



A large, stylized graphic in the shape of a smiley face. The top and bottom curves are blue with white text that reads 'STANDARD OPERATING PROCEDURES'. The center of the face is a white circle containing the text 'SOPs' in large, red, serif font. The background of the graphic is a collage of images: an airport tarmac with several aircraft, a port area with shipping containers, and a blue sky with clouds. The entire graphic is set against a background that includes a map of Kenya's outline in green and a blue sky with clouds.

For the Inspection, Verification and Clearance of Imports at the Ports/Points of entry in Kenya



STANDARD OPERATING PROCEDURES

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FOREWARD

Ports are a fundamental part of global trade. According to UNCTAD's Review of Maritime Transport 2019, International maritime trade is expected to expand at an average annual growth rate of 3.4 per cent over the 2019–2024 period.¹

In Kenya, the port of Mombasa serves an extensive hinterland consisting of Burundi, eastern Democratic Republic of Congo (DRC), Rwanda, Somalia, South Sudan, Uganda, northern Tanzania and southern Ethiopia. In 2019, the port handled over 1.4 Million TEU, which translated to an increase of more than seven percent (7%) on 2018's throughput of 1.3 Million TEU. According to KPA, as at 2019, eighty percent (80%) of all cargo at the Nairobi Inland Container Depot (ICDN) was cleared within four (4) days thereby decreasing the average dwell time of imported cargo to below six (6) days. This was a sharp improvement from a cargo dwell time of twenty three (23) days in 2018.²



Despite these positive reports, both the World Economic Forum (WEF) Global Competitiveness Report 2019 and the World Bank's Aggregated Logistics Performance Index (LPI) Reports (2012-2018) rank Kenya's port performance comparatively low to other countries. Kenya's aggregated LPI rank as at 2018 was 63 with an overall LPI score of 2.93. Specifically, in relation to the efficiency of Kenya's clearance processes, that is, speed, simplicity and predictability of formalities by border control agencies, including customs, Kenya had an aggregated LPI score of 2.66 as compared to Germany's and South Africa's LPI score of 4.09 and 3.29 respectively.³ Additionally, due to inefficiencies at the Port, freight charges represent thirty five to forty percent (35%-40%) of regional import values, compared to eight (8%) in European and Chinese Ports.⁴

Further, over the years, several importers have cited increased challenges faced during the importation process including: congestion at the ICDN; re-inspection of cargo that has already been subjected to Pre-Arrival Clearance in accordance with the PVoC Program; lack of harmonization and configuration of the HS Codes used under the iCMS and KESWS systems; and the invalidation of import classifications at various ports/points of entry by customs officials leading to delays in customs clearance and increased costs of importation.

It is against this background that the Kenya Association of Manufacturers (KAM) sought to harmonise the various Operating Procedures for the inspection, verification and clearance of imported cargo at the points of entry in Kenya. KAM believed that it was important to come up with speedy, simple and documented procedures for the inspection, verification and clearance of imported cargo. As part of its initiative to increase efficiency and accountability at the Ports of entry in Kenya while cutting down on both the costs and the time involved in the importation process, KAM seeks to improve the process of importation by ensuring that importers are aware of the standard operating procedures for the inspection, verification and clearance of imported cargo.

KAM believes that creating awareness ensures that importers are able to capture the costs and time of the importation process without any disruption to their business. Additionally, KAM seeks to improve the process of importation by ensuring seamless collaboration, coordination and cooperation amongst the various government agencies that play a role in the inspection, verification and clearance of cargo.

KAM believes that the practical approaches in these Standard Operating Procedures are therefore a positive step towards increasing efficiency and accountability at the ports of entry. We remain committed to increasing efficiency in Kenya's ports of entry, improving her port performance and global competitiveness, and reducing the cost of doing business in Kenya.

Mr. Sachen Gudka
Chairman, Kenya Association of Manufacturers

- 1 United Nations Conference on Trade and Development (2019), Review of Maritime Transport 2019. Retrieved from https://unctad.org/en/PublicationsLibrary/rmt2019_en.pdf
- 2 <https://www.kpa.co.ke/Pages/Port-of-Mombasa-to-poised-to-surpass-annual-performance-target.aspx> See also <https://www.worldcargoneews.com/news/news/mombasa-to-break-box-record-63600#:~:text=The%20port%20of%20Mombasa%20in,throughput%20of%201.3M%20TEU.>
- 3 The World Bank. Aggregated World Bank Logistics Performance Index (LPI). (2012-2018). Retrieved from <https://lpi.worldbank.org/international/aggregated-ranking>
- 4 United Nations (2018), World Economic Situation Prospectus. Retrieved from https://www.un.org/development/desa/dpad/wp-content/uploads/sites/45/publication/WESP2018_Full_Web-1.pdf

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The Standard Operating Procedures for the Inspection, Verification and Clearance of Imports at the Ports/Points of Entry in Kenya were drafted through the collaborative efforts of several stakeholders, including clearance and enforcement institutions under the Multi-Agency Enforcement Team, as well as various non-state actors with a shared interest in the effectiveness of the importation processes in Kenya. The identification and collation of these Standard Operating Procedures is informed by the need to increase the efficiency and accountability of the processes relating to the inspection, verification and clearance of imported cargo at the ports/points of entry in Kenya.



Phyllis Wakiaga
KAM Chief Executive

These Standard Operating Procedures were drafted by CFL Advocates on behalf of the Kenya Association of Manufacturers (KAM) with support from the Business Advocacy Fund (BAF). Specifically, KAM and BAF appreciate Ms. Lorna Mbatia (team leader), Ms. Brenda Vilita, Ms. Jedidah Ngina and Ms. Moreen Mwangi.

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Ms Phyllis Wakiaga,
CEO, Kenya Association of Manufacturers

EXECUTIVE SUMMARY

Following the 8th Presidential Round Table with the private sector that was held at the State House, Nairobi on 10th May 2018, it emerged that one of the greatest threat to the realization of H.E Hon. Uhuru Kenyatta Government's Big 4 Agenda was the menace of illicit trade and its negative impact to the Kenyan economy. This resulted to H.E the President appointing the Deputy Head of Public Service, Mr. Wanyama Musiambo to lead and coordinate the Multi-Agency Team in fighting various forms of illicit trade. This was aimed at enhancing interagency collaboration, coordination and cooperation. However, lack of harmonised Standard Operating Procedures emerged as a major bottleneck in the execution of various anti-illicit trade enforcement operations in Kenya.

On 4th June 2019, the Head of Public Service issued a directive that was aimed at operationalizing and improving cargo logistics at the ports of entry and inland container depots in Kenya. Despite this directive, processes at the ports/points of entry in Kenya remain unpredictable, slow and complicated.

Several key milestones remain unrealized such as the operationalisation of Enriched Certificates of Conformity; the implementation of 24 hour operations by all government agencies and other institutions involved in cargo handling; the automation of systems by all government agencies involved in cargo handling to interface with KESWS; adherence to the agreed operational guidelines and timelines set for cargo processing at the ports/points of entry; and adherence to the PVoC Program, that is, the implementation of 100% Pre-Arrival Clearance of imported cargo and the adoption of Pre-Arrival Clearance Reports without the need for re-inspection of cargo at the ports/points of entry.

In comparison to other jurisdictions, Kenya's global competitiveness in relation to international maritime trade remains low. It is thus critical to ensure that the procedures and processes for verification, inspection and clearance of cargo at the ports/points of entry are harmonized, in order to increase the efficiency and accountability of the importation processes, and ultimately realize the above-mentioned milestones.

