

Based on information collected up to June 2001

1. TARIFF MEASURES

Structure of the tariff schedule

Kenya applies an eight-digit tariff nomenclature. The single column tariff is based on the Harmonized Commodity Description and Coding System (HS 96).

Tariff publications

Current information on customs related matters is available from Kenya Customs and Excise Department, P.O. Box 72736, Nairobi.

12 MFN Duties

MFN treatment is offered to all countries including those that are not WTO members. The import tariff contains ad valorem rates, mixed duties, and specific duties with ad valorem rates being the most common. In conformity with the Finance Bill of 15 June 2000, MFN duty rates have ten levels (0%, 2.5%, 5%, 10%, 15%, 20%, 25%, 30%, 35%, and 45%) based on the c.i.f. value. Mixed duties apply to products such as wheat, maize, rice, sugar, milk, textiles and clothing, footwear, tobacco, spirits, and other manufactured products. Specific duties are set on petroleum products.

16 Temporary reduced duties

Under export incentive schemes, remissions, rebates and refunds of import duties are available on raw materials, capital equipment, machinery, and other components used in the manufacture and packaging of goods destined for export. Imports on which duties are also remitted include sowing seeds, unassembled trailers and semi-trailers, motor vehicles and specified spare parts for use in the Safari Rally, stainless steel tubes, bars and fittings, raw materials for use in the manufacture of insecticides, fungicides and similar products, including component parts used in the manufacture of agricultural and horticultural equipment, as well as specified raw materials for sole use by certain industries manufacturing medicaments. In accordance with the provisions of the Petroleum (Exploration and Production) Act, duties payable on imports of products and materials intended for oil activities are remitted. However, all importers enjoying exemption of duties pay at least the minimum of 2.75% (the import declaration fee), regardless of the destination or final use of the imports.

Preferential duties under trade agreements

19.1 Interregional agreements

The Common Market for East and South Africa (COMESA) Treaty superseded the Preferential Trade Area for Eastern and Southern African States (PTA) in 1995. In its objective of a Free Trade Area by 31 October 2000, COMESA has set out a progressive reduction programme for the

member states to implement. COMESA has also agreed to implement a Common External Tariff by the year 2004. The CET will be 0%, 5%, 15% and 30% on capital goods, raw materials, intermediate goods, and final goods, respectively. The Monetary Harmonized Programme is to be implemented in four phases, from 1991 to 2025, with the final phase culminating in full monetary union.

The Agreement establishing the Permanent Tripartite Commission for East African Cooperation (EAC) was signed by Kenya, Tanzania, and Uganda on 30 November 1993. Its objectives include harmonizing tariffs and customs regimes. A preferential tariff is intended to prevail within the EAC and a common external tariff (CET) is envisaged for 2004.

The Organization of African Unity (OAU) was founded in 1963 by 30 African nations and another 21 signatories have since joined. Morocco, however, left in 1985. As an OAU member, Kenya signed the African Economic Community Treaty (AEC) in 1991. This treaty outlined six stages, including the removal of tariff and non-tariff barriers to trade and the establishment of a continent-wide customs union by 2004. A commitment was also made to the establishment of an African Common Market (ACM), with a central bank and single currency over a period of 34 years.



2. PARA-TARIFF MEASURES

Additional charges

22.7 Taxes and charges for sensitive product categories

An import declaration fee of 2.75% is collected on the c.i.f. value of all imports to Kenya irrespective of their source, final use, and value.

An additional fee of 1% is collected on the c.i.f. value of agricultural imports to support the Kenya Plant Health Inspectorate (KEPHIS).



22.9 Additional charges n.e.s.

A system of ad valorem or specific rates, called "suspended" duties, apply in addition to customs tariffs to a list of selected products including motor vehicles, tyres, dry cells, paper and paperboard, tobacco products, alcoholic beverages, certain fruit, vegetable oils, cosmetics, resin, yarns, footwear, and selected iron and steel products. A parliamentary act provides for the ceiling rate of suspended duties. The current rates range up to 70%, however, the actual amount imposed is nil for most items. Petroleum products are subject to specific rates.



