

Kenya

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Fake, counterfeit, knock-off and pass-off products are widely available in Kenya. They damage the reputation of brands owned by both Kenyan and foreign manufacturers, and harm consumers, sometimes fatally. Government controlled product standards and enforcement of intellectual property rights would substantially benefit industry and consumers if they were uniformly and consistently enforced. Instead, legitimate manufacturers comply with all regulations at significant cost, while counterfeit goods freely enter the market without compliance. In March 2009, Kenya launched a new requirement for imports. In addition to the pre-shipment verification of conformity (PVoC), imported products must also obtain from the government an import standards mark (ISM) and affix to their products. Note: fake ISMs were found on the packaging of counterfeit products entering Kenya before the ISM was legally required.

Kenya applies a comparative 'standard' to all products or services. Such is an authoritative statement by GOK of the criteria necessary to ensure that the material, product, or procedure is fit for the purpose for which it is intended. Kenya standards are classified into six categories: glossaries or definitions of terminology, dimensional standards, performance standards, standard methods of test, codes of practice, and measurement standards. These standards are developed by technical committees whose membership includes representatives of various interest groups such as producers, consumers, technologists, research organizations, and testing organizations, in both the private and public sectors.

The secretariat of these technical committees is the [Kenya Bureau of Standards](#) (KEBS).

Standards Organizations

Organizations that develop standards in Kenya include:

1. [The Kenya Bureau of Standards](#) (KEBS)
2. [The National Environment Management Authority](#) (NEMA)
3. [The Division of Environmental Health](#)

The Kenya Bureau of Standards (KEBS) is the government regulatory body under Kenya's Ministry of Trade mandated to develop and ensure compliance with the International Standards Organization (ISO) product standards. The National Environment Management Authority, under the Ministry of Environment and Natural Resources, the Department of Public Health, and the Ministry of Health are all government organizations that develop environmental and public health standards in partnership with KEBS. KEBS conducts product testing for individual product categories and undertakes certification. KEBS has a semi-annual standards development plan, and is now reviewing all standards with particular attention to those that are ten or more years old. A large number of the standards have been already reviewed and harmonized within the Eastern Africa region.

It should be noted that member countries of the World Trade Organization (WTO) are required under the Agreement on Technical Barriers to Trade (TBT Agreement) to report to the WTO all proposed technical regulations that could affect trade with other Member countries. **Notify U.S.** is a free, web-based e-mail subscription service that offers an opportunity to review and comment on proposed foreign technical regulations that can affect access to international markets. Register online at: <http://www.nist.gov/notifyus/>

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Conformity Assessment

In addition to KEBS, other national testing bodies include:

- a) The Government Chemist (forensic testing for law enforcement agencies)
- b) The National Quality Control Laboratories (medical and pharmaceutical testing)
- c) The National Public Health Laboratories (testing of microbiological reagents)
- d) The Kenya Plant Health Inspectorate Service (KEPHIS) (certification of all imported plant materials as well as implementing sanitary & phytosanitary requirements)
- e) Materials Testing Department, Ministry of Roads & Public Works (testing of materials used in the building and construction industries).

Private conformity assessment bodies in Kenya include [SGS Kenya](#), [Bureau Veritas](#), and [InterTek Services](#), all of which provide private consumer product-testing services. With the exception InterTek Services, these organizations also undertake systems and services certification.

All consignments of regulated products must now obtain a Certificate of Conformity issued by authorized [PVoC country offices](#) (offices operated & managed by KEBS partners) and an import standards mark (ISM) prior to shipment. The certificate and ISM are mandatory customs clearance documents in Kenya; consignments of products arriving points of entry without these documents are subject to delays and possibly denial of admission into the country. Informal arrangements with customs officials are widely believed to be responsible for the large volume of fake and counterfeit products present in the market, despite these regulatory requirements. For consignments shipped without inspection, importers may apply for a destination inspection subject to KEBS acceptance and pay a penalty of 15 percent and a 15 percent bond of the CIF value, plus the costs of the test. It is the seller's responsibility to ensure that shipments to Kenya happen only after issuance of a Certificate of Conformity and ISM. In November 2007 KEBS removed a significant non-tariff trade barrier by agreeing to waive the Certificate of Conformity (CoC) requirement on bulk agricultural commodities inspected and certified by U.S. government inspection agencies, i.e., the U.S. Department of Agriculture Federal Grain Inspection Service (FGIS) and Animal and Plant Health Inspection Service (APHIS).