The main aim of these Standard Operating Procedures is therefore to be a one-stop reference for all government agencies/institutions and other actors tasked with ensuring efficiency and accountability in the inspection, verification and clearance of imported cargo at the ports/points of entry in Kenya.

In order to achieve this, the Standard Operating Procedures identify the current procedures in place for each enforcement and clearance institution that handles in any way imported cargo and/ or verifies the quality and standards of imported goods at our ports of entry as well as the various challenges faced by importers during the clearance process.

The Standard Operating Procedures also recommend international best practices from the most efficient cargo handling and clearance systems in the world that can work well for the enforcement Multi-Agency setup in Kenya, and outline best practice clearance time frames/timelines, as guidelines for the operations of the various agencies.

By comparing Kenya's clearance procedures to those of other jurisdictions, these Standard Operating Procedures set the pace for evaluating Kenya's performance against recommended international standards.

These Standard Operating Procedures have been drafted in line with the Government Circular OP/CAB 9/83A of 4th June 2019.

TABLE OF ABBREVIATIONS

ACA	Anti-Counterfeit Authority
AEO	Authorised Economic Operator
AFA	Agriculture and Food Authority
ARSO	African Organisation for Standardisation
BCH	Biosafety Clearing House
CFS	Container Freight Station
CoC	Certificate of Conformity
CoI	Certificate of Inspection
CoR	Certificate of Roadworthiness
CSD	Custom Service Department
DCI	Directorate of Criminal Investigations
DVS	Directorate of Veterinary Services
EAC	East Africa Community
EGMS	Electronic Goods Management System
EPRA	Energy and Petroleum Regulatory Authority
ETA	Estimated Time of Arrival
GDP	Gross Domestic Product
GMO	Genetically Modified Organisms
HBL	House Bills of Lading
HS Code	Harmonised Commodity Description and Coding System
ICDN	Inland Container Depot Nairobi
ICMS	Integrated Customs Management System
IDF	Import Declaration Form
IEC	International Electrotechnical Commission
IMO	International Maritime Organisation
IP	Intellectual Property
ISM	Import Standardisation Mark
ISO	International Organization for Standardization
KAA	Kenya Airport Authority
KAM	Kenya Association of Manufacturers
KDB	Kenya Dairy Board
KEBS	Kenya Bureau of Standards
KENTRADE	Kenya Trade Network Agency
KEPHIS	Kenya Plant Health Inspectorate Service
KESWS	Kenya Electronic Single Window System
KFS	Kenya Fisheries Service
KMLTTB	Kenya Medical Laboratory Technicians and Technologists Board
KNCCI	Kenya National Chamber of Commerce And Industry

KPA	Kenya Ports Authority
KR	Kenya Railways Corporation
KRA	Kenya Revenue Authority
KWS	Kenya Wildlife Service
LSCI	Liner shipping connectivity index
MAT	Multi-Agency Enforcement Team
NEMA	National Environmental and Management Authority
NBA	National Biosafety Authority
NIS	National Intelligence Service
NPS	National Police Service
NCK	Nursing Council of Kenya
OGEFREM	Office de Gestion de Fret Maritime de la Republique Democratique du Congo
PCPB	Pest Control Products Board
PPB	Pharmacy and Poisons Board
PHS	Port Health Services
PVoC	Pre Export Verification of Conformity to standards <i>(The PVoC Program is a conformity assessment program applied to products at the respective exporting countries, to ensure their compliance with the applicable Kenyan Technical Regulations and Mandatory Standards or approved specifications.)</i>
PVoC Agents	KEBS appointed inspection and certification companies
RPB	Radiation Protection Board
SGR	Standard Gauge Railway
SGS	Société Générale de Surveillance
SOP	Standard Operating Procedures
TMEA	Trade Mark East Africa
UCR	Unique Consignment Reference Number
UNCTAD	United Nations Conference on Trade and Development
VAT	Value Added Tax
WCO	World Customs Organisation
WEF	World Economic Forum
WTO	World Trade Organisation

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2. Crops Act, No. 16 of 2013
3. East Africa Community Customs Management Act, 2004
4. Fertilizers and Animal Food Stuffs, Cap 345
5. Fisheries Management and Development Act, No. 35 of 2016
6. Foods, Drugs and Substance Act, Cap 254
7. Health Act, No. 21 of 2017
8. Kenya Plant Health Inspectorate Service Act, No. 54 of 2012
9. Kenya Ports Authority Act, Cap 391
10. Kenya Revenue Authority Act, No. 2 of 1995
11. Kenya Railways Corporation Act, Cap 397
12. The Kenya Railways Corporation (Amendment) Act, No. 5 of 2005
13. Medical Laboratory Technicians And Technologists Act, No. 10 of 1999
14. National Police Service Act, No. 11A of 2011
15. Nurses Act, Cap 257
16. Pest Control Products Act, Cap 346
17. Plant Protection Act Cap 324
18. Public Health Act, Cap 242
19. Radiation Protection Act, Cap 243
20. Seeds and Plant Varieties Act, Cap 326
21. Standards Act, Cap 496
22. Wildlife Conservation and Management Act, Act No. 47 of 2013

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1. East African Community Customs Management Regulations (2010)
2. Food, Drugs and Chemical Substances (Food Hygiene) Regulations, 1978
3. Pest Control Products (Registration) Regulations, 1984
4. Pest Control Products (Licence fees and other charges) Regulations, 2006
5. Pest Control Products (Registration) Amendment Regulations, 2006
6. Plant Protection (Importation of Plants, Plant Products & Regulated Articles) Rules, 2009
7. Public Health (Fees) Rules, 2001

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1. Legal Notice 127 of 2018 - The Standards (Inspection Of Imports) Order
2. Legal Notice Number 183 of 2019- The Standards (Verification of Conformity to Standards and other Applicable Regulations of Imports) Regulations
3. Legal Notice Number 11 of 2020 –The Standards (Verification of Conformity to Standards and other Applicable Regulations of Imports) (Amendment) Regulations
4. Legal Notice Number 78 of 2020- The Standards (Verification of Conformity to Standards and other Applicable Regulations of Imports) Regulations

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1. Drug registration - Guidelines to submission of applications
2. Head of Public Service letter dated 4th June 2019 (referenced OP/CAB 9/83A)
3. Impact Evaluation of the Kenya National Electronic Single Window-World Bank 2018
4. KEBS Procedure on Handling of Imports Arriving Without Certificates of Conformity (CoCs)
5. KEBS Public Notice on Implementation of Import Standardization Mark (ISM) Logo
6. KEBS PVOC Program Operation Manual
7. KESWS SOPs
8. KPA SOPs
9. Kenya Ports Authority (KPA) Tariff book
10. KRA Procedure for Clearance of Imported Goods Nairobi Customs Region
11. Mombasa Port Charter 2018-2024
12. Report of the Joint Technical Committee on the Improvement of Efficiency and Cost Effectiveness of Transportation of Cargo Using SGR
13. World Bank 2018 Connecting to Compete 2018: Trade Logistics in the Global Economy
14. World Bank 2018 Why Does Cargo Spend Weeks in Sub-Saharan African Ports?
15. World Bank Economic Premise: Why cargo Dwell time matters 2012
16. World Bank Group- Impact Evaluation of the Kenya National Electronic Single Window
17. World Customs Organisation Annual Report 2018-2019
18. World Customs Organization Recommendation of UCR
19. World Economic Forum Global Competitiveness Report 2019