Internal taxes and charges levied on imports


23.1 General sales taxes

A value-added tax is levied at a standard rate of 18% on the customs value plus border charges of imports. Unprocessed agricultural products (including fishery, forestry, and livestock) and processed foodstuffs are exempt from VAT. Pharmaceuticals, medical equipment, fertilizers, agricultural machinery, and educational textbooks are zero-rated for duty refund purposes. The VAT can also be waived by the Minister of Finance and Planning under specific programme conditions detailed in the Value Added Tax Act.



23.2 Excise taxes


Excise duties ranging from 10% on mineral waters, essential oils, and cosmetic products to 130% on tobacco products are charged on the import value (including customs duties) of imported items. The excise duties are specific on mineral fuels and oils, and mixed on certain spirits.



3. PRICE CONTROL MEASURES

34.1 Antidumping investigations


Sections 125 and 126 of the Customs and Excise Act provide the legal basis for anti-dumping and countervailing measures in Kenya. Under Section 125, a dumping duty may be imposed on dumped or subsidized goods if their importation causes or threatens to cause material injury to an established industry in Kenya.



4. FINANCE MEASURES

49 Finance measures n.e.s.

Under the Central Bank Act, authorized banks require a copy of the import declaration form, a final invoice, and a copy of the customs entry for release of foreign exchange for imports.




6. QUANTITY CONTROL MEASURES

Licensing under the authority of Ministry of:
Commerce and Industry, Cooperative House
Haile Selassie Avenue,
P.O. Box 30430
Nairobi.

Under the Imports Order (Imports, Exports and Essential Supplies Act) of 14 May 1993, Kenya abolished its import licensing regime for all but a negative list of products involving health, environmental, and security concerns. Products falling under Part A of the import schedule are prohibited; Part B items are restricted, subject to approval from relevant authorities. All items in Part B require an import declaration form irrespective of their f.o.b. value.

61.43 Barter or counter trade

Kenya does engage in counter trade arrangements on an ad hoc basis. The Import Management Committee must approve counter trade transactions.



61.74 To protect environment

Nuclear reactors and parts thereof require an import authorization from the Ministry of Energy.

Distress and live-saving pyrotechnic articles require an approval from both the Office of the President, and the Ministry of Environment and National Resources.



61.75 To protect wildlife

Endangered or rare species may be imported only after approval by the relevant authorities in the exporting country and in accordance with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).



61.77 To ensure human safety

Propellant powder, explosives, fireworks, safety and detonation fuses require an import authorization from the Mines and Geology Department.

The importation of firearms and parts thereof, cartridges, munitions of war, swords, cutlasses and similar arms must be approved by the Kenya Police.



61.78 To ensure national security

Armoured fighting vehicles, warships, and military weapons may only be imported subject to an authorization from the Office of the President.



Prohibitions

63.72 To protect animal health and life

Effective 15 March 2001, the Department of Agricultural and Rural Development (Department of Veterinary Services) temporarily prohibited the importation of chicks from Mauritius to prevent the introduction of Avian Encephalomyelitis (Epidemic Tremors) in Kenya.



63.74 To protect environment

Kenya operates a ban on the importation of toxic chemical waste.



63.75 To protect wildlife

Products of animal origin such as bones and horn-cores, ivory hippopotamus teeth, rhinoceros horns, tortoise shell, coral, natural sponges and articles of these materials are subject to import prohibition for reason of wildlife protection.



7. MONOPOLISTIC MEASURES

72.1 Compulsory national services

Insurance for imports must be taken with companies licensed in Kenya. However, with the newly introduced privatisation legislation, this requirement is soon to be removed.



