has passed the goods onto the carrier for shipping and they have acknowledged receipt.
- ♦ **Import Declaration Form (IDF Form C-61)**
Issued by the KRA Customs Services offices and is required for all imports. You will need to pay a processing fee of Kshs 5,000 minimum or 2.75 percent of the CIF value. The IDF is completed by the clearing agent who enters information such as the importer's and exporter's names and contacts, invoice details, description and quantity of the goods.

Importing into Kenya

- ◆ **Declaration of customs value (Form C- 52)**
Issued by the Customs Services Department. As an importer, you are required to complete it and sign it to show that you have declared the true and accurate value of the imported goods.
- ◆ **Certificates of compliance**
Processed as required by the different authorities such as KEBS and KEPHIS. Examples include certificate of conformity, certificate of analysis and phytosanitary certificate. These are issued by the competent authorities in the supplier's country after inspecting the goods. The supplier will then send you the relevant certificate to show that the goods comply with the local requirements.
- ◆ **Release Order**
Issued by the port authority. This document allows the goods to be released to you or to your agent's custody after verification and payment of the storage and other charges that may have accrued.



Courtesy of Kenya Airways

Inside a transit shed at JKIA.

5.2.1 Preparing Import Documentation

It is advisable to use the services of a clearing agent who can facilitate the process of preparing the necessary Customs documents. This is even more important now with the introduction of the new Customs system, in which declaration is done electronically. Only registered clearing agents who have undergone customs training can access the system. You will need to

provide them with the originals of the documents received from your supplier. The clearing agent can ensure that all the required documentation is attached and submit it, on your behalf, to the Customs Services Department.

5.3 Import Procedures

The next sections will give a narrative description of the mandatory procedures you must undergo before you can complete an import transaction. Procedures such as ensuring that imports meet quality standards apply to a wide range of products. Since the procedures applying to all products cannot be detailed in this handbook, an example of the procedures applying to plant materials is provided. Customs related procedures, such as valuation of imports and assessment of duty, apply to all imports. A step-by-step summary is given in Figure 5.1 and a flowchart in Figure 5.2.

5.3.1 Ensuring the Quality of your Goods

From 1st July 2005, Kenya Bureau of Standards has been mandated to conduct pre-shipment inspection, following the expiry of the Pre-Shipment Inspection Services contracts. KEBS is responsible for verification of imports with respect to quality.

You need to ensure that the goods you intend to import meet Kenyan standards or approved specifications before they are shipped. Your supplier or exporter should obtain a Certificate of Conformity issued by PVoC country offices prior to shipment. There are 3 possible routes for obtaining a Certificate of Conformity. These are: Product Licensing, Product Registration, and Consignment Inspection and Testing for unlicensed/unregistered products. The method used will depend on the frequency of the exporter's shipments to Kenya and the level of compliance they are able to demonstrate when applying for certification.

The certification process can be triggered by either the exporter or the importer. The exporter contacts their nearest PVoC country office for a Request for Certification (RFC) form which s/he completes and submits together with the pro-forma invoice. The PVoC country office arranges for inspection and testing of the consignment and determines whether to issue the Certificate of Conformity upon review of all test and inspection reports and receipt of the final commercial invoice from the exporter. The importer can start this process by submitting a copy of the Import Declaration Form and pro-forma invoice to either the Intertek or SGS Liaison offices in Kenya, depending on the county of export.



Courtesy of KEBS

KEBS testing food products.

Importers of used motor vehicles originating from Japan and Dubai in UAE should present their vehicles to Japan Auto Appraisal Institute (JAAI) in Japan and JAAI/CAAC in Dubai for inspection before shipment. They will then be issued with a certificate of roadworthiness, which shall be presented along with other relevant documents for clearance purposes. Used motor vehicles from other countries shall be subjected to destination inspection.

Goods not complying with these regulations will be held at the port of entry at the importer's cost until their quality is determined. Goods that do not meet the relevant specification will not be allowed into the country. Importers are urged to visit the PVoC website, www.kenyapvoc.com, for detailed guidelines on documents required for clearance of goods with respect to quality.

5.3.2 Importation of Plant Materials into Kenya

There are strict regulations governing the importation of plant materials into the country. 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). They are aimed at protecting Kenya's agriculture from foreign pests, including insects and pathogens, which could be harmful. KEPHIS is the body in Kenya that is responsible for regulating the importation of plant materials (includes seeds, cuttings, fresh fruits and flowers).

If you are intending to import plant material you will need to obtain a Plant Import Permit (PIP) prior to its shipment from the country of origin. The permit specifies the requirements for plant health indicating prohibitions, restricted quarantine importations and additional declaration with regard to pre-shipment treatments. This permit must be sent to the plant health authorities in the country of origin for adherence to Kenya's import permit requirements. Since import conditions vary with plant material and source, you will need to apply for an import permit for each consignment.



Courtesy of KEPHIS

KEPHIS officers inspecting grain.

5.3.3 Valuation of Imports

The Fourth Schedule of the E.A. Customs Management Act describes how the value of imported goods liable to ad valorem import duty is determined.

5.3.3.1 Transaction Value

The customs value of imported goods is the transaction value, which is the price actually paid or payable for the goods when sold for export to Kenya.

5.3.3.2 Adjustments to the Customs Value

- i) The following may be added to the price actually paid or payable in determining the customs value:

Importing into Kenya

- a)** To the extent that they are incurred by the buyer and not included in the price actually paid or payable for the goods:
 - ◆ the commissions and brokerage, except buying commissions
 - ◆ the cost of containers, which are treated as being with the goods in question for customs purposes
 - ◆ the cost of packing, whether for labour or materials
 - b)** The proportion of the value of the goods and services supplied directly or indirectly by the buyer, free of charge or at a reduced cost, for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable. The goods and services include:
 - ◆ materials, components, parts and similar items incorporated in the imported goods
 - ◆ tools, dies, moulds and similar items used in the production of the imported goods
 - ◆ materials consumed in the production of the imported goods
 - ◆ engineering, development, artwork, design work, plans and sketches undertaken elsewhere other than in Kenya and necessary for the production of the imported goods.
 - c)** Royalties and license fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable.
 - d)** The value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller.
- ii)** The following are also added to the price actually paid or payable for the imported goods in determining the value for duty purposes:
- a)** The cost of transport of the imported goods to the port or place of importation into Kenya; provided that in case of imports by air no freight costs shall be added to the price paid or payable.
 - b)** Loading, unloading and handling charges associated with the transport of the imported goods to the port or place of importation into Kenya.
 - c)** The cost of insurance.

Additions to the price actually paid or payable are made only on the

basis of objective and quantifiable data and no additions should be made to the price actually paid or payable except as provided in the Fourth Schedule.

5.3.3.3 Transaction Value of Identical and Similar Goods

The Fourth Schedule provides for circumstances where the value of the goods cannot be determined using the price actually paid or payable. In this case, the customs value may be determined by other methods such as:

- ◆ The transaction value of **identical** goods sold for export to Kenya and exported at or about the same time as the goods being valued.
- ◆ The transaction value of **similar** goods sold for export to Kenya and exported at or about the same time as the goods being valued.

Where the customs value of the imported goods cannot be determined by any of the specific methods provided in the Schedule, then the customs value can be determined using reasonable means consistent with the principles and general provisions of the Schedule and on the basis of data available.

5.3.3.4 The Rate of Exchange

The rate of exchange to be used for determining the equivalent of the Kenyan currency against any foreign currency is the selling rate last notified by the Central Bank when an entry is presented and accepted by the proper officer.

5.3.4 Assessment of Duty

The E.A. Customs Union Protocol describes the rates of duty and circumstances in which duty shall be paid on goods.

5.3.4.1 Community Tariff Treatment

Goods originating from the E.A. Partner States are accorded Community tariff treatment according to the Rules of Origin provided for under the Protocol. A Certificate of Origin is required by Customs as proof of origin of the goods. The following internal tariff regime applies:

- ◆ Goods to and from Uganda and Tanzania are duty free
- ◆ Goods from Uganda and the Tanzania into Kenya are duty free
- ◆ Goods imported from Kenya into Uganda and Tanzania are divided into two categories: 1) those which are eligible for immediate duty free treatment, and 2) those subject to an interim rate of duty for a

Importing into Kenya

period of 5 years, during which time they will be gradually reduced to zero rating.

5.3.4.2 Preferential Tariff Treatment under COMESA and SADC

Under the Articles of the Protocol, the Partner States are to honour their commitments in respect of other multilateral and international organizations to which they belong. Goods imported under COMESA and SADC arrangements in the Partner States are therefore accorded preferential tariff treatment. However, this preferential treatment is to cease on 31st December 2006.

5.3.4.3 Common External Tariff

Goods imported from outside the East African Community are subject to a Common External Tariff (CET). A three band tariff of 0 percent, 10 percent and 25 percent has been established with the rates applying as follows:

- ◆ 0% on raw materials and capital goods
- ◆ 10% on semi- processed and intermediate goods
- ◆ 25% on finished goods

5.3.4.4 Countervailing and Anti-dumping Duties

The Commissioner may impose an anti-dumping or countervailing duty in the case where there is dumping or export of subsidized goods by a foreign country into any of the Partner States that threatens or distorts competition within the Community. The anti-dumping and countervailing duty is imposed in addition to any other duty chargeable on the respective goods.

Goods are regarded as having been dumped

- a) if the price of the goods exported to the country is less than the comparable price, in the ordinary course of trade, for the product when destined for consumption in the exporting country;
- b) if the importation of the goods causes injury to or retardation of a Kenyan industry.

Goods are regarded as having been subsidized where a financial contribution on their production or export has been given by the government or a public body within the exporting country, in such a manner as to cause injury to the Kenyan industry. This includes direct transfers of funds such as grants, provision of goods and services other than general infrastructure, and fiscal incentives such as tax credits.

5.3.5 Exemption from Duty

The Fifth Schedule of the EA Customs Management Act specifies the goods that are exempted from import duty subject to certain conditions being fulfilled.

Goods imported by or on behalf of privileged persons and institutions are entitled to special exemptions. These include goods and equipment imported for use by the President; the Kenya Armed Forces and the Armed Forces of any allied power; diplomatic staff of the United Nations or its specialized agencies or any Commonwealth High Commission or of any foreign embassy, consulate or diplomatic mission; donor agencies, international and regional organizations with diplomatic accreditation, bilateral or multilateral agreements with Kenya; and the disabled, blind and physically handicapped.