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	Directorate of Criminal Investigation	
	Directorate of Veterinary Services	
	Office de Gestion de Fret Maritime de la Republique Democratique du Congo	
	Kenya Bureau of Standards	
	Kenya Dairy Board	
	Kenya Fisheries Service	
	Kenya Medical Laboratory Technicians and Technologists Board	
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	Kenya Wildlife Service	
	Ministry of Industry Trade and Enterprise Development (Department of International Trade)	
	National Biosafety Authority	
	National Environmental Management Authority	
	National Intelligence Service	
	National Police Service	
	Nursing Council of Kenya	
	Pest Control Products Board	
	Pharmacy & Poisons Board	
	Port Health Services	
	Radiation Protection Board	

INTRODUCTION

1

CHAPTER



1.1 Background

International trade (imports and exports) contributes significantly to Kenya's GDP. Other factors that affect GDP include government consumption, foreign direct investment, inflation rate, investments, tax, profit and capital gains. Trading across borders is also a key measure in World Bank's ease of doing business index.¹

In order to grow its economy, a country should ensure that it facilitates trade and improves logistics. Poor infrastructure and the cost of transport affects the competitiveness of a country as regards international trade. According to the UNCTAD, international maritime trade is expected to expand at an average annual growth rate of 3.5 per cent over the 2019–2024 period.² In Africa, maritime trade accounts for more than 90% of the continent's imports and exports.³ Ports and other points of entry therefore play a fundamental role in facilitating Africa's integration to international trade.

The port of Mombasa serves an extensive hinterland consisting of Burundi, eastern Democratic Republic of Congo (DRC), Rwanda, Somalia, South Sudan and Uganda. It also serves northern Tanzania and southern Ethiopia. Therefore, this port together with other ports/points of entry into the country, play a critical role with relation to economic growth in the region.

Poor infrastructure and inefficient border control agencies are the major causes of extended delays in Sub-Saharan ports.⁴ Procedures and processes for verification, inspection and clearance of cargo at the ports of entry must thus be simplified, fast and predictable to promote the ease of doing business in Kenya. Delays and unpredictability increase inventories and prevent integration into global supply networks and significantly reduce economic competitiveness.⁵

Container dwell time, which is defined as the time between vessel arrival and container exit from the port facilities, is one of the many performance indicators used to assess the efficiency of terminal operations. To remain competitive, port operators and the relevant enforcement and clearance agencies must ensure that dwell-time is greatly reduced. This means increasing cargo clearance efficiency while cutting down on both the costs and the time involved during such operations. Dwell time figures are a major commercial instrument used to attract cargo and generate revenues. Therefore, there is increased incentive for port authorities and container terminal operators to lower the dwell time in order to attract more cargo.⁶ The longer a ship stays at berth, the higher the cost that a ship will have to pay.

To achieve a reduced dwell-time, while ensuring that the quality of goods imported into the country do not pose a threat to public health and safety, the relevant government agencies need to work together to ensure that seamless cargo inspection and clearance procedures are put in place.

The cost and time for documentary compliance, border control checks and domestic transportation of imported goods may be used as an indicator of Kenya's ease of doing business. In the 2020 Ease of Doing Business Index, Kenya was ranked at position 56.⁷

1. World Bank Ease of Doing Business Measuring Business Regulations <https://www.doingbusiness.org/en/rankings>; <https://www.clearias.com/ease-of-doing-business-rank/>

2. UNCTAD Review of Maritime Transport 2019 https://unctad.org/en/PublicationsLibrary/rmt2019_en.pdf

3. World Bank 2018 Why Does Cargo Spend Weeks in Sub-Saharan African Ports? <http://documents.worldbank.org/curated/en/335441468000911485/Why-does-cargo-spend-weeks-in-Sub-Saharan-African-Ports-Lessons-from-six-countries>

4. World Bank Economic Premise: Why cargo Dwell time matters 2012 <http://documents.worldbank.org/curated/en/894031468009579212/Why-cargo-dwell-time-matters-in-trade>

5. Ibid

6. Supra note 2

7. World Bank Doing Business 2020-Comparing Business Regulation in 190 Economies <http://documents.worldbank.org/curated/en/688761571934946384/pdf/Doing-Business-2020-Comparing-Business-Regulation-in-190-Economies.pdf>

The delays in clearance of cargo result in losses to the economy. Importers pay substantial amounts in demurrage costs, which are then transferred to the consumers through high costs of commodities in the country. Factors contributing to the delays, increased processing time and costs in Kenya include:

- a Manual and bureaucratic processes in the inspection, verification and clearance of imports. For example, for consignments that warrant VAT or duty exemptions, the importers are required to submit hardcopy KRA exemption letters. However, the consignment cannot be released before the customs officer receive their internal circular with copies of those exemption letters. This leads to unnecessary delays.
- b Duplication of roles and lack of seamless coordination and cooperation by the various government agencies that play a role in the inspection, verification and clearance of cargo;
- c Lack/non-publication of harmonised SOPs that clearly detail the time frame of various activities during inspection, verification and clearance by the various agencies and institutions tasked with ensuring the efficient clearance of cargo at those points of entry; and
- d Non-adherence to the 24-hour operations guidelines issued by the Head of Public Service⁸.

Other challenges faced by importers are:

- a High SGR freight charges from Mombasa to the ICDN;⁹
- b Congestion at the ICDN due to failure to use the idle Naivasha depot launched in December 2019 by President Uhuru Kenyatta;¹⁰
- c Re-introduction of destination inspection;¹¹
- d Introduction of storage yards at ICDN;¹²
- e Re-inspection of cargo that has already been subjected to Pre-Arrival Clearance in accordance with the PVoC Program;
- f Lack of clarity on the acceptable documentation to ascertain the quality of cargo for pre-arrival clearance/ over-reliance on ISO certification as the only acceptable quality check;
- g Lack of confirmation that the issuance of CoCs/ Cols/ CoRs confirms both the quality and the HS Codes (import classification) of imported cargo. Importers have reported invalidation of import classifications at various ports/points of entry by customs officials. This has led to delays in customs clearance and increased costs of importation; and
- h Lack of integration between the iCMS and Kentrade systems (including a failure to configure all HS codes).

8 Head of Public Service letter dated 4th June 2019 (referenced OP/CAB 9/83A)

9 Report of the Joint Technical Committee on the Improvement of Efficiency and Cost Effectiveness of Transportation of Cargo using SGR <https://www.theelephant.info/documents/report-of-the-joint-technical-committee-on-the-improvement-of-efficiency-and-cost-effectiveness-of-transportation-of-cargo-using-sgr/>

10 <https://www.businessdailyafrica.com/corporate/shipping/Traders-flag-hurdles-threatening-viability-of-Naivasha-depot/4003122-5486138-gnfw09z/index.html>

11 Regulation 7(1) of the Standards (Verification of Conformity to Standards and other Applicable Regulations of Imports) Regulations, 2019.

12 Supra note 3

1.2 Need for harmonised Standard Operating Procedures

In January 2020, Kenya's imports were valued at KES 155 billion.¹³ This is a zero point one per cent (0.1%) increase from January 2019. The estimated average time to import and complete documentary compliance checks at the ports of entry in Kenya is 11 days.¹⁴ Of this time, an average of about 8 days is spent on custom inspection and clearance, inspection and clearance by other government agencies and border handling.¹⁵

In 2018, the UNCTAD LSCI (an indicator of a country's position within the global liner shipping networks) ranked Kenya at 21.08 points. This was the country's best score since the launch of the LSCI in 2006. However, in 2019, Kenya was ranked at 16.98 points, which marked a sharp decline from the previous year's points.¹⁶

Cargo verification has been a challenge at the ports/points of entry due to the many government agencies involved in the clearance process. The lack of co-ordination by government agencies has resulted in delays that have a cost implication on imported goods; this cost is passed on to consumers.¹⁷ The lengthy clearance and verification processes lead to high demurrage costs for importers and may open up avenues for corruption. According to the former KRA Commissioner General John Njiraini, in 2016 Kenya Revenue Authority lost up to KShs 20 million in taxes due to collusion by the different players at the port of Mombasa.¹⁸

Both the cost of doing business and efficiency at ports of entry is dependent on the actions of the various government agencies, shipping lines, clearing agents as well as the cargo owners. In Kenya, a number of government agencies are tasked with ensuring that goods imported into the country are safe and fit for human consumption. The practice has been that all agencies perform their roles independent of each other. This has resulted in gaps and overlaps in the inspection, verification and clearance processes as well as congestion at the various points of entry.