8. TECHNICAL MEASURES

Standards and technical regulations are the responsibility of

Kenya Bureau of Standards (KBS), P.O. Box 54974, Nairobi.

Under the Imports Order (Imports, Exports and Essential Supplies Act) of 14 May 1993, products falling under Part C of the negative list are subject to technical, phytosanitary, health and environmental standards.

An import declaration form should be completed, even if the f.o.b. value of the items is lower than US\$5,000.

81.1 Product characteristics requirements

The setting of Kenya standards is following international norms. The KBS is reviewing its standards that are 10 or more years old. Exemption from compliance with compulsory standards may be granted by the Ministry of Tourism, Trade and Industry.

The 1963 Fertilizers and Animal Foodstuffs Act (revised in 1977) provides for technical standards to be met by fertilizers.

The development of the Permanent Tripartite Commission for East-African Cooperation (EAC) is geared towards harmonizing the regulatory provision of quality of products in the East African Region. The standards have been adopted from other countries' standards. This move will eliminate non-tariff barriers to trade within the region.

The 1972 Meat Control Act (revised in 1977) provides standards for storage and transportation of meat and animals.

The Fisheries Department is the relevant authority to approve the importation of live fish including ornamental fish, crustaceans, and molluscs.

Live plants, bulbs, roots and the like, flowers, ornamental foliage, potatoes and potato seed, maize seed, insecticides, weed killers and other herbicides are permitted for importation by the Ministry of Agriculture, Livestock Development and Marketing.

The Ministry of Health is mandated to authorize the importation of disinfectants, rodenticides and similar products.

Imports of live animals require health clearance certificates issued at the port of entrance stating that the animal is healthy.

Imported fruits require a certificate from the exporting country stating that the product is free from insect pests.

The process of seed certification is mandatory.

Spirits for human consumption except brandy must provide proof of being matured by storage in wood for a period of not less than three years.

The importation of agricultural chemicals is subject to prior authorization by the Pest Control Products Board (PCPB). All agricultural chemicals must be registered with the PCPB. All organizations involved in the agricultural chemicals sector have to sign a "Code of Conduct" based on the U.N.'s Food and Agriculture Organization Code. This document requires rigid control in manufacture, packaging, labelling, and distribution.

Under the Pharmacy and Poisons (Registration of Drugs) Rules 1981, drugs require a certificate of registration.

All foodstuffs must have over 50 per cent of their shelf life remaining upon their arrival.



81.3 Labelling requirements

All foodstuffs must be labelled in English or Kiswahili. The labels of all consumables must indicate the date of expiry.

Special labelling is required for condensed milk, paint, varnishes, and butter ghee.



81.3 Labelling requirements

81.4 Packaging requirements

Labelling and packaging requirements apply to meat products.



81.4 Packaging requirements

Plant residues may be used as packaging material if they are accompanied by a certificate stating that all seed, pathogens, and insects have been killed.



81.5 Testing, inspection and quarantine requirements

Under the 1937 Plant Protection Act (revised in 1962 and 1979), the Kenya Plant Health Inspectorate Service (KEPHIS) coordinates all matters relating to plant quarantine regulations. The KEPHIS issues phytosanitary certificates after having verified that the shipment meets the entry requirements.

All animals for export to Kenya must be held for 21 days in approved quarantine facilities that must be regularly inspected by the veterinary authorities of the exporting country, subject to inspection by the veterinary officer from Kenya, where necessary.

Guidelines for imports, tests, and releases of genetically modified organisms have been stipulated by the Kenya National Biosafety Regulations Committee.



81.9 Technical regulations n.e.s.

Imports of plant materials and animal products (including live animals) must be effected through one of the 17 designated points of entry.



82 Pre-shipment inspection

All imports with f.o.b. value of more than US\$5,000 must undergo a pre-shipment inspection for quality, quantity, and price conducted by Inter-teck Testing Services (ITS), effective 1 February 2001.