Product Certification

Product certification is voluntary, but essential for marketing purposes. There are no mandatory requirements for product certification, but companies are encouraged to have their export products certified. National organizations such as the Radiation Protection Board, NEMA, the Dairy Board of Kenya, and the [Communications Commission of Kenya](#) (CCK) have specific product and system requirements that must be met prior to issuance of licenses or permits. The importation of any form of plant material (seeds, cuttings, bud wood plantlets, fresh fruit, flowers, and timber) into Kenya is subject to strict conditions as outlined in the import permit issued by the Kenya Plant Health Inspectorate Service (KEPHIS) prior to shipment of such plants from the origin regardless of whether they are duty free, gifts or for commercial or experimental purposes. Seed certification is mandatory before seeds can be sold locally; the process can take up to three years. Kenya has been a member of the International Union for the Protection of New Varieties of Plants (UPOV) since 1999. Note: Seeds are the number 1 good counterfeited in Kenya.

The Pest Control Products Board (PCPB) registers all agricultural chemicals imported or distributed in Kenya following local testing by an appointed research agency. It also inspects and licenses all premises involved in the production, distribution, and sale of the chemicals. The board has the right to test chemicals sold locally to assure their compliance with originally certified specifications. No agricultural chemicals can be imported into Kenya without prior PCPB authorization, and chemicals can only be sold for the specific use granted by the board. For the most part, major horticulture producers and exporters also adhere to strict European Union and U.S. standards in the application and use of agricultural chemicals.

All organizations involved in the manufacture, distribution, and sale of agricultural chemicals in Kenya are members of the Agro Chemical Association of Kenya (ACAK). Members must sign a "Code of Conduct" based on the U.N.'s Food and Agriculture Organization Code. This document requires rigid controls in the manufacturing, packaging, labeling, and distribution of agrochemicals. It also mandates an ethics code.

Kenya's Pharmacy and Poisons Board (PPB) and the Ministry of Health are responsible for the certification and registration of all pharmaceutical drugs manufactured or imported into the country. To indicate conformity with mandatory product requirements, manufacturers can voluntarily place a KEBS mark of quality on the certified product. KEBS has the legal authority to stop the sale of substandard products and to prosecute offending parties. KEBS may inspect the product to ensure it conforms to KEBS or any other KEBS-approved standards; products that do not meet the standards are to be withdrawn from the market and the importer/manufacture may be prosecuted.

Accreditation

Accreditation bodies in Kenya include KEBS, SGS, and Bureau Veritas; however, no mandatory accreditation for laboratories is required for any sector. In March 2005, the GOK formed the [Kenya Accreditation Services \(KENAS\)](#), a quasi-government body with both public and private sector membership to develop a national accreditation system.

KENAS is recognized by the GOK as the sole national accreditation body that provides format recognition for Certification Bodies (CBs), Inspection Bodies (IBs) and Laboratories throughout the country. This ensures that testing and calibration, proficiency testing scheme providers are competent to carry out specific conformity assessment tasks.

KENAS also registers assessors, auditors, and inspectors, and regulates training providers of management systems. KENAS is responsible for the Accreditation of Certification Bodies to ISO/IEC Guide 62 66 (replaced by ISO/IEC 17021:2006 in September 2007) and 65 (including adherence to the IAF interpretation of the same and laboratory certification to ISO/IEC 17025.) All inspection bodies are accredited to ISO/IEC 17020 standards.

Publication of Technical Regulations

Proposed technical regulations under the Standards Act do not normally require notification via the official government publication, the *Kenya Gazette*; however, final regulations are published in the *Kenya Gazette* as legal notices. By enrolling in a corporate membership with KEBS, U.S. companies can, upon a written request to the Managing Director of KEBS, receive proposed technical regulations that affect their industry. They can also submit their comments on the proposed regulations for consideration by the relevant technical committee. To obtain the list of proposed KEBS standards, U.S. exporters can contact the Kenya Bureau of Standards, Off Mombasa Road, Nairobi South C, P.O. Box 54974 -00200, Nairobi, Kenya; Tel: +254 (20) 6948244; Fax: +254 (20) 60403; contact Mrs. Eva Oduor , Managing Director, email: info@kebs.org , Website: www.kebs.org).