13 2020 Trading Economics <https://tradingeconomics.com/kenya/indicators>

14 2020 Doing Business Country profile-Kenya <https://www.doingbusiness.org/content/dam/doingBusiness/country/k/kenya/KEN.pdf>

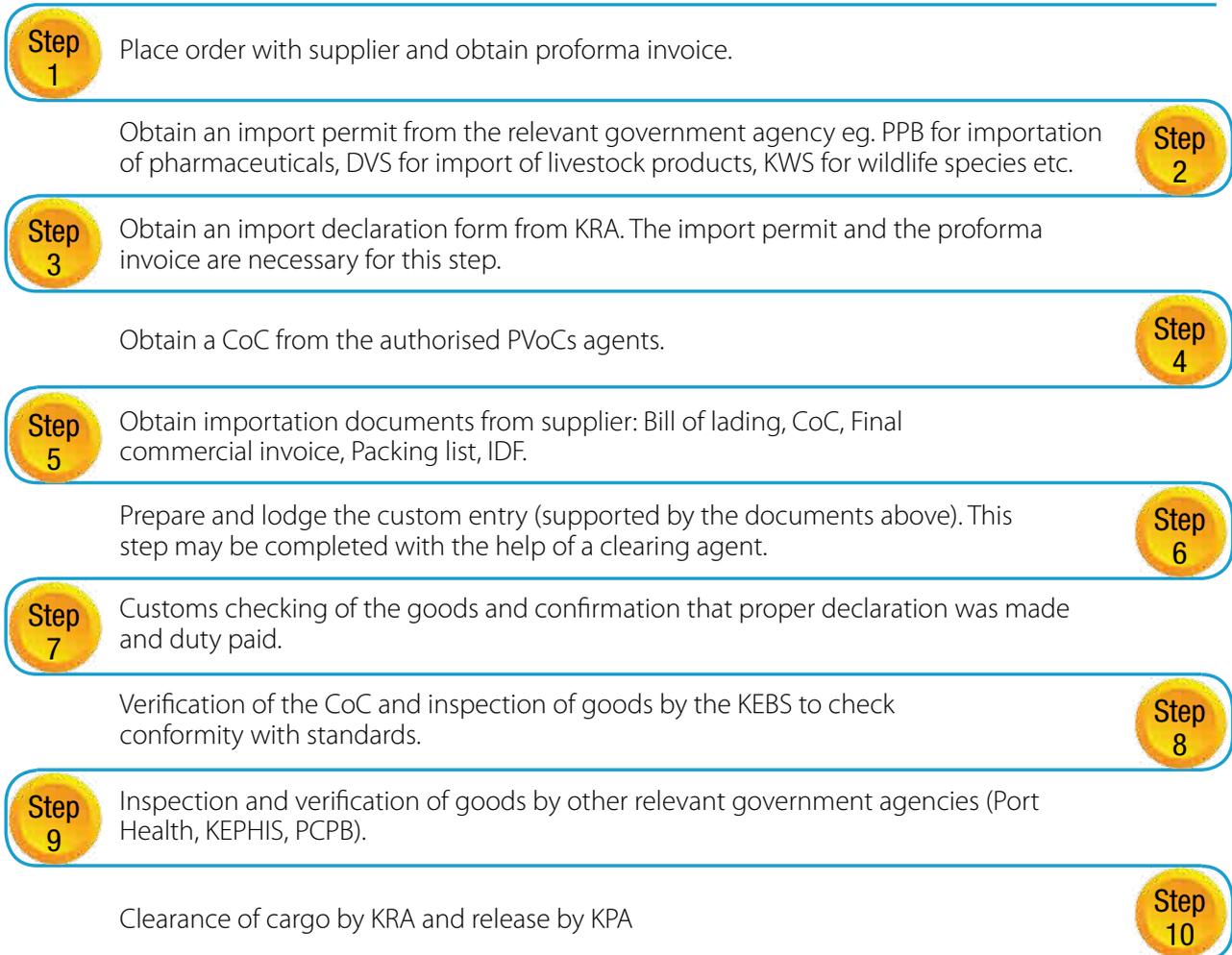
15 2020 Doing business index-Country profile Kenya <https://www.doingbusiness.org/content/dam/doingBusiness/country/k/kenya/KEN.pdf>

16 Beyond 20/20 WDS, <https://unctadstat.unctad.org/wds/TableView/tableView.aspx?ReportId=92>, accessed on 10th February 2020

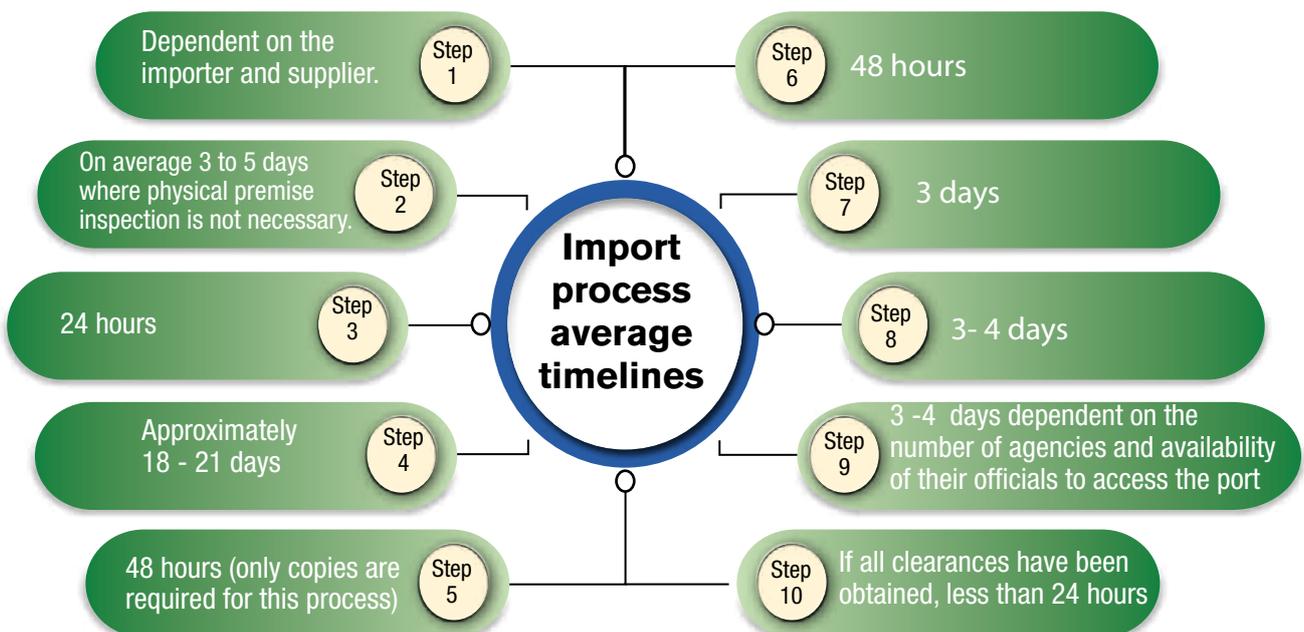
17 Puzzle of cargo delays despite ICD operating below half capacity <https://www.businessdailyafrica.com/corporate/shipping/Puzzle-of-cargo-delays-despite-ICD-operating-below-half-capacity/4003122-5468800-5k6i8mz/index.html>

18 Delays in clearing cargo at Mombasa port , Capital Business <https://www.capitalfm.co.ke/business/2016/08/delays-in-clearing-cargo-at-mombasa-port/>, accessed on 10th February 2020

Import process flowchart



Import process average timelines



In a bid to improve efficiency at the port, on 4th June 2019, the Head of Public Service issued a directive that was aimed at operationalizing and improving cargo logistics at both the ports of entry and inland container depots in Kenya. The directive defined the Lead Agencies to be the KPA in relation to Sea Ports and Inland Container Depots, the KAA in relation to International Airports, and the KRA in relation to Land Border Points.