Other goods entitled to general exemptions include: fish, crustaceans and molluscs, fresh (dead or live) chilled or frozen caught and landed by canoes or vessels registered and based in an EAC partner state; samples and other miscellaneous articles which in the opinion of the Commissioner have no commercial value; mosquito nets and materials for the manufacture of mosquito nets; all seeds spores and cut plants, imported specially treated, which the relevant authority in the Ministry of Agriculture has approved as fit for sowing; and raw materials for manufacture of medicaments.

5.3.6 Prohibited and Restricted Imports

The Second Schedule of the EA Customs Management Act describes the Prohibited and Restricted Imports.

Prohibited imports include: counterfeit currency notes or coins, indecent or obscene materials, articles marked with the Kenyan Coat of Arms or Armorial Ensigns without proper authority, narcotic drugs under international control, hazardous wastes, all soaps and cosmetic products containing mercury, used tyres for light commercial vehicles and passenger cars, and counterfeit goods of all kinds.

Importation of restricted goods is prohibited unless approvals are obtained from the designated officials. These include postal franking machines, traps capable of killing or capturing game animals, unwrought precious metals and precious stones, arms and ammunition, ozone depleting substances, genetically modified products, bones, horns, ivory, non-indigenous species of fish or egg of progeny and psychotropic drugs

Figure 5.1: Step-by-Step Import Procedures

Before placing the order for the goods

Step	Activity	Whom to contact	Document issued/ reference
Step 1	Ensure you have a trade licence	<ul style="list-style-type: none"> • MoTI 	<ul style="list-style-type: none"> • Licence
Step 2	Ensure you have an import licence, if required	<ul style="list-style-type: none"> • KRA 	<ul style="list-style-type: none"> • Licence
Step 3	If it is food, drugs or chemical substance obtain permit, where necessary	<ul style="list-style-type: none"> • Port Health Office • Pharmacy and Poisons Board 	<ul style="list-style-type: none"> • Permit
Step 4	For agricultural products - obtain plant import permit - establish the phytosanitary requirements	<ul style="list-style-type: none"> • KEPHIS 	<ul style="list-style-type: none"> • Permit • Phytosanitary requirements
Step 5	Establish the Kenyan standard for the product you are importing	<ul style="list-style-type: none"> • KEBS 	<ul style="list-style-type: none"> • Standard specification
Step 6	Determine the goods you need to import in respect of <ul style="list-style-type: none"> • Description • Quality • Specifications • Quantity 	<ul style="list-style-type: none"> • Exporter Firm 	<ul style="list-style-type: none"> • Specifications
Step 7	Send out information to the identified supplier clearly stating the following: <ul style="list-style-type: none"> • Description of the goods • Technical specifications • Quantity • Price • Delivery period • Regulatory requirements e.g quality standards, health and safety standards 	<ul style="list-style-type: none"> • Firm 	<ul style="list-style-type: none"> • Specifications • Regulatory requirements

Step	Activity	Whom to contact	Document issued/ reference
Step 8	Check to ensure that the goods are not prohibited or restricted from importation	<ul style="list-style-type: none"> • KRA 	<ul style="list-style-type: none"> • Second schedule of the EA Customs Management Act
Step 9	Check to determine whether the goods are exempted from duty	<ul style="list-style-type: none"> • KRA 	<ul style="list-style-type: none"> • Fifth schedule of the EA Customs Act
Step 10	Check to determine whether the goods attract countervailing and/or anti-dumping duties	<ul style="list-style-type: none"> • KRA 	<ul style="list-style-type: none"> • EA Customs Management Act
Step 11	Determine the cost of the goods to be imported	<ul style="list-style-type: none"> • Firm 	<ul style="list-style-type: none"> • Costing schedule
Step 12	Organize for funding either internally or externally	<ul style="list-style-type: none"> • Firm • Bank 	<ul style="list-style-type: none"> • Funds are available
Step 13	Consult your bank and obtain advice on how to deal with the supplier	<ul style="list-style-type: none"> • Bank 	<ul style="list-style-type: none"> • Financial advice

Ordering the goods

Step	Activity	Whom to contact	Document issued/ reference
Step 1	Discuss with the selected supplier and agree on terms and enter into a contract	<ul style="list-style-type: none"> • Supplier 	<ul style="list-style-type: none"> • Contract • Order placed
Step 2	Advise your supplier on the bank you will use	<ul style="list-style-type: none"> • Firm 	<ul style="list-style-type: none"> • Bank name
Step 3	Make payment arrangements according to the contract	<ul style="list-style-type: none"> • Firm 	<ul style="list-style-type: none"> • Advice on payments

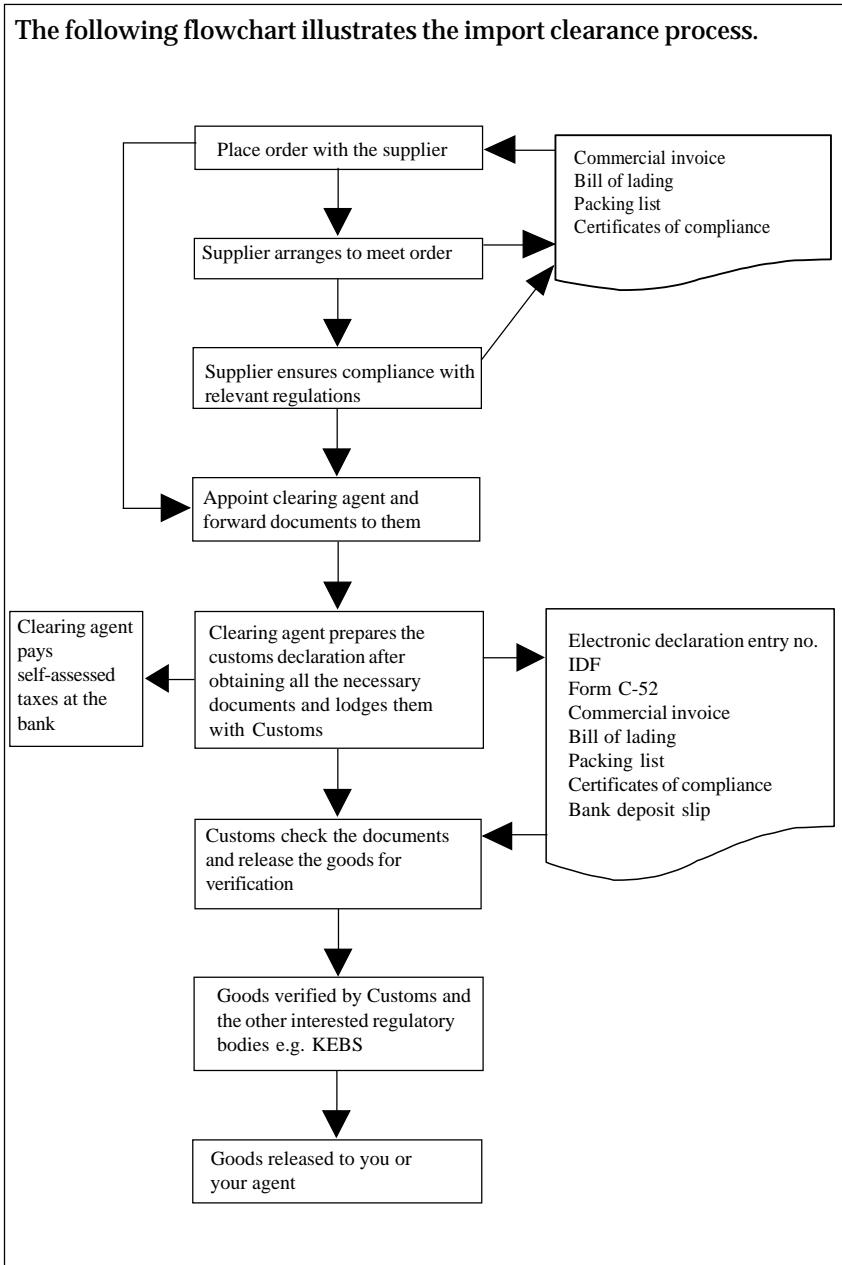
Before Goods Arrive

Step	Activity	Whom to contact
Step 1	Obtain the documents that your bank requires. Normally they will be: <ul style="list-style-type: none"> • Commercial invoice • Packing list • Bill of lading/Airway bill • Certificate of conformity 	<ul style="list-style-type: none"> • Firm
Step 2	Appoint a clearing agent	<ul style="list-style-type: none"> • KIFWA
Step 3	The clearing agent computes customs duty, port charges and transport charges required and advises you.	<ul style="list-style-type: none"> • Clearing Agent
Step 4	The clearing agent makes arrangement for transport of the goods to your premises	<ul style="list-style-type: none"> • Transporter
Step 5	The clearing agent prepares the customs declaration entry electronically, pays duty at the bank and lodges the supporting documents with Customs	<ul style="list-style-type: none"> • Clearing Agent • KRA
Step 6	Ensure the relevant quality certificates for the goods are available. Avail them to the Clearing Agent to clear with KEBS	<ul style="list-style-type: none"> • KEBS
Step 7	The Clearing agent clears with KEPHIS, if necessary	<ul style="list-style-type: none"> • KEPHIS
Step 8	The Clearing agent clears with the Port Health Office, if necessary	<ul style="list-style-type: none"> • Port Health Office

Once Goods Arrive

Step	Activity	Whom to contact
Step 1	Customs processes the documents	<ul style="list-style-type: none"> • KRA
Step 2	Release order is issued	<ul style="list-style-type: none"> • KRA
Step 3	Authentication of relevant compliance certificates and release of goods	<ul style="list-style-type: none"> • KEBS • KEPHIS • Port Health Office
Step 4	Port charges are paid and goods are released to importer or clearing agent	<ul style="list-style-type: none"> • KPA
Step 5	Goods are collected and transported	<ul style="list-style-type: none"> • Transporter
Step 6	Goods are received at your premises	

Figure 5.2: Import Procedures Flowchart



Chapter 6

EXPORTING FROM KENYA

6.1 Introduction

The process of exporting is usually less complicated than that of importing. Section 6.2 in this chapter outlines the documentation required, while Section 6.3 outlines the procedures required to export from Kenya. A step-by-step representation is shown in Figure 6.1 and Figure 6.2 provides a flow chart of the procedures.