Labeling and Marking

I Special labeling is required for certain goods including condensed milk, paints, varnishes, vegetables, and butter. In addition, imports of pre-packaged paints and related or similar products must be sold by metric weight or metric fluid measure. Weights and measure indicators must be in metric form or display both metric and imperial units (the U.S. standard). Manufacturers are required to indicate the date of manufacture and expiry on the labels of consumable products. Labeling for pharmaceutical products must include therapeutically active substances, inactive ingredients, name and percentage of any bactericidal or bacteriostatic agent, expiry date, batch number, registration number of the product, and warnings or precautions, and the official name and business address of manufacturer.

Contacts

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Trade Agreements

Exports from Kenya enjoy preferential access to world markets under a number of special access and duty reduction programs. Kenya is signatory to various agreements aimed at enhancing trade amongst member states. **Multilateral Trade System (MTS)**

The World Trade Organization (WTO) is the only international organization dealing with the global rules of trade between nations. The overriding objective of the WTO is to ensure that trade flows as smoothly, freely and predictably as possible. Kenya has been a member of the WTO since its inception in January 1995.

Regional Markets

Kenya is a member of the East African Community (EAC) with a population of approximately 80 million. It is also a member of the [Common Market for Eastern and Southern Africa \(COMESA\)](#) with a population of approximately 380 million. Exports and imports within member countries enjoy preferential tariff rates. EAC Member States have signed a Protocol to establish a common Customs Union.

Moreover, the East African Community is the regional intergovernmental organization of the Republics of Kenya, Uganda, and Tanzania, with headquarters located in Arusha, Tanzania. The Community was officially established in 1999. The EAC countries cover an estimated area of 1.8 million square kilometers and have a population of over 80 million people and share common history, language, culture, and infrastructure. These advantages provide the partner states with a unique framework for regional co-operation and integration.

ACP/Cotonou Partnership Agreement

Exports from Kenya entering the European Union are entitled to duty reductions and freedom from all quota restrictions. Trade preferences include duty-free entry of all industrial products as well as a wide range of agricultural products including beef, fish, dairy products, cereals, fresh and processed fruits, and vegetables. Additional information is available at <http://www.acp-eu-trade.org/>

African Growth and Opportunity Act (AGOA)

Kenya qualifies for duty free access to the U.S. market under the [African Growth and Opportunity Act](#). Some of Kenya's major products that qualify for export under AGOA include textiles, apparels, and handicrafts. Additional information is available at

<http://www.agoa.gov>.

Generalized System of Preferences (GSP)

Under the Generalized System of Preferences, a wide range of Kenya's manufactured products are entitled to preferential duty treatment in the United States, Japan, Canada, New Zealand, Australia, Switzerland, Norway, Sweden, Finland, Austria, and other European countries. In addition, no quantitative restrictions are applicable to Kenyan exports on any of the 3,000-plus items currently eligible for GSP treatment. Additional information is available at www.unctad.org

Bilateral Trade Agreements

Kenya has signed bilateral trade agreements with several countries*: Argentina, Bangladesh, Brazil, Bulgaria, China, Comoros, Congo (DRC), Djibouti, Egypt, Hungary, India, Iraq, Lesotho, Liberia, Netherlands, Pakistan, Poland, Romania, Russia, Rwanda, Somalia, South Korea, Swaziland, Tanzania, Thailand, Zambia, and Zimbabwe. Additional agreements are under negotiation with several additional countries:

Belarus, Czech Republic, Ethiopia, Eritrea, Iran, Kazakhstan, Mauritius, Mozambique and South Africa

*Some countries are already members of existing schemes that offer market access/duty reduction preferences.

Web Resources

African Growth and Opportunity Act (AGOA) – www.agoa.gov

Common Market for Eastern and Southern Africa (COMESA) – www.comesa.int

Centers for Disease Control – www.cdc.gov

East African Community – www.eac.int

Export Administration Regulations – www.bis.doc.gov

Export Promotion Council - <http://www.epckkenya.org>

Government Printing Office – www.gpo.gov Intergovernmental Authority on Development

(IGAD) – <http://igad.int/>

Kenya Customs Department – www.kra.go.ke

Kenya Bureau of Standards – www.kebs.org

Kenya Accreditation Service - <http://kenyaaccreditation.org>

Kenya Investment Authority – www.investmentkenya.com

Kenya plant health inspectorate Service - www.kephis.org

Ministry of Finance – www.treasury.go.ke

National Environmental Management Authority – www.nema.go.ke

The Division of Environmental Health – www.dehs.his.gov

The Bureau of Industry and Security – www.bis.doc.gov

Trade-related Aspects of Intellectual Property Rights (TRIPS) – [WTO Trips site](http://www.wto.org)