Additionally, the directive ordered the reduction of the number of government agencies and other institutions that were operating at the various ports/points of entry, in order to reduce the duplication of roles and increase efficiency. The directive grouped the various agencies into five categories as provided for under 1.5 below and ordered that:

- a Enriched Certificates of Conformity (“Enriched CoCs”) be operationalized with effect from 30th June 2019;
- b All government agencies and other institutions involved in the handling of cargo operate on a 24-hour basis, every day of the week;
- c All government agencies and other institutions adhere to the agreed operational guidelines and timelines set for cargo processing at the ports of entry;
- d All government agencies involved with cargo handling take action to automate their systems and to interface them with KESWS by 1st September, 2019; and
- e All government agencies with mandate over international trade operations continue to remain accountable for the discharge of their respective mandates in accordance with the existing legal frameworks, but subject to adherence with the guidelines provided in the circular.

However, even with the exit of the various agencies from the ports of entry, there are still some areas in which Kenya needs to improve in order to ease doing business. TMEA reported that due to the inefficiencies at the port of Mombasa, freight costs are up to 35-40% of regional import values.¹⁹ This is high when measured against the averages in other jurisdictions such as Europe and China where the average is 8%.²⁰

Therefore, there is need for the harmonization of operating procedures in order to ensure each agency fulfils its statutory mandate within the purview of the MAT, while at the same time reducing the time and costs of importation of goods.

1.3 Purpose of the SOPs

The World Bank Doing Business data shows that forty to sixty per cent (40-60%) of the time required to export or import goods in Kenya is taken up by regulatory compliance, administrative clearance, and documentation procedures.²¹ As stated above most of the delays are because of the overlap in mandates, lack of proper coordination between the various government agencies and lack of harmonised operating procedures.

Each government agency has its mandate set out in specific laws. In addition to the enabling laws, some of the agencies have their own individual operating procedures, which dictate their operations concerning inspection, verification and clearance of imports. Other agencies have entered into SLAs with one another to guide their collaboration in the inspection, verification and clearance of cargo. Nonetheless, some challenges still arise in the processes.

In a bid to foster the collaboration among the government agencies, in May 2014, the government launched a Single Window System, the online cargo clearance platform known as the KESWS. The system is module based and brings together 42 stakeholders with over 10,000 registered users, which includes more than 35 permits/licenses/certificates government issuing agencies whose cargo clearance documentations have been automated through system integrations or interfaces KESWS.²²

Implementation of the KESWS has resulted in streamlined import and export processes and procedures, transparency in the processes and effective information sharing. The KESWS enables importers and exporters to conveniently submit documents from the comfort of their offices or homes.²³

¹⁹ The Mombasa Port & Northern Corridor Community Charter Summary 2018-2024 <https://kma.go.ke/index.php/mombasa-port-community-charter>

²⁰ Ibid

²¹ International Finance Corporation, 2020 World Bank Kenya Investment Climate Program-II Trade Logistics

²² KENTRADE –Single Window System in Kenya <https://www.kentrade.go.ke/single-window-system>

²³ Supra 22

Although, the KESWS has simplified the documentation processes, manual interventions are still necessary in relation to inspection, verification and clearance of imports. The purpose of this document is to streamline the manual processes through the harmonization of the respect Standard Operating Procedures (SoPs) of the various agencies and institutions tasked with the inspection, verification and clearance of imported cargo at the ports/points of entry. This document aims at proposing solutions that will ensure efficient handling and clearance of cargo at the ports/points of entry, as well as compliance with the set standards for goods in Kenya. Additionally, this document also collates the challenges faced by various importers and small traders during clearance of cargo and seeks to make recommendations that would increase efficiency at the ports of entry and ultimately reduce the costs of doing business in Kenya.

1.4 Scope of the SOPs

1. The SOPs shall be used in all ports/points of entry where the inspection, verification and clearance of imported goods is carried out. The SOPs shall apply to all government agencies and other stakeholders (including importers and clearing agents) tasked with ensuring efficiency in the inspection, verification and clearance of cargo at the ports/points of entry in Kenya.
2. The SOPs identify the current procedures in place for each enforcement and clearance institution that handles in any way imported cargo and/ or verifies the quality and standards of imported goods at our ports of entry, including:

Government Agencies/Institutions	Other Stakeholders
1. AFA Tea Directorate	1. Category B Consolidators
2. AFA Fibre Crops Directorate	2. Clearing Agents
3. AFA Horticultural Crops Directorate	3. Importers
4. AFA Nuts and Oil Crops Directorate	4. Kenya Airports Authority
5. AFA Sugar Directorate	5. Kenya National Chamber of Commerce and Industry
6. AFA Coffee Directorate	6. Shipping lines
7. Anti-Counterfeit Authority	7. PVoC Agents
8. Directorate of Criminal Investigation	8. KENTRADE
9. Directorate of Veterinary Services	
10. Office de Gestion de Fret Maritime de la Republique Democratique du Congo	
11. Kenya Bureau of Standards	
12. Kenya Dairy Board	
13. Kenya Fisheries Service	
14. Kenya Medical Laboratory Technicians and Technologists Board	
15. Kenya Plant Health Inspectorate Services	
16. Kenya Ports Authority	
17. Kenya Railways Corporation	
18. Kenya Revenue Authority	
19. Kenya Wildlife Service	
20. Ministry of Industrialization Trade and Enterprise Development (Department of International Trade)	
21. National Biosafety Authority	
22. National Environmental Management Authority	
23. National Intelligence Service	
24. National Police Service	
25. Nursing Council of Kenya	
26. Pest Control Products Board	
27. Pharmacy & Poisons Board	
28. Port Health Services	
29. Radiation Protection Board	

3. The SOPs identify the gaps and overlaps in the processes of the above agencies which can be standardized and harmonized, while ensuring conformity is maintained and adhered to.
4. The SOPs recommend international best practices from the most efficient cargo handling and clearance systems in the world that can work well for the enforcement Multi-Agency setup in Kenya, and outline best practice clearance time frames/timelines, as guidelines for the operations of the various agencies.