6.2 Export Documentation

The following documents are required for a typical export transaction:

- ♦ Commercial invoice
- ♦ Bill of lading/ Airway bill
- ♦ Packing list
- ♦ Certificate of origin
- ♦ All necessary permits

As with imports, these documents need to be lodged together with the customs declaration to clear the goods for export. You can engage a freight forwarder to do the documentation on your behalf.



Courtesy of Kenya Airways

A freight terminal at JKIA.

6.3 Export Procedures

Export procedures are not as lengthy as those in import transactions and are described in the next paragraphs.

6.3.1 Valuation of Exports

The E.A. Customs Management Act describes the value of goods for export as including:

- ♦ The cost of the goods
- ♦ Transport and all other charges up to the time of delivery of the goods on board the exporting aircraft or vessel, or at the place of exit from the country.

Where the cost of the goods cannot be determined, the cost of similar or identical goods exported from an EAC partner state at about or the same time shall apply. Where the value of the goods cannot be determined through the previously mentioned methods, then the proper officer may determine the value of the goods by other objective means.

6.3.2 Assessment of Duty

The Fourth Schedule of the Customs and Excise Act specifies the goods upon which export duties are charged and the rates applicable. In Kenya, export duties are charged on raw hides and skins, and scrap metal.

The Minister of Finance, by notice in the Kenya Gazette, may amend the rates of duty for exports by increasing or decreasing them.

6.3.3 Prohibited and Restricted Exports

The Third Schedule of the EA Customs Management Act describes the Prohibited and Restricted Exports.

Restricted exports include waste and scrap of ferrous cast iron, timber from any wood grown in Kenya and wood charcoal.

According to the Schedule, prohibited goods comprise “All goods the exportation of which is prohibited under this Act or by any written law for the time being in force in the Partner States.”



Courtesy of KPA

Containers at a terminal.

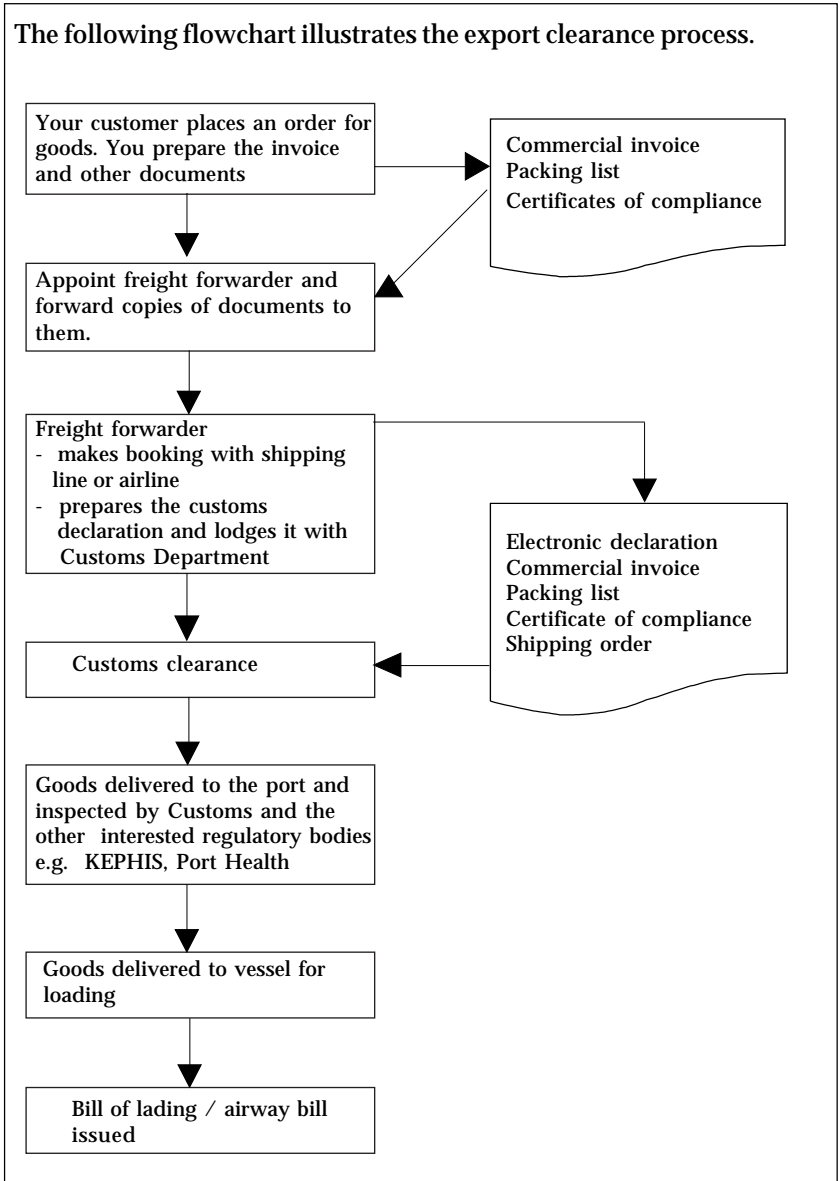
Figure 6.1: Step-by-Step Export Procedures
Before you take the order

Step	Activity	Whom to contact	Output
Step 1	Ensure you have a trade licence	<ul style="list-style-type: none"> • MoTI 	<ul style="list-style-type: none"> • Trade Licence
Step 2	Ensure you have secured an exporter’s code number	<ul style="list-style-type: none"> • KRA 	<ul style="list-style-type: none"> • Exporter’s code
Step 3	Ensure you have an export licence, if required	<ul style="list-style-type: none"> • Department of Internal Trade, MoTI 	<ul style="list-style-type: none"> • Export licence
Step 4	Ensure you have the necessary permits or certificates in the case of fish, plant, horticultural products, minerals, etc.	<ul style="list-style-type: none"> • Department of Fisheries • HCDA • KEPHIS 	<ul style="list-style-type: none"> • Permit / Certificate
Step 5	Obtain the buyer’s specifications for the goods and the relevant regulatory requirements and ensure you can comply	<ul style="list-style-type: none"> • Buyer 	<ul style="list-style-type: none"> • Specifications • Regulatory requirements
Step 6	Determine and organize adequate funds	<ul style="list-style-type: none"> • Bank 	<ul style="list-style-type: none"> • Funding

Before the goods are sent

Step	Activity	Whom to contact	Output
Step 1	Ensure the supply contract is fully signed indicating: <ul style="list-style-type: none"> • Description of goods • Technical specifications • Quantity • Price • Payment terms • Delivery time 	<ul style="list-style-type: none"> • Buyer 	<ul style="list-style-type: none"> • Contract
Step 2	Obtain payment guarantee from your bank	<ul style="list-style-type: none"> • Bank 	<ul style="list-style-type: none"> • Confirmed payment
Step 3	Obtain/prepare all the necessary documents and forward them to your freight forwarder: <ul style="list-style-type: none"> • Commercial invoice • Certificate of origin • Special licences • Packing list 	<ul style="list-style-type: none"> • Freight forwarder 	<ul style="list-style-type: none"> • Documents
Step 4	Freight forwarder books space on the vessel, prepares the custom declaration and lodges it with the Customs Department	<ul style="list-style-type: none"> • Freight forwarder • KRA 	<ul style="list-style-type: none"> • Customs declaration
Step 5	Release the goods to your freight forwarder for shipping	<ul style="list-style-type: none"> • Freight forwarder 	<ul style="list-style-type: none"> • Goods released
Step 6	The goods are inspected by all the relevant regulatory authorities and cleared for export	<ul style="list-style-type: none"> • KRA • KEPHIS • HCDA 	<ul style="list-style-type: none"> • Certificates of compliance
Step 7	Goods delivered to vessel for loading	<ul style="list-style-type: none"> • Carrier • KPA 	
Step 8	Bill of lading or airway bill is issued	<ul style="list-style-type: none"> • Carrier 	<ul style="list-style-type: none"> • Bill of lading/ Airway bill
Step 9	Forward the export documents to the bank for payment	<ul style="list-style-type: none"> • Bank 	<ul style="list-style-type: none"> • Receipt of documents

Figure 6.2: Export Procedures Flowchart



Chapter 7

THE RIGHTS AND OBLIGATIONS OF THE IMPORTER / EXPORTER

7.1 Introduction

As an importer or exporter, you will have obligations as well as entitlements in the imports/exports process. The Kenya Revenue Authority has developed a Taxpayer's Charter setting out the rights and obligations of the importer and exporter. The EA Customs Management Act also mentions situations in which the importer or exporter is entitled to certain treatment. An importer or exporter also has rights and obligations in his/her dealings with other regulatory bodies such as KEBS, KEPHIS and the Port Health Office. The following sections outline these rights and obligations.

7.2 Rights and Obligations Regarding Customs Matters

7.2.1 General Rights of the Importer/Exporter

The Taxpayer's Charter describes the taxpayer's general rights as:

- ◆ Information - complete and accurate information on their rights and obligations under the various Acts administered by KRA.
- ◆ Impartiality – impartial application of the law.
- ◆ Courtesy and consideration – courteous and considerate treatment in all dealings with KRA.
- ◆ Presumption of honesty.
- ◆ Privacy and confidentiality – personal and financial information provided to KRA officials shall be used only to carry out lawful duties only.
- ◆ Identification – right to demand to see KRA official identification card from any KRA officer visiting on official duties.

7.2.2 Your Rights Regarding Customs Duty Assessment and Audit

◆ Objections to an assessment

The importer/exporter is entitled to object to a Customs and Excise duty assessment if they believe they have been assessed wrongly or unfairly. The right to object must be exercised within a specified period and the requirements complied with, such as submission of returns together with all the supporting documents, for the objection to be valid. The notice of objection will be acknowledged within 7 days and an impartial review conducted. KRA will endeavour to resolve the objection within a period of 30 days for Customs and Excise duty objections, subject to payment of the duties in dispute.

Where the matter regarding Customs and Excise duty assessments is not resolved satisfactorily, the importer/exporter may appeal directly to the Court.

◆ Audits/Investigations/Inspections

The importer/exporter may be selected for audit on Customs duty or other taxes administered by KRA. In most cases, notice will be given in advance of the intention to carry out an audit before its commencement, however, in certain circumstances, surprise audits may be conducted. An audit is considered complete when the findings have been fully explained in writing giving specific details.