1.5 Categories of State Agencies Operating at the Ports/Points of Entry

As stated above, the various agencies currently operating within and outside the ports/points of entry, have been grouped into five categories as below:

CATEGORY	OPERATION	AGENCY	OPERATIONAL AREAS
1	Sea Vessel Boarding Parties	<ul style="list-style-type: none"> · Port Health · Immigration · KRA, Customs Department · Port Facility Security Office · KPA 	<ul style="list-style-type: none"> · Domiciled within the ports of entry. · Have full access to vessels and are the only agencies whose representatives are allowed to board docked vessels at the port. <p>NOTE: Any other agency that may wish to board a vessel whose activity may have an impact on cargo logistics, is required to make an application to the Lead Agencies. The agencies will be required to nominate, by name, officers who shall board the vessels, in advance and in writing to prior to docking of vessels.</p>
2	Frontline Port Operators	<ul style="list-style-type: none"> · KPA · KRA · KR · KEBS 	<ul style="list-style-type: none"> · Operate within the port and do not need to fill the Accountability Form. · Required to adhere to the agreed timelines and procedures for clearance of cargo.
3	Intelligence-led Operators	<ul style="list-style-type: none"> · NIS · DCI · KEPHIS 	<ul style="list-style-type: none"> · Domiciled inside the ports of entry. · Undertake any cargo related intervention after making a formal request to the Head of the Lead Agency using the Port of Entry Accountability Form.
4	Assist the Lead Agencies undertake their mandate	<ul style="list-style-type: none"> · All other Government Agencies 	<ul style="list-style-type: none"> · Domiciled outside the ports of entry · Entry to the ports by any of these government agencies shall be sanctioned by the Lead Agency to aid the Lead Agencies in undertaking their mandate.
5	Facilitate the clearance of cargo on behalf of importers	<ul style="list-style-type: none"> · Clearing Agents 	<ul style="list-style-type: none"> · Operate strictly outside the port · Their operations shall be defined and communicated by the Lead Agency.

1.6 Responsibilities

The responsibilities of the relevant government agencies and institutions are as outlined under the respective legislation establishing the agencies/institutions. Specific responsibilities relating to this procedure are for the ease of collaboration in the carrying out of the respective mandates.

1.6.1 Ministry of Industrialization, Trade and Enterprise Development (Department of International Trade)

The Department of International Trade is tasked with the promotion of bilateral, regional and international trade through amongst others, the coordination of trade matters with international organisations, promotion of public and civil society participation in international trade and ensuring compliance with trade laws, regulations and policies.



1.6.2 The Kenya Ports Authority

KPA is responsible for the management and operation of the Port of Mombasa and all scheduled seaports along Kenya's coastline. It is also responsible for the management of Inland Waterways as well as Inland Container Depots at Embakasi, Eldoret, Kisumu and Naivasha.

Powers of KPA

- to maintain, operate, improve and regulate the Ports and Internal Depots in Kenya;
- to construct, operate and maintain beacons and other navigational aids;
- to construct new ports;
- to carry on the business of stevedore, wharfinger or lighterman;
- to act as warehousemen and to store goods whether or not such goods have been, or are to be handled as cargo or transported by the Authority;
- to the extent determined by the Cabinet Secretary, to act as carriers of goods or passengers by land or sea;
- to consign goods on behalf of other persons to any places whether within Kenya or elsewhere;
- to provide such amenities or facilities for persons making use of the services performed, or the facilities provided by the Authority as may appear to the KPA Board to be necessary or desirable.

Roles in handling of imports

KPA is the Lead Agency at all Sea Ports and Inland Container Depots. KPA agents have full access to vessels and may board docked vessels at the Port. Their roles include:

- Stevedoring Services- the process of loading or discharging/offloading of a ship or cargo to/from a ship.
- Shorehandling Services- the handling of cargo at the Shore side or at a place near the quay but within the port precinct.
- Conventional cargo operations including Ship and Shore/Yard Operations, Specialized and Multipurpose Terminals Operations and Grain Bulk Handling.
- Container Terminal operations including discharging and loading of vessels, stacking and unstacking of containers in the yard and delivery/receipt of import and export containers.
- Inland Container Depots services including handling of both containerized and loose cargo, stripping and stuffing of containers, consolidation or storage of full/loose export cargo, storage and handling of empty containers, hiring of labour and equipment, weighing of containers and leasing of yard slots to shipping lines and other interested parties for storage of empty containers.
- Collection of port charges.
- Ensuring security of cargo at the port.
- Collection of sea cargo statistics.



1.6.3 The Kenya Revenue Authority

The core function of KRA is to assess, collect and account for all revenues in accordance with the written laws in Kenya. KRA, through its CSD is responsible for customs and excise administration. At the border, KRA enforces various import and export controls in collaboration with other government agencies.

Roles in handling of imports

KRA is the Lead Agency at all Land Border Points. KRA agents have full access to vessels and may board docked vessels at the Port. Their roles include:

- Registration of importers and exporters-issuance of the Export/Import Code Number.
- Licensing traders for importation of excisable goods.
- Licensing clearance agents.
- Verification of custom documents.
- Control of movement of goods in and out of Kenya.
- Protect society from illegal entry and exit of prohibited goods such as counterfeit goods and illegal drugs.
- Implement and enforce bilateral, regional and international trade agreements/ arrangements.
- Assessment and collection of customs duty, VAT, Railway Development Levy and excise tax on imported goods.
- Examine any goods subject to customs control in order to confirm the accuracy of the submitted data as per the EAC Customs Management Act.
- In collaboration with KPA direct the mooring of vessels and discharge of cargo.
- Examine passenger luggage at ports of entry.
- License any building or any other place as a general or private warehouse for the deposit of goods liable to import duty.
- Grant clearance to any sea vessel or aircraft departing to any foreign port.
- Collection of trade statistics on imports and exports.

Operations of Channels the Ports/Points of Entry

Customs declarations are assigned to one of the following channels:

- a the Red lane for cargo to be subjected to a full examination (100% verification);
- b the Yellow lane for cargo to be subjected to partial physical verification; and
- c the Green lane for cargo to be cleared without any inspection;

Assignment to the first two lanes is performed randomly.²⁴ The Green channel is reserved for importers with an AEO status. These importers are automatically registered for pre-clearance. Unique consignments that are considered high risk are automatically directed into the Red channel.

²⁴ Though assignment is done randomly upon making of a customs entry, KRA officials may still flag suspicious cargo and move it to the red lane. Suspicion may be assessed based on the declarations made or based on the previous actions of the importer in relation to payment of duty



1.6.4 The Kenya Railways Corporation

KR is the state corporation responsible for the management of rail transport in Kenya.

KR is in charge of marshaling, transit and railage of cargo to the ICDs.



1.6.5 The Kenya Bureau of Standards

KEBS is currently the lead agency tasked with conducting the inspection of goods at the ports of entry. KEBS establishes Kenyan Standards for different products and has licensed PVoC Agents at various designated zones around the world who conduct pre-export verification of all cargo destined for Kenya. The PVoC program was started in 2005 by virtue of Legal Notice number 78 of 2005. The said Legal Notice was later revoked by the Legal Notice number 127 of 2018, the Standards (Verification of Conformity to Kenya Standards of Imports Order). This Legal Notice was then revoked by Legal Notice number 183 of 2019- The Standards (Verification of Conformity to Standards and Other Applicable Regulations of Imports) Regulations. The PVoC program is now conducted under Legal Notice number 78 of 2020- The Standards (Verification of Conformity to Standards and Other Applicable Regulations of Imports) Regulations. KEBS falls under category two (Frontline Port Operators) and its agents are stationed at various points of entry inside and outside Kenya. The agents are empowered to take any cargo related intervention at the various ports.

Roles in handling of imports

- Develop National Standards.
- Prepare enriched CoC in conjunction with other agencies tasked with enforcing national standards.
- Validate Certificates of Conformity;
- Issue clearance for importation documents;
- Inspect the goods and take samples for testing (when necessary) to confirm conformity with Kenyan Standards;
- Clearance of consignments, release of imported goods into the country, if found to be compliant with relevant Kenya Standards.
- Receive notification for cargo intervention from other agencies.



1.6.6 The Kenya Plant Health Inspectorate Service

KEPHIS is the competent authority mandated to regulate and manage Sanitary and Phytosanitary issues, Seed certification, plant variety protection and the quality of agro inputs and produce. KEPHIS is responsible for ensuring that any plant or plant material imported into Kenya does not introduce any pests or diseases into the country.

Roles in handling of imports

- Performing pest risk assessment for imports of plants products and regulated articles
- Issuance of plant imports permits
- Grading, Inspection and regulation of imported plants plant products and regulated articles at the ports of entry
- Testing, certification, quarantine, control of seeds and planting materials;
- Testing and monitoring the presence of harmful residue of agrochemicals and contaminants on agricultural produce, soils and water systems;
- Development and implementation of standards on both imported and locally produced seeds;
- Implementation of Phytosanitary measures as guided by the international standards for Phytosanitary measures



1.6.7 The AFA-Horticultural Crops Directorate

The Directorate is responsible for the regulation of the horticultural crops including enforcement of appropriate quality standards for horticultural produce. The Directorate undertakes grading and inspection of plant produce at ports of entry/exit. It also provides market intelligence information for both export and local markets.

1.6.8 AFA-Tea Directorate

The Directorate is mandated to license tea manufacturing factories; to register buyers, brokers, packers, management agents and any other person dealing in tea; and promote Kenyan tea in both the local and the international markets. In relation to imports, the directorate carries out the registration and renewal of tea importers and issues import permits for every consignment of tea.

1.6.9 AFA-Coffee Directorate

The Directorate is responsible for licensing of coffee traders including importers. It also issues import permits for the importation of clean coffee for secondary processing in Kenya. The Directorate is responsible for the enforcement of appropriate quality standards for coffee in the country.

1.6.10 AFA- Sugar Directorate

The Directorate coordinates activities of players within the sugar industry including the millers, growers, transporters, importers, exporters, traders. It also licenses sugar importers. It grants pre-approval for the importation of sugar and issues permits for every consignment of sugar imported into the country.

1.6.11 AFA-Fibre Crops Directorate

The Directorate's mandate is to oversee the regulation, development and promotion of fibre crops in Kenya. The Directorate licenses dealers of cotton and sisal and inspects cotton and sisal and in the enforcement of fibre crops standards.

1.6.12 AFA-Nuts and Oil Crops Directorate

The Directorate is mandated with the development, promotion and regulation of the nuts and oil crops industry in Kenya. The Directorate regulates the following nuts and oil crops: coconut, macadamia, cashew nuts, ground nuts, sesame, sunflower, castor bean, jojoba, linseed, oil seed rape among others.

1.6.13 National Biosafety Authority



The Mandate for the Authority is to exercise general supervision and control over the transfer, handling and use of genetically modified organisms. NBA's approval is required for any activity involving a genetically modified organism. This includes their importation, exportation or transit.

Roles in handling of imports

- Establish and maintain a Biosafety Clearing House to serve as a means through which information is made available to facilitate exchange of scientific, technical, environmental and legal information on, and experience with, living modified organisms;
- Co-ordinate, monitor and assess activities relating to the safe development, transfer, handling and use of genetically modified organisms in order to ensure that such activities do not have adverse effects on human health and the environment;
- Testing GMO varieties for release;
- Testing seeds to ensure genetic purity;
- Confirming that ordinary permits for non –GMO material are not used to introduce unauthorized GMO into the country.



1.6.14 Pest Control Products Board

The board regulates importation and exportation, manufacture, registration and use of pest control products.

Roles in handling of imports

- Agency licence- Import of pesticides is regulated by PCPB. All pesticides manufacturers outside of Kenya are required to appoint an authorized representative (agent) in Kenya. The agent is then required to obtain an agency licence issued by PCPB. The licence is valid for a calendar year from the date of issue.
- Product registration certificate- Product registration is mandatory for all pesticide products imported into Kenya. As the competent authority, PCPB issues a product registration certificate after evaluation of the product(s) has been done. The product registration certificate is valid for three calendar years from the date of issue.
- Import permit- Import of a new pesticide product will require a product registration certificate from the PCPB and an import permit for each consignment.
- Premise licence- All premises handling pesticides in Kenya require a premise licence from PCPB after inspection of the premises to ascertain that the premises comply with the Pest Control Products (Licensing of Premises) Regulations. The premise licence is valid for a calendar year from the date of issue.



1.6.15 Kenya Dairy Board

The mandate of the Board is to regulate, develop and promote the dairy industry in Kenya. The KDB ensures compliance with milk quality and safety requirements through the licensing and inspection of milk handling premises and milk dealers. The KDB also regulates import of milk and milk products. An import permit from the KDB is required for each consignment of milk and milk products.



1.6.16 The Pharmacy and Poisons Board

PPB's mandate is to regulate the practice of pharmacy and the manufacture and trade in drugs and poisons. It is responsible for the regulation of the manufacture, importation, exportation, distribution and sale of pharmaceutical products through appropriate administrative, inspectorate, and surveillance activities. It regulates pharmacy practice through registration and licensing of pharmaceutical personnel and pharmacy training institutions and the implementation of regulatory measures to achieve the highest standards of safety, efficacy and quality for all drugs, chemical substances and medical devices imported into the country. PPB issues import permits for all consignment of pharmaceutical products.



1.6.17 The Directorate of Veterinary Services

DVS is responsible for the appraisal and approval of import permits for the importation of veterinary goods including live animals (both domestic and game), eggs, semen, embryos, hides & skins, unprocessed leather, animal feedstuff, ingredients, fertilizers, incubators, hives, milk and other milk products, meat and meat products, aquatic products, honey, veterinary drugs, vaccines and accessories, genetically modified animals and micro-organisms. The DVS works closely with the KDB (for milk and milk products imports) and the PPB (for imports concerning veterinary drugs and vaccines). DVS also works closely with the KEBS in the formulation of standards related to the health of animals and animal products.



1.6.18 Port Health Service

The Port Health Service is responsible for preventing transmission of disease through international travel and commerce. They are mandated to oversee health and safety aspects of imports and exports.

Roles in handling of imports

- 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 the health of consumers.
- Issuance of the import health certificate for each consignment of commodities for human consumption.



1.6.19 Radiation Protection Board

The Board is mandated with enforcing compliance with the Radiation Protection Act in all practices in Kenya.

Roles in handling of imports

- License and renew licenses for any person who owns, purchases, acquires, imports, manufactures, sells or deals in, stores, uses, disposes of or exports any kind of irradiating device or radioactive material or any other source of ionizing radiation.
- To extend or refuse to extend any licences issued and to impose any necessary conditions on a licence so granted;
- To keep a register of the owners of irradiating devices, radioactive materials and other sources of ionizing radiation imported into or manufactured in Kenya and of premises licensed to dispose of radioactive waste;
- Tracking irradiating devices and radioactive material imported or manufactured locally.



1.6.20 Anti-Counterfeit Authority

The Authority's mandate to combat counterfeiting and any trade dealings in counterfeits.

Roles in handling of imports

- Record the intellectual property rights of all products imported into the country;
- Seize any counterfeit products imported into the country; and
- Exercise police and custom powers to combat trade in counterfeits.



1.6.21 Kenya Wildlife Service

The Service regulates the importation of wildlife species, specimen and products of a wildlife species. The Service issues an import permit for each consignment containing such commodities. The Service collaborates with KEPHIS (in the case of plant material) and the DVS (in the case of animal materials.)



1.6.22 National Police Service

The police have power to arrest any parties on suspicion of conducting an offence. The police also support the other state agencies in the performance of their duties especially where intelligence is received of ongoing commission of an offence. The police also have the mandate of maintaining law and order within the ports of entry.