Upon completion of the audit or investigation, if the importer/exporter is in agreement with the findings or part of the findings, he/she is expected to make immediate payment of the agreed or partly agreed established tax liability together with the penalties thereon to avoid further interest or additional tax accruing on the unpaid tax from the due date. The rate imposed for Custom and Excise duties owing is 2 percent per month compounded.

7.2.3 Your Rights Regarding Customs Valuation

The EA Customs Management Act outlines the following rights of the importer regarding customs valuation:

- ◆ The importer, upon written request, is entitled to an explanation in writing from the proper officer as to the customs value of his/her goods and the method used to determine it.
- ◆ The importer can request delivery of the goods pending final determination of their value by Customs. This is on condition that the importer provides sufficient guarantee in the form of a surety,

deposit or some other appropriate security as the proper officer may determine, to secure the ultimate payment of duties.

7.2.3.1 The Rights of the Proper Officer

The proper officer, however, also has the right to satisfy her/himself as to the truth or accuracy of any statement, document or declaration presented for customs valuation purposes.

7.2.4 KRA's Obligations

- ◆ **Processing of Customs entries**

KRA will endeavour to expeditiously (within 2 days) process Customs entries received.

- ◆ **Processing of exemption letters**

Exemption letters from the Treasury in respect of customs duty will be processed and dispatched to the respective regions within 2 days.

- ◆ **Processing of refunds and cancellation of bonds**

Refund claims for Customs duty overpaid or paid in error, and which are received within 12 months from the date of payment of the same, will be paid within 60 days of lodging the claim, provided the claim is valid and all relevant supporting documents are submitted together with the refund vouchers. Claims lodged after 12 months from the date of payment are invalid and are not considered.

Section 144 of the EA Customs Management Act provides for the refund of import or export duty that has been paid in error. The refund should be claimed within a period of 12 months from the date of payment of the duty.

- ◆ **Processing of bonds for export/remissions**

Provided that all the required information and relevant documentation is provided, the Customs Services Department shall process

- the application for the export bond within 2 days
- the application for remission within 2 days

7.2.5 The Obligations of the Importer/Exporter

- ◆ **Provision of accurate Customs entries**

You have an obligation to ensure that the Customs declaration represents the full and true disclosure of the transaction. The law provides for a penalty for an incorrect declaration and/or prosecution in the case of gross negligence or fraud.

♦ **Payment of taxes and penalties**

You have an obligation to pay Customs and Excise duties when they are due. Taxes that remain unpaid after the due dates attract initial late payment penalties in addition to attracting compound interest rate at the rate of 2 percent per month or part thereof.

Section 121 and 122 of the Customs and Excise Act describe the 'Effect of obligation to pay duty' and the 'Recovery of duty' respectively. Where goods are liable to duty, then the duty constitutes a debt to the Government which is charged on the goods in respect of which the duty is payable. The duty is payable by the owner of the goods and may be recovered through legal action.

♦ **Cooperation with KRA officers**

KRA officers should be given maximum cooperation to carry out their lawful duties.

♦ **Disclosure and production of relevant information, records and documents**

All relevant information, records and documents required by KRA officials when carrying out their lawful duties should be disclosed and produced. It is an offence to refuse or withhold information, records or documents.

7.3 Rights and Obligations Regarding Quality Standards

This falls under the purview of the Kenya Bureau of Standards.

7.3.1 Your Rights Regarding Quality Standards

♦ **Information**

You have a right to seek information from KEBS on the regulations on quality standards. For example, regarding the PVoC programme, you have a right to

- be availed a list of products/ goods covered under this programme.
- be furnished with information regarding verification bodies in the country of origin to undertake verification of conformity.

♦ **Exemption from provisions of import order**

Where the importer is of the opinion that it is in the national interest to exempt any goods from the provisions of the Imports Order, they can apply to the Minister of Trade and Industry for such exemption(s).

7.3.2 Your Obligations Regarding Quality Standards

- ♦ **Ensure that imports meet Kenyan standards**
You must ensure that all goods imported into the country meet Kenyan Standards or approved specifications.
- ♦ **Ensure that goods are verified for quality**
You must ensure that goods covered under the PVoC programme are verified for quality by the appointed conformity assessment bodies in the country of origin (export).
- ♦ **Ensure that goods are issued with a Certificate of Conformity**
You must ensure that only goods that have been issued with a certificate of conformity (CoC) by the appointed conformity assessment bodies are shipped to Kenya.



Courtesy of KEBS

KEBS chemical laboratory.

7.4 Rights and Obligations Regarding Plant Material Quality Standards

In this case you would be dealing with KEPHIS, which is the designated national plant protection organization (NPPO), mandated to assess plant material quality standards and check phytosanitary requirements.

7.4.1 Your Rights Regarding Plant Quality Standards

- ◆ **Information**

You have a right to seek information from KEPHIS on the regulations surrounding import or export of plant materials.

- ◆ **Appeal**

If you are not satisfied with the findings of a KEPHIS inspector, you can appeal to get a second opinion, in which case another inspector will be assigned to check your consignment.

- ◆ **Written notification**

In the case where harmful pests or diseases are found in your consignment, you are entitled to a written notification from KEPHIS as to the reasons the produce cannot be accepted into the country. This written notification is called an Interception Notice and it provides details on the test or inspection results.

7.4.2 Your Obligations Regarding Plant Quality Standards

- ◆ **Obtain a Plant Import Permit**

You have an obligation to obtain a plant import permit from KEPHIS if you are intending to import any form of plant material. A copy of the permit must be forwarded to the exporter to facilitate compliance.

- ◆ **Ensure compliance with Kenya's plant import requirements**

You need to ensure that the plant material is inspected and certified by the NPPO of the exporting country. This is evidenced by a Phytosanitary Certificate from the NPPO showing compliance with Kenyan regulations as stipulated in the plant import permit. An original of this certificate should accompany the consignment.

- ◆ **Ensure compliance with the importing country's plant import requirements**

As an exporter, you need to ensure that you comply with the regulations of your intended country of export. Your customer should provide you with this information or you can contact the NPPO in that country.

KEPHIS, however, has the obligation to protect the country from harmful pests and diseases and cannot compromise on standards. In the case where these are found to be present in the imported plant materials, then these materials have to be destroyed or shipped back to the country of origin. KEPHIS will inform the NPPO of the exporting country of the interception for action to be taken on their side. The Customs Services

Department is also informed that the consignment has been destroyed or shipped back.

7.5 Rights and Obligations Regarding Public Health Matters

Public health matters fall under the Ministry of Health's Chief Public Health Officer, who is represented at the ports of entry by Port Public Health Officers.

7.5.1 Your Rights Regarding Public Health Matters

- ◆ **Information**

You have a right to seek information from the Public Health Department on the regulations surrounding import or export of food, drugs and chemical substances.

- ◆ **Appeal**

If you are not satisfied with the decision of a Port Health inspector, you can appeal to the Port Public Health Officer. If you are still not satisfied, you can appeal to the Chief Public Health Officer based at the Ministry of Health.

- ◆ **Written notification**

You have a right to be informed in writing on decisions made regarding your consignment. This could be in the form of test results or a certificate of analysis, showing compliance or non-compliance with the regulations.

7.5.2 Your Obligations Regarding Public Health Matters

- ◆ **Obtain the necessary permits**

Where an import permit is required to import a particular good, you must obtain it from the relevant authorities e.g. an import permit from the Pharmacy and Poisons Board is required to import drugs and pharmaceuticals.

- ◆ **Ensure compliance with Kenya's import requirements**

Where certificates of analysis or health certificates are required, ensure that these are provided by a competent authority in the country of export. Some products have special packaging and labelling requirements and these must be adhered to.

In the case where it is suspected that goods do not meet health and safety standards, the Port Public Health Officer can seize the goods awaiting

Rights and Obligations of the Importer / Exporter

analysis results from the National Public Health Laboratories, the Government Chemist or other designated facility. In some cases, the consignment can be released under seizure, which prohibits the importer from selling the product to the market until the test results are



Courtesy of Port Health Office, JKIA

Port Health officers inspecting a consignment.

received. If the results are negative (i.e. meet health and safety standards) then the goods are released. If the results are positive, for example, show that the product contains foreign particles or is contaminated, then the consignment is shipped back to the country of origin or destroyed.

Appendix 1: SOURCES OF INFORMATION

Name	Information provided	Postal Address / Physical Address	Telephone	Fax	Email	Website
1. African Trade Insurance Agency	Export credit guarantee	P.O. Box 10620 - 00100, Nairobi Kenya Re Towers, 5 th Floor, Capital Hill Road.	2719727 / 2726999	2719701	info@ati-aca.com	www.africa-aca.com
2 Association of Fish Processors and Exporters of Kenya (AFIPEK)	Processing and export of fish and fish products	P.O. Box 345 - 00600, Nairobi. New Rehema House, 5 th Floor Westlands.	4440858 0722 716956	4440858	afipek@accesskenya.com	-
3 Association of Kenya Insurers	Insurance industry	P.O. Box 45338 – 00100, Nairobi. Victoria Towers, 3 rd Floor, Kilimanjaro Avenue	2731330 – 2	2731339	info@akinsure.com	-
4 British High Commission	Trade opportunities with the UK	P.O. Box 30464 – 00100, Nairobi. Upper Hill Road	2844000	2844088	bhcinfo@iconnect.co.ke	www.britishhighcommission.gov.uk/kenya
5 Central Bank of Kenya	Banking industry	P.O. Box 60000 – 00200, Nairobi. Central Bank of Kenya Building, Halle Selassie Avenue	2861000 / 2860000 / 226431 / 213614 / 248065 / 248357	340192 / 336616 / 250783	info@centralbank.go.ke	www.centralbank.go.ke

Appendix 1

	Name	Information provided	Postal Address / Physical Address	Telephone	Fax	Email	Website
6	China, Embassy of the People's Republic of	Trade opportunities with China	P.O. Box 30508 – 00100, Nairobi. Woodlands Road, off Argwings Kodhek Road	2726851 / 2713325 / 2722559	2726402 / 2711540	embcn@africaonline.co.ke	http://ke.china-embassy.org http://ke.chineseembassy.org
7	Commissioner of Insurance, Ministry of Finance	Insurance industry	P.O. Box 43505 - 00100 Nairobi. Bima House.	252299	310833	-	www.treasury.go.ke
8	Common Market for East and Central Africa (COMESA)	Opportunities in the COMESA market	P. O. Box 30051 Lusaka 10101 Zambia. COMESA Centre, Cairo Road.	(260 1) 229726 / 29	(260 1) 227318	comesa@comesa.int	www.comesa.int
9	Communications Commission of Kenya	Information and Communications Technology (ICT) industry	P.O. Box 14448 - 00800, Westlands, Nairobi. CCK Building, Waiyaki Way.	4242000 / 4348801 - 8	4451866	info@cck.go.ke	www.cck.go.ke
10	Courier Industry Association of Kenya (CIAK)	Express deliveries/ courier industry	P.O. Box 67577 - 00200, Nairobi.	531119 (Jack Muchira-Chairman)	-	jackmuchira@hqg.secutor.co.ke	-
11	East African Community	Opportunities in the EA market	P.O. Box 1096 Arusha, Tanzania.	(255) 27 2504253/ 4/	(255) 27 2504255 /	eac@eachq.org	www.eac.int

					6/ 7/ 8 If calling from within East Africa substitute 255 for 007	2504481			
12	Eastern and Southern Africa Leather Industries (ESALIA)	Production and export of leather and leather products	Arusha International Conference Centre (AICC) Building, Kilimanjaro Wing, 5th Floor.	P.O. Box 1391 - 00606 Nairobi New Rehema House, Westlands.	4446490/1	4445344	admin@esalia.org	-	
13	European Union	Trade opportunities with the EU	P.O.Box 45119 – 00100, Nairobi. Union House, Ragati Road, off Haile Selassie Avenue.	P.O.Box 45119 – 00100, Nairobi. Union House, Ragati Road, off Haile Selassie Avenue.	2713020 /1 0722 205091 0733 624170	2716481	kenya@cec.eu.int	www.delnken.cec.eu.int	
14	Export Processing Zones Authority	Setting up a business in the EPZ	P.O. Box 50563 - 00200, Nairobi. Athi River EPZ, Viwanda Road. Off Nairobi - Namanga Highway	P.O. Box 50563 - 00200, Nairobi. Athi River EPZ, Viwanda Road. Off Nairobi - Namanga Highway	(045) 26421 - 6	(045) 26427	info@epzkenya.com	www.epzkenya.com	
15	Export Promotion Council	Export opportunities, market information	P.O. Box 40247 - 00100, Nairobi. Anniversary Towers, University Way	P.O. Box 40247 - 00100, Nairobi. Anniversary Towers, University Way	228534 - 8	218013 / 228539	chiefex@epc.or.ke	www.epckenya.org	
16	French Embassy	Trade opportunities with France	P.O. Box 41784 - 00100, Nairobi. Barclays Plaza, 9 th Floor, Loita Street	P.O. Box 41784 - 00100, Nairobi. Barclays Plaza, 9 th Floor, Loita Street	316363	217013	ambaff@accesskenya.com	www.ambafrence-ke.org	

Appendix 1

	Name	Information provided	Postal Address / Physical Address	Telephone	Fax	Email	Website
17	Fresh Produce Exporters Association of Kenya	Horticultural production and export	P.O. Box 40312 - 00100, Nairobi. New Rehema House, 4 th Floor	4451488	4451488 / 9	info@fpeak.org	-
18	Germany, Embassy of the Federal Republic of	Trade opportunities with Germany	P.O. Box 30180 - 00100, Nairobi Ludwig Krapf House, Riverside Drive 113.	4262100	4262129	geremb@wananchi.com	www.germanembassyinairobi.org
19	Horticultural Crops Development Authority	Vegetables, cut flowers and fruits exports	P.O. Box 42601 - 00100, Nairobi. Airport Road, opp JKIA	822570 / 827260/1/2 /8	827264	hcdamd@wananchi.com.	www.hcda.or.ke
20	Immigration Department	Issuance of visas, entry permits and passports.	P.O. Box 30191 - 00100, Nairobi. Nyayo House, off Kenyatta Avenue	222022	220731	-	-
21	Indian High Commission	Trade opportunities with India	P.O. Box 30074 - 00100, Nairobi. Jeevan Bharat House, 2 nd Floor, Harambee Avenue	222566 / 7 225104 / 224500	316242	comhcinbo@kenyaweab.com	www.ihcnaairobi.co.ke
22	Japan, Embassy of	Trade opportunities with Japan	P.O. Box 60202 - 00200, Nairobi. ICEA Building,	315850 / 2 / 315855 / 6 / 8 315709 /	252007	jinfocul@eojkenya.org	http://www.ke.emb-japan.go.jp/

				341244		15 th Floor, Kenyatta Avenue						
23	Joint Kenya Arab Chamber of Commerce	Trade opportunities with Arab countries		244265 / 343551	310643	P.O. Box 50182 – 00100, Nairobi. City House, 6 th Floor, Standard Street.		fakh@swiftkenya.com	www.jkacciswiftkenya.com			
24	Kenya Airports Authority	Airport operations, flight information		822400 824572 / 4	822078	P.O. Box 19001-00501, Nairobi. Jomo Kenyatta International Airport		info@kenyaairports.co.ke	www.kenyaairports.co.ke			
25	Kenya Apparel Manufacturers Exporters Association (KAMEA)	Apparel and textile manufacturing and exports		3746005 / 7 3746021 / 22 0721-201368 0734-646005	3746028, 3746030	P. O. Box 30225 – 00100, Nairobi. Mwanzi Road, off Peponi Road, Westlands		info@kam.co.ke	www.kam.co.ke			
26	Kenya Association of Manufacturers	Manufacturing activities		3746005 / 7 3746021 / 22 0721-201368 0734-646005	3746028 / 3746030	P. O. Box 30225-00100, Nairobi. Mwanzi Road, off Peponi Road, Westlands		info@kam.co.ke	www.kam.co.ke			
27	Kenya Bankers Association	Banking industry		252526 / 27 / 32/ 252743 217757	221792 / 219520	P.O. Box 73100 - 00200, Nairobi. Transnational Plaza, 7 th Floor, Mama Ngina Street.		kba@kenyaweb.com	-			

Appendix 1

	Name	Information provided	Postal Address / Physical Address	Telephone	Fax	Email	Website
28	Kenya Bureau of Standards (KEBS)	- Quality standards - Kenya PVoC programme	P.O. Box 54974 - 00200, Nairobi KEBS Centre, Kapiti Road, off Mombasa Road	69028209 / 212 / 423 603888 605506 0722-202138	609660 604031	info@kebs.org pvoc@kebs.org	www.kebs.org www.kenyapvoc.com
29	Kenya Flower Council	Flower production and exporting	P.O. Box 56325 - 00200, Nairobi. Lavington, Muthangari Gardens, off Gitanga Road.	560612 / 576597 / 0733 639524	576597	kfc@wananchi.com	www.kenyaflowers.co.ke
30	Kenya International Freight and Warehousing Association (KIFWA)	Cleating, freight forwarding, warehousing and logistics	P.O. Box 57969 - 00200, Nairobi KPA Inland Container Depot, Embakasi	827704 / 0722 883953	827854	kifwa@nbnnet.co.ke	-
31	Kenya Investment Authority	Investing in Kenya	P. O. Box 55704 - 00200, Nairobi. National Bank Building, 8 th Floor, Harambee Avenue	221401 - 4	243862	info@investmentkenya.com	www.investmentkenya.com
32	Kenya Maritime Authority	Maritime transport sector	P.O. Box 95076 Mombasa, Shipping Office Building, next to MSC Plaza, Moi Avenue.	(041) 2221975 / 2220831	(041) 2220831	mitcmss@africaonline.co.ke	-

33	Kenya National Chamber of Commerce and Industry	Trade and market information for potential importers/exporters	P.O. Box 47024 - 00100, Nairobi. Ufanisi House, Haile Selassie Avenue	220867	318367	kncci@swiftkenya.com	-
34	Kenya Plant Health Inspectorate Service (KEPHIS)	Phytosanitary matters	P.O. Box 49592 - 00100, Nairobi Ololua Ridge, karen	884545 / 882308 / 882933	882265	kephis@nbnnet.co.ke	www.kephis.org
35	Kenya Ports Authority	Port operations, maritime information, shipping guide	P.O. Box 95009, GPO, Mombasa. KPA Headquarters, Kipevu, Mombasa	(041) 2312211 / 2221211	(041) 2311867	kpa-md@africaonline.co.ke	www.kpa.co.ke
36	Kenya Railways Corporation Ltd	Rail transport	P.O. Box 30121 - 00100, Nairobi. Kenya Railways Headquarters, Haile Selassie Avenue	221211	340049 / 224156	md@kenyarailways.co.ke	-
37	Kenya Revenue Authority	Customs administration	P.O. Box 48240-00100, Nairobi. Times Tower, Haile Selassie Avenue	310900	318197	customs@kra.go.ke	www.revenue.go.ke
38	Kenya Ships Agents Association	Shipping industry	P.O. Box 80637, Mombasa. Missions to Seamen, next to TSS Grain	(041) 2223742 / 2230028 / 2223446 / 7	(041) 2315886 / 2311250	ksaa@africaonline.co.ke	-

Appendix 1

	Name	Information provided	Postal Address / Physical Address	Telephone	Fax	Email	Website
			Millers, Mogadishu Rd, off Moi Avenue				
39	Kenya Transport Association	Road haulage	P.O. Box 88502, Mombasa. Seaview Plaza, Mama Ngina Drive.	(041) 2311958 / 2312015	(041) 2312015	executive@ktamsa.com	-
40	Ministry of Agriculture	Agricultural imports and exports	P.O. Box 30028 - 00100, Nairobi. Killimo House, Cathedral Road	2718870	2720586	-	www.agriculture.go.ke
41	Ministry of Finance	Tax Remission for Export Office	P.O. Box 30007 - 00100, Nairobi. Treasury Building, Harambee Avenue.	252299	310833	-	www.treasury.go.ke
42	Ministry of Health	Public health and safety matters	P.O. Box 30016 - 00100, Nairobi. Afya House, Cathedral Road.	2717077	2713234	-	www.health.go.ke
43	Ministry of Livestock and Fisheries Development	Animal health matters	P.O. Box 34188 - 00100, Nairobi. Killimo House, Cathedral Road	2718870 / 2720306	2721007 / 2711149	-	www.livestock.go.ke

44	Ministry of Trade and Industry	Trade policy, bilateral and multilateral trade	P. O. Box 30430 - 00100, Nairobi, Teiposta Towers, Kenyatta Avenue	315001 - 7	315011	kextrade@africaonline.co.ke	www.tradeandindustry.go.ke
45	Netherlands, Royal Embassy of	Trade opportunities with the Netherlands	P.O. Box 41537 - 00100, Nairobi Riverside Lane, off Riverside Drive	4447412 - 4 / 4450130 -3 / 7/8	4447416	nlgovnai@africaonline.co.ke	http://www.netherlands-embassy.or.ke/
46	Pakistan High Commission	Trade opportunities with Pakistan	P.O. Box 30045 - 00100, Nairobi, Church Road, off Waiyaki Way, Westlands	4443911 /2 / 4447170	4446507 / 4443803	parepnairobi@wananchi.com pakistan@nbi.ispkenya.com	www.pakistanafrika.org
47	Pest Control Products Board	Pest control products	P.O. Box 13794, 00800, Nairobi, KARI Headquarters, Waiyaki Way	4450242 / 4446115	4449072	pcpboard@todays.co.ke	-
48	Saudi Arabia, Royal Embassy of	Trade opportunities with Saudi Arabia	P.O. Box 58297 - 00200, Nairobi, Muthaiga Road opp. Muthaiga Country Club	3762781 -4	214527	saudi@wananchi.co.ke	-
49	South African High Commission	Trade opportunities with South Africa	P.O. Box 42441- 00100, Nairobi, Roshanmaer Place, 3 rd Floor, Lenana Road	2827100 / 2827218	2827236 / 2827219	sahc@africaonline.co.ke rsatrade@thedlii.co.ke	-

	Name	Information provided	Postal Address / Physical Address	Telephone	Fax	Email	Website
50	Tanzania, High Commission of the United Republic of	Trade opportunities with Tanzania	P.O. Box 47790 – 00100, Nairobi. Reinsurance Plaza, 9 th Floor, Aga Khan Walk.	311948 / 311950/ 312027	218269	tanzania@africaonline.co.ke	-
51	Uganda High Commission	Trade opportunities with Uganda	P.O. Box 60853 – 00200, Nairobi. Uganda House, Kenyatta Avenue.	311814	311806	ugahicom@todays.co.ke ugacomrb@todays.co.ke	www.ugandahighcommission.co.ke
52	United States of America Embassy	Trade opportunities with the USA	P. O. Box 606 - 00621, Nairobi. United Nations Avenue, Nairobi	3636000	3636157 / 3636065	Nairobi.Office.Box@mail.doc.gov	http://nairobi.usembassy.gov

Appendix 2

FREQUENTLY ASKED QUESTIONS

1. I am already trading locally. Do I require a special licence to import or export?

All importers and exporters require a Trade Licence under the Trade Licensing Act, Cap 497. This licence is issued by District Trade Development Officers. You will be required to provide copies of documents such as a tenancy agreement or lease or title deed of the business premises; evidence of citizenship documents such as identity card or passport and Personal Identification Number (PIN); work permits for non-citizens and certificate of incorporation or certificate of registration of business name.

In addition, all companies involved in the import and export business are required to have a code number issued by the Customs Services Department. This is issued at no fee on presentation of any one of the following documents.

- ♦ Copy of Certificate of Incorporation
- ♦ Copy of Certificate of Registration of Business Name
- ♦ Copy of Trade Licence.

2. Are there any other licences required for some specific products and where do I get these from?

Generally, import and export licences are not required for majority of the products. Licences are required for some products for security, health and environmental reasons. Some products require special permits and certificates from relevant authorities before they can be imported or exported. Examples of products that require special import permits and certificates include plant materials (Plant Import Permit from KEPHIS and Phytosanitary Certificate issued by competent authority in exporting country); drugs and pharmaceuticals (Import permit from Pharmacy and Poisons Board). Examples of products that require export permits include horticultural products (export permit from HCDA) and fish products (export permit from Department of Fisheries, Ministry of Livestock and Fisheries Development).

In order to be accorded preferential treatment in some importing countries, the exported products also need to be accompanied by a Certificate of Origin, which shows that the products originated from Kenya. The Customs Services Department issues all the Certificates of Origin except for the Ordinary Certificate of Origin issued by KEBS for non-EU, non-AGOA and non-COMESA countries.

3. How do I go about obtaining information on potential markets and trade partners?

There are a number of organizations that provide information to potential importers and exporters. The Kenya National Chamber of Commerce and Industry can link you with potential foreign trade partners. It also creates awareness of trade activities that could be of interest to you, such as trade exhibitions in foreign countries, as well as local exhibitions by foreign traders. The Export Promotion Council and the Export Processing Zones Authority provide information on export markets and opportunities. Visiting the local embassies of countries you are interested in doing business with is also useful. Commercial attaches provide information on trade related activities in their countries, and would be able to direct you on how to go about trading with their countries. The internet is also a valuable source of information. Depending on how developed a country is, a visit to a country's website and/or trade websites would probably yield a lot of information on that country's trade activities.

In addition, these sources can provide you with information on the potential risks associated with particular countries, such as economic and political stability, import restrictions, foreign exchange availability and volatility.

4. I have been advised to appoint a clearing and forwarding agent to help with the import and export documentation. Where can I obtain information on reputable firms that I could hire?

The umbrella organization for clearing and forwarding agents, KIFWA, can provide you with names of reputable firms who are members of the association and are registered with the Customs Services Department.

5. I would like to export an agricultural product and have been told that a phytosanitary certificate is required.

What is a phytosanitary certificate and where can I get it from?

A Phytosanitary Certificate is issued by an appointed plant health inspection agency after certifying that a consignment of plant material is free from harmful pests and plant diseases. The agency responsible for phytosanitary inspections in Kenya is KEPHIS. As an exporter, you need to obtain information on phytosanitary and other requirements of the importing country to ensure that your products are not rejected for non-compliance. Your customer can obtain this information for you or direct you to the relevant authorities.

6. I have identified a customer who is interested in my products. How can I assure myself that s/he is reputable?

You could contact the customer seeking more information about their business. For example, you could ask for audited financial statements for the last 5 years. You should look into the identity of your customer: Do they legally exist as a business in the country of import? Is the business solvent? The trading history of the business: Are your exports compatible with the normal business profile? Does the business make its payments promptly? Does it have a good credit rating?

It is best to have this information corroborated by an external body such as the local chamber of commerce and a credit reference bureau.

7. What is the basic documentation that is required for imports and exports clearance?

A Commercial Invoice is used as a supporting document for most trade procedures. Your freight forwarder or clearing agent should be able to arrange for most of the other import or export procedures that may be applicable by using the information contained in the Invoice. The information should include full description of the goods, value, gross and net weight and country of origin of items.

The Bill of Lading provides evidence of the contract between the exporter and carrier (ship). It evidences receipt of the goods into the custody of the carrier. If the goods are transported by air, then an airway bill is used.

Another basic documentation is the Packing List, which shows details such as marks and number of packages, gross and net weights, measurements and description of contents of each package.

In addition, necessary certificates and permits need to accompany the documents, these include documents such as certificates of origin, phytosanitary certificates, import permits, etc.

8. How can I ensure that I will receive payment for the goods exported?

There are a number of methods that you can use to receive payment for exports. The type of method you use will depend on how well you know your customer and the risk involved. The most secure method for an exporter is advance payment, where the buyer is expected to pay for the goods before they are shipped. This option may not be attractive to the buyer who takes on the risk of paying for goods not yet received. The least secure method is the 'open account'. You are required to ship the goods and remit the associated documents directly to the buyer, with a request for payment at the agreed time. You will have no control over the process and face greater risk of non-payment. This method should only be used if you are sufficiently confident that your customer will pay. Other methods are documentary credits and documentary collections. These are processed through the commercial banks. For documentary credits, also known as Letters of Credit, payment is made when the goods have been delivered. The seller is assured that the buyer will obtain the goods only when payment has been made. For documentary collections, you hand over the shipping documentation to your bank to forward to the buyer's bank, with instructions to release them to the buyer on payment of your invoice.

9. When will I receive payment and how?

How soon you receive payment depends on if you have given your buyer credit. Your buyer should pay immediately after s/he receives the export documents. However, if you have given them credit, then they should pay within the credit period e.g. 30 days from date of sighting the documents.

The actual money transfer can be done by use of SWIFT inter-bank transfer, where the buyer instructs his/her bank to make payment to any bank account specified by you. Other methods are buyer's cheque, i.e. a cheque drawn on the buyer's account, banker's draft or international money order. These methods carry the risk of getting lost in transit as they have to be physically sent from the buyer's country to the seller.



10. I am thinking of importing some goods. I have heard of a financial instrument called an L/C used in international trade. What is an L/C and how would it work for me?

A Letter of Credit (L/C) is a financial document issued by an issuing bank to an exporter at the request of the importer that guarantees payment to the exporter if the terms and conditions specified in the L/C are fulfilled. It usually contains a brief description of the goods, the documents required, the shipping date, among other things. As an importer, you are assured that the exporter will only be paid when the goods and relevant documents have been delivered and the terms of the sale are fulfilled. The documents that you would need to receive from the exporter include the commercial invoice, bill of lading (or other document evidencing shipment by a carrier), packing list, certificate of origin and certificate of compliance. There are different types of L/Cs depending on the level of security that you require.

11. Do I need to have a foreign currency account to conduct international trade? What will the banks charge me for their services?

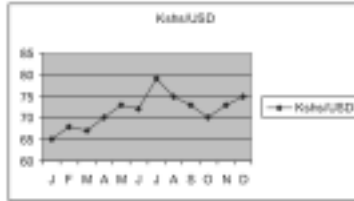
It is best to seek advice from your bank on this. Opening a foreign currency account would mean that the bank does not have to convert the money to the local currency every time you are paid. It therefore reduces the risk of loss from unfavourable currency fluctuations.

The bank charges for trade-related services vary from bank to bank. The Central Bank of Kenya periodically publishes selected bank charges in the local newspapers. This is done to enhance competition in the provision of banking products and services, and can help you determine which bank to approach for trade services.

12. How can I protect myself against foreign currency fluctuations?

A number of methods exist to protect your business from adverse changes in foreign exchange rates. This is called hedging. The mechanisms of hedging, called derivatives, allow a trader to cover the risks of currency fluctuations. Examples include forward contracts, which are contracts to deliver foreign currency at a specified future date and at a specified rate, and options, which give you the right, but not the obligation, to buy or sell a specified amount of foreign currency at a specified rate within a specified

period of time. You should seek advice from your bank on currency fluctuations when negotiating trade finance.



13. I have come across terms such as CIF and FOB in relation to international trade. What do these terms mean and what are they used for?

These terms are included in INCOTERMS published by the International Chamber of Commerce (ICC). INCOTERMS (International Commercial Terms) are a set of rules for the interpretation of the most commonly used trade terms in international trade.

The main purpose of INCOTERMS is to clearly set out the obligations of the seller and the buyer in relation to the delivery of the goods and the division of functions, costs and risks related to the delivery. They avoid the possibility of misunderstandings and disputes that can arise because of differing trading practices in the respective countries. There are thirteen INCOTERMS, which cover the range of responsibilities from minimum to maximum for both buyer and seller.

CIF stands for Cost, Insurance and Freight, which means that the seller must pay the costs and freight necessary to bring the goods to the named port of destination as well as procure marine insurance against the buyer's risk of loss or damage to the goods during carriage. The seller contracts for insurance and pays the insurance premium.

FOB stands for Free On Board, meaning that the seller fulfils his obligation to deliver when the goods have passed over the ship's rail at the named port of shipment. The buyer therefore has to bear all costs and risks of loss or damage to the goods from that point onwards.

14. How can I insure my goods against loss or damage in transit?

Cargo insurance covers the risk of physical damage to your goods or their loss in transit by land, sea or air. You need to ensure that the goods exported or imported have cover from the beginning of their journey until

their arrival. The Association of Kenya Insurers can provide you with the contacts of insurance companies that provide cargo insurance.

Many exporters arrange insurance and freight but pass on the cost to the buyer. This is known as Cost, Insurance and Freight (CIF). Insuring import cargo minimises the risks. If your supplier has not already insured the goods, you should do this yourself.

15. How will I know what taxes I need to pay for the goods I import and how much?

Annex 1 to the EAC Customs Union Protocol provides the schedule of the tariffs applicable for goods entering the EAC from outside the Community. The Minister for Finance determines the rate of VAT and other taxes applicable on imports. Any amendments made are posted in the Finance Act, published every year. Your clearing agent can help you determine the taxes and duties applicable for your imports.

16. Where can I get information on duties, taxes and non-tariff barriers applicable in the importing country?

Your customer can provide you with information on duties, taxes and non-tariff barriers in his/her country. Commercial staff at foreign embassies can also provide this information or direct you to the relevant agencies or websites.

17. How many days will it take to clear my imports from the port?

This depends on factors such as the port of clearance and the type of goods. It takes 6 days on average at Mombasa Port and 2 days at the airports to clear your goods. Some imports may require further verification by regulatory bodies, such as KEBS, KEPHIS and the Port Health Office. The new electronic clearing system introduced by the Customs Services Department is expected to reduce the customs processes from 2 days to 6 hours at the ports. Post clearance control will be emphasized and more goods will be destined for direct release. Other organizations, such as KEBS, are also working at enhancing their services with the introduction of the PVoC programme, which will facilitate the clearance of goods even before they reach the port of entry.

18. What extra charges, besides duties and taxes, will I need to take into consideration in order to take possession of goods I am importing?

Other charges which you should take into consideration include: port charges, such as storage charges, which apply after a given free period; handling charges; shipping line charges e.g. container charges; and the clearing agent's fee (this could be a percentage of the CIF value of the goods or a fixed amount). Your clearing agent can provide an estimate of the cost of your particular consignment.

19. How do I ensure that the goods I wish to import meet Kenyan standards?

KEBS is responsible for verification of imports with respect to quality and has appointed conformity assessment bodies, Intertek and SGS, to inspect, verify, test and issue certificates of conformity on its behalf.

You need to ensure that the goods you intend to import meet Kenyan standards or approved specifications before they are shipped. Your supplier or exporter should obtain a Certificate of Conformity issued by Pre-export Verification of Conformity (PVoC) country offices prior to shipment. There are 3 possible routes for obtaining a Certificate of Conformity namely, Product Licensing, Product Registration, and Consignment Inspection and Testing. The method used will depend on the frequency of the exporter's shipments to Kenya and the level of compliance they are able to demonstrate when applying for certification.

You can trigger the certification process by submitting a copy of the Import Declaration Form and pro forma invoice to either the Intertek or SGS Liaison offices in Kenya, depending on the county of export. The exporter can also start the process by contacting their nearest PVoC country office for a Request for Certification (RFC) form which s/he completes and submits together with the pro-forma invoice. The PVoC country office arranges for inspection and testing of the consignment and determines whether to issue the Certificate of Conformity upon review of all test and inspection reports and receipt of the final commercial invoice from the exporter.

You should contact the PVoC department at KEBS or visit the PVoC website, www.kenyapvoc.com, for further information.

20. How can I get in touch with a reliable and reputable transporter to bring my goods from Mombasa to the upcountry destination?

The Kenya Transport Association is the umbrella body for road haulers. They can provide you with contacts of reputable members of their association. You should contact a number of transporters in order to compare the kind of services they are offering and at what price, then choose the transporter that offers you good value for money. The Kenya Railways Corporation can also transport your goods by rail.



21. What happens if I am unable to send the goods within the time period agreed with the buyer?

The implications of this will depend on what is contained in the sales contract between you and your buyer. The sales contract will set out the rights and obligations of the buyer and seller in different circumstances. You can get in touch with your buyer who may agree to a new delivery date.

22. Do I have to send my product in a container? What if my goods do not make up a full container?

You do not have to send a full container load. You can send your goods as loose cargo through a consolidator. As the name suggests, consolidators stuff different consignments in the same container for shipping. On reaching its destination, the container is de-stuffed and the different consignments released to the different owners.



23. What is the importance of a sales contract?

International trade involves transacting with businesses located in different countries of the world with different trade practices, languages and laws. A sales contract is necessary to set out the terms of the sales transaction and guard against misunderstandings that could end up being costly to your business.

In order to complete your business transaction quickly, efficiently and

cost effectively, you need to ensure that the sales contract is clear and leaves all parties involved in no doubt about their responsibilities and obligations. Careful attention should be paid in drawing up the sales contract and preferably, a lawyer should be used. Two very important areas of the contract are trade terms and payment terms. Trade terms (INCOTERMS) set out who is responsible for delivering the goods and paying for the transport. As an exporter, you should use the INCOTERMS in your contract to ensure that all the obligations concerning delivery, risks and costs are understood. Payment terms define the conditions under which the importer and exporter have agreed to settle their obligations in the sales contract. The basic points include method of payment, amount, the date and place of payment, and the method of remittance of the money.

24. My supplier wishes to send me some samples of the goods. Will I have to pay import duty on these?

The Fifth Schedule of the E.A. Customs Management Act provides that samples and miscellaneous articles not imported as merchandise and which, in the opinion of the Commissioner of Customs, have no commercial value, are exempt from duty.

25. Are there specific requirements on how goods should be labelled and packed for international trade?

There are regulations regarding the labelling and packaging of goods, depending on the type of goods. If you are exporting, you can ask your customer to provide you with details of local requirements. All imports to Kenya must comply with KEBS requirements which include product labelling specifications that cover a wide range of products. For example, labels on pre-packaged foods must be in English and/or Kiswahili, must show manufacture and expiry dates, and country of origin, among other things.

26. Are donations and gifts subject to duty?

Duty is payable on gifts to individuals at the rates provided in the schedule of tariffs in Annex 1 to the EAC Customs Union Protocol, unless the goods attract no duty in the first place. Some gifts and donations to charitable organizations may be granted duty remission on application to the Commissioner, where these are used for approved projects such as distribution to poor persons, for use in medical treatment, educational, religious or rehabilitation work. The organization must satisfy certain given criteria to qualify as a charitable organization.

27. I need to send an urgent package outside Kenya and would like to use an express operator. How can I get in touch with a reliable company offering secure services?

There are various international express courier companies registered and operating in Kenya. The Courier Industry Association of Kenya can provide you with a list of their members. The following are some of the criteria you will need to consider in selecting a courier company: licensed by CCK, membership of CIAK, relations with the Customs Services Department of KRA, security of shipments, track and trace capabilities, facilities of the company and cost of shipment.

28. When does cargo need to be at the port for it to be loaded on the ship?

Acceptance of export cargo at the port ceases at the time of vessel berthing, unless otherwise stated. For export cargo to be accepted at the ICDs, it must be delivered 48 hours prior to the vessel's declared arrival. Some containers can be accepted on direct delivery, for example, refrigerated containers, wet hide containers and out of gauge shipments, but this will be subject to conditions. You should ensure that you have complied with all customs requirements and secured port charges in time.

29. How can I make my product attractive to buyers?

Some of the factors that you could consider to make your product more attractive to buyers include price, packaging and quality. The pricing of your product determines how competitive it is in the export market. You could package your product differently from similar products in the market to attract buyers. Ensuring that your product is of a high quality increases the chances for its success. You could obtain certification which provides assurance on the quality of the goods, for example, ISO Certification and product certification such as the Diamond Mark of Quality. Information on quality assurance can be obtained from KEBS.

Annex 1

TRANSIT GOODS

Kenya is a transit route for goods being imported to or exported from other landlocked East African countries, such as Uganda, Rwanda, Burundi and the Democratic Republic of Congo. This chapter briefly outlines the procedures surrounding importing or exporting goods through Kenya.

1.1 Transit Documentation

Transit goods have to be covered by the appropriate clearing documents just like any other imports or exports in the country. The following documents are needed for clearance of transit goods:

- ◆ Commercial invoice
- ◆ Original bill of lading
- ◆ Packing list
- ◆ Certificates of compliance e.g. phytosanitary certificates

These documents need to be lodged with the Customs Department together with the customs declaration.

1.2 Transit Goods Procedures

1.2.1 Customs Bond

In addition to making the customs declaration for transit goods, you must execute a customs bond since customs duties are not collected on goods-in-transit. Importers of transit goods can secure a customs bond issued by an insurance company, but for more sensitive goods such as electronics, food commodities and tyres, a bank or cash guarantee is required. The customs bond is cancelled when it is verified that the goods have left the country.

1.2.2 Licences required for Transit Goods

Foreign registered trucks require a Transit Goods Licence to convey transit

goods through Kenya. The trucks should be boldly marked “TRANSIT GOODS” on each side of the body of the vehicle.

1.2.3 Visa Requirements

If you are a foreign transit operator, you will require a visa from the Kenyan government to pass through the country. If you need to enter the country several times, a multiple entry visa can be requested. For longer-term engagements such as employment or setting up of a business in Kenya, you need to obtain a work permit. Further information can be obtained from the Principal Immigration Officer at the Department of Immigration.

1.2.4 Monitoring of Transit Goods

This is done in order to curb diversion of transit goods into the local market. In Kenya, the police are used to physically escort transit vehicles carrying sensitive goods. Other measures used include restricting transit vehicles to using only gazetted routes within the country and sealing the containers, in which case seals are checked at the point of exit to ensure they are not broken. The Customs Reform and Modernization Project by KRA’s Customs Services Department includes introducing an electronic cargo tracking system for transit goods.

Annex 2

ESTABLISHING A BUSINESS IN KENYA

2.1 Introduction

Before one starts trading, s/he needs to establish a business. This can be a sole proprietorship, partnership or incorporated company. This chapter provides a brief overview of the process of establishing a business in Kenya. The main types of businesses are identified and setup procedures are described.

2.2 Main types of business enterprises

The main types of businesses in Kenya are:

- ◆ Registered Companies (Private and Public)
- ◆ Branch offices of companies registered outside Kenya
- ◆ Sole Proprietorships
- ◆ Partnerships
- ◆ Co-operatives

2.3 Procedures for Establishing a Company in Kenya

Companies are registered as limited liability companies and regulated by the Companies Act (Cap 486). Kenya's legal system is based on English law and practice. A wide range of legal services associated with the establishment of companies is locally available.

2.3.1 Company Registration

The initial step in forming a company is to register the proposed company name with the Registrar of Companies at the Attorney General's Chambers in Nairobi. Once the name is registered, it becomes a legal business name and cannot be used by another company. The Memorandum and Articles of Association should be filed with the Registrar of Companies who, upon satisfaction, issues the Certificate of Incorporation.

2.4 Opening a branch of an overseas company

An overseas company wishing to open a branch office in Kenya should deliver the following to the Registrar of Companies:

- ◆ A certified copy of the Charter, Statutes or Memorandum and Articles of Association of the Company, or other instruments defining the constitution of the company
- ◆ A list of the directors and secretary of the company, giving full names, nationality and other directorships of companies in Kenya
A statement of all existing charges entered into by the company affecting properties in Kenya
- ◆ Names and postal addresses of one or more persons resident in Kenya authorised to accept, on behalf of the company, service of notices required to be served on the company
- ◆ Full address of the registered or principal office of the company in its home country
- ◆ Full address of place of business in Kenya.

Both private and public companies may allot shares for considerations other than cash. Companies should inform the Registrar of Companies of such allotments and submit a written contract constituting the title of the allottee.

2.5 Sole Proprietorship

A sole proprietorship can trade either in the name of the owner, or a legally registered business name. This is the least costly business type, as it does not require documents such as the Partnership Deed and Memorandum and Articles of Association, whose preparation would most likely require the services of a lawyer.

2.5.1 Registration of business name

- ◆ Come up with a business name, for example, “Exporter International”
- ◆ Submit the suggested name to the Attorney General’s Chambers for a search
- ◆ If no company is registered under the name, it may be available for registration after payment of a fee
- ◆ Once the name is registered, it becomes a legal business name and cannot be used by any other company.

2.6 Partnership

After finalisation of the partnership deed, which stipulates the terms of the partnership, the same steps are followed as for setting up a sole proprietorship. Partnerships are usually entered into to provide professional services such as accountancy and legal services.

2.7 Patents and Trade Marks

Patents are regulated by the Industrial Property Act and administered by the Kenya Industrial Property Institute (KIPI), while trademarks are regulated by the Trade and Service Marks Act (Cap 506) and administered by the Registrar of Trademarks at KIPI. The duration of trademarks is seven years from the date of filing and renewable every 14 years.

2.8 Work Permits

The Government allows investors to have key expatriate staff in senior management positions or where locals with specific skills are not available. Work permits for such expatriates are issued by the Immigration Department and are valid for one to two years, renewable on application.

2.9 Trade Licence

All importers and exporters must be licensed under the Trade Licensing Act, Cap 497. The licences are issued by the respective District Trade Development Officers.

2.10 Exporter's Code Number

All companies involved in the import/export business are required to have a code number issued by the Customs Services Department. This is issued on presentation of a copy of either the Certificate of Incorporation or the Trade Licence or the Certificate of Registration of Business Name.

2.11 Obtaining Further Information

Further information on setting up a business in Kenya can be obtained from the Kenya Investment Authority, whose contact details are listed in Appendix 1.

Annex 3

SAMPLE IMPORT/EXPORT FORMS

- 1) Electronic Customs Declaration Entry form
- 2) Commercial Invoice
- 3) Bill of Lading
- 4) Certificate of Origin (EUR 1)

Electronic Customs Declaration Entry form

Declaration
 Declaration # [00000] Mode of Declaration [0]

Country of Origin [000] Region [0]

Country of Destination [000] Registration Status [0]

Commodity
 HS Number [00000] at Import [0] Temporarily [0]
 Subpart # [0] P.O. Desc [0] City [0]
 Type of Good [0] Stock Report [0] Wt [0]

Shipping
 Type of Packing [0] Incoterms [0] Country of Origin [0]

Value Details
 FOB [0] Freight [0] Insurance [0] When Charged [0] Terms of Delivery [0]
 CIF [0] S&W [0] B&S [0] O&S [0] CIP (cost insurance & freight) [0]

Excise Duty
 Type [0] Rate [0]

Export/Transit Information
 Consignor [0] Consignee [0] Temporarily [0]
 HS Number [0] HS Number [0] P.O. Desc [0] City [0] P.O. Desc [0]
 Type of Good [0] Stock Report [0] Wt [0]

Grand Total [0]

Source: Simba 2005: Declaration Manual of Instructions

Commercial Invoice**Exporter International**

P.O. Box 1, Nairobi, Tel: 254 (20) 111111

Fax: 254 (20) 111112,

Email: export@exporterintl.co.ke

Buyer		Invoice No	Invoice Date		
		Seller's Reference	Buyer's Reference		
Country of Origin of Goods		Letter of Credit No. and Date			
Country of Destination		Incoterms			
Vessel/Aircraft No.		Payment terms			
Port of Loading		Marks and Numbers			
Port of Discharge					
Shipment date on or about					
Item	Description	Quantity	Price	Amount	
			TOTAL		
			Name of Signatory		
			Place and Date of Issue		
			Signature and/or stamp		

Bill of Lading**Shipping Line Limited**

Shipper / Exporter (Complete Name and Address)		ORIGINAL	Bill of Lading No.
Consignee (if "to Order" indicate so)		Shipper's Ref.	
Notify Party (Complete Name and Address)		Booking No.	
Pre-carrying Vessel		Place of Receipt	
Ocean Vessel		Port of Loading	
Port of Discharge		Place of Delivery	
Marks and Nos; Container Nos.	Number and kind of packages; Description of Goods	Gross weight (kg)	Measurement (cbm)
Container No.		Seal No.	
Particulars above furnished by the Shipper			
Total No. of Containers/Packages received by the Carrier	Received by the Carrier from the Shipper in apparent good order and condition (unless otherwise noted herein) the total number or quantity of containers or other packages or units indicated in the box opposite entitled "Total No. of Containers/Packages received by the Carrier" for Carriage subject to all the terms and conditions hereof from the Place of Receipt or the Port of Loading to the Port of Discharge or the Place of Delivery, whichever is applicable.		
Movement			
Freight and Charges	Before the Carrier arranges delivery of the Goods one original of this Bill of Lading, duly endorsed, must be surrendered by the Merchant to the Carrier at the Port of Discharge or at some other location acceptable to the Carrier. In accepting this Bill of Lading the Merchant expressly accepts and agrees to all its terms and conditions whether printed, stamped or written or otherwise incorporated, notwithstanding the non-signing of this Bill of Lading by the Merchant.		
Payment of Freight	Number of Original B(s)/ L	Place and Date of Issue	
For the Shipper	IN WITNESS of the contract herein contained the number of originals stated above has been issued, one of which being accomplished the other(s) to be void.		

Certificate of Origin

MOVEMENT CERTIFICATE

<p>1. Exporter (Name, full address, country)</p>	<p>EUR. 1 No B 0196923</p> <p style="font-size: small;">See notes overleaf before completing this form</p>	
<p>3. Consignee (Name, full address, country) (Optional)</p>	<p>2. Certificate used in preferential trade between</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">and</p> <p style="text-align: center;">_____</p> <p style="font-size: x-small; text-align: center;">(List separate countries, groups of countries or territories)</p>	
<p>6. Transport details (Optional)</p>	<p>4. Country, group of countries or territory in which the products are considered as originating</p>	<p>5. Country, group of countries or territory of destination</p>
<p>7. Remarks</p>		
<p>8. Item number; marks and numbers (Number and kind of package(s)); description of goods</p>		
<p>9. Gross weight (kg) or other measure (litres, cu.m, etc.)</p>		<p>10. Invoices (Optional)</p>
SPECIMEN		
<p>11. CUSTOMS ENDORSEMENT</p> <p>Declaration certified: Export document (S): _____ Form: _____ No. _____ Customs office: _____ leaving country or territory: _____ _____ Date: _____ _____ (Signature)</p>		<p>12. DECLARATION BY THE EXPORTER</p> <p>I, the undersigned, declare that the goods described above meet the conditions required for the issue of this certificate.</p> <p>Place and date: _____ _____ (Signature)</p>

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 - viii) Export Promotion Council website: www.epckkenya.org
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 - x) Kenya Investment Authority website: www.investmentkenya.com
 - xi) Kenya Airports Authority website: www.kenyaairports.co.ke
 - xii) Kenya Bureau of Standards website: www.kebs.org
 - xiii) Kenya Plant Health Inspectorate Service website: www.kephis.org
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