1.6.23 Nursing Council of Kenya

The council is required to maintain the standards of nursing commodities in Kenya. The Council grants import licences for nursing commodities prior to their entry into the country. The licence is specific with regard to the nursing commodity and person to whom it is issued.



1.6.24 Kenya Medical Laboratory Technicians and Technologists Board

The Board is tasked with licensing and regulating the business and practice of registered laboratory technicians and technologists. The Board is responsible for validation of equipment and reagents used by medical laboratories. Validation is the process of authentication undertaken by the Board or its appointed agents for the purposes of confirming the quality of medical laboratory reagents and equipment by performing tests to confirm the information provided by the manufacturers relating to their precision, linearity, specificity, sensitivity and accuracy in the description of the equipment, reagents and chemicals for use within medical laboratories in Kenya. The Board works closely with KEBS and PPB.



1.6.25 Directorate of Criminal Investigations

The DCI investigates serious crimes, collects and shares criminal intelligence with the relevant government agencies.



1.6.26 National Intelligence Services

The NIS is responsible for security intelligence and counterintelligence. The NIS gathers, evaluates and shares intelligence with the relevant government agency to safeguard and promote national security and interests.



1.6.27 National Environmental Management Authority

NEMA is the principal government agency for the implementation of all policies relating to environment. NEMA collaborates with KRA to enhance the capacity of customs officials and police to detect and prevent importation of misleadingly labelled and packaged hazardous wastes. NEMA controls the importation of Ozone Depleting Substances (ODS) through the issuance of import permits for ODS under strict conditions.



1.6.28 Kenya Fisheries Service

The KFS regulates the importation and exportation of fish and fish products. It issues import permits for the importation of fish and fish products. It works closely with the DVS and KWS. Further, the KFS also issues movement permits for the movement of fish and fish products within the country.



1.6.29 Veterinary Medicines Directorate

The Veterinary Medicines Directorate (VMD) is tasked with regulating the manufacture, importation, exportation, registration, distribution, prescription and dispensing of veterinary medicines and other animal health products in Kenya.



1.6.30 Office de Gestion de Fret Maritime de la Republique Democratique du Congo – OGEFREM DRC

OGEFREM is the office of Maritime Cargo Handling of the DRC. OGEFREM has stationed some officers in Mombasa who collect levies and clear goods which are on transit to DRC. They also issue a Certificate of Destination for goods on transit to DRC.

1.6.32 PVOC Agents

These are six (6) inspection companies that have been contracted by KEBS to undertake conformity assessment activities in the country of origin for products and vehicles being imported into Kenya (PVoC activities). They include Messrs Bureau Veritas, Cotecna, China Certification & Inspection (Group) Inspection Co. Ltd, Intertek International, SGS and QISJ. The PVoC activities include inspection, sampling, testing, sealing of full-load containers and issuance of COCs/ COIs/ CORs.²⁵

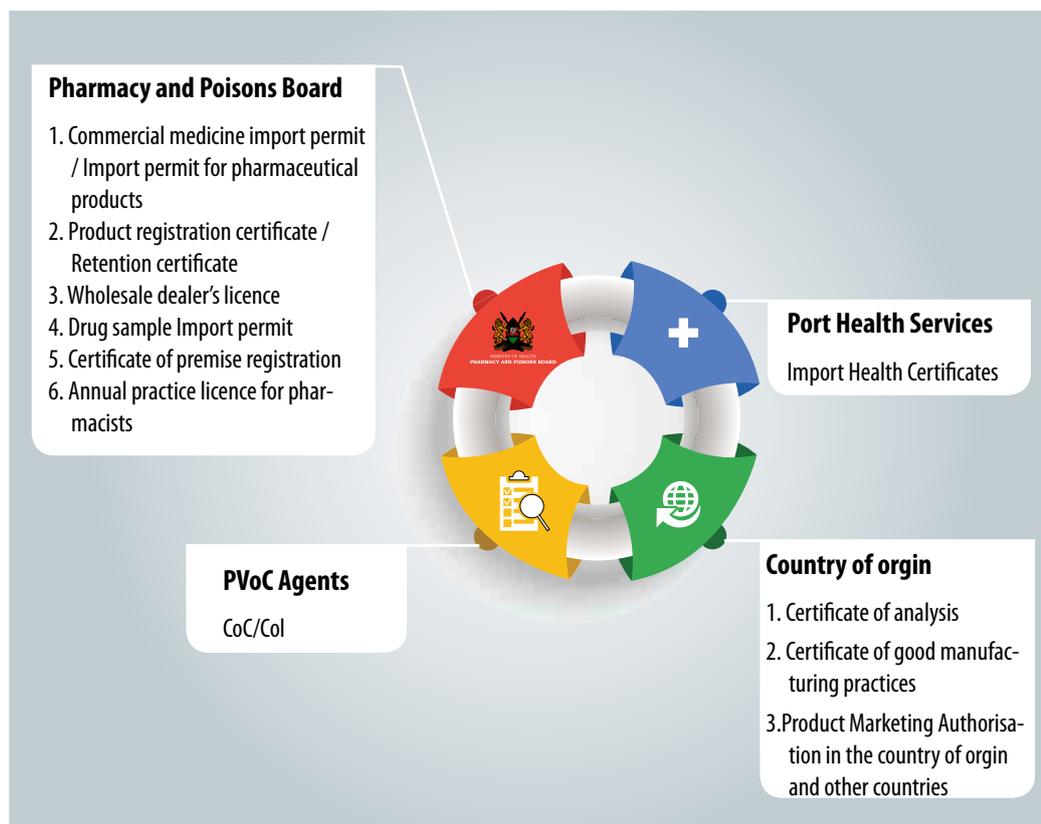
²⁵ Kenya Bureau of Standards, (2018), PVOC Program Operations Manual Retrieved from https://www.kebs.org/images/pdf/new/PVOC_MANUAL_v6_16th_April_2018.pdf

1.7 Points of Overlap in the Importation Process of some regulated products

As demonstrated above, numerous government agencies are involved in the process of importation of various regulated goods into Kenya. Due to lack of co-ordination amongst the agencies, numerous certificates and permits are required in order to import most of the regulated goods. This ultimately increases the cost and time for documentary compliance. Since most of these permits serve the same purpose, for example to ensure that the products are safe for human consumption, there is need to streamline and ultimately do away with some of these permits in order to make the importation process more efficient. The operationalization of enriched CoCs would be a positive step towards streamlining the importation process and eliminating the duplication of roles.

The figure below show the points of overlap in the documentary requirement for the importation of pharmaceutical products. A detailed list of the requirements for the importation of some regulated products is provided in Annexure 1 of this document.

Points of Overlap in the Issuance of Import Permits for Pharmaceutical Products



STANDARD OPERATING PROCEDURES

2 CHAPTER



SOPs for the Inspection and Verification of Imports at the Ports of Entry

SOP 1-Pre-Shipment - March 2020

PROCESS	ACTIVITIES	TIME-LINES	RESPONSIBLE PARTY	CHALLENGES	RECOMMENDATIONS
Importer registration for regulated goods ¹			Dependent on the type of goods as per Annexure 1 of this document.	Overlap in some of the roles played by different agencies.	Collaboration by agencies. Harmonisation of laws to prevent duplication of roles.
Registration on the Integrated Customs Management System	<ul style="list-style-type: none"> • A representative of the importer shall have to attend a training by KRA on the use of the iCMS before they are granted a user name and login password. • KRA occasionally holds the training and invites interested parties. • An importer may also express interest and depending on the availability of KRA officials to conduct the training, a special training may be held for the specific importer. • Where none of the company's officials has been trained on the iCMS, then the company must procure the services of a licensed clearing agent. 	1 day	KRA	Lack of awareness of the KRA training calendar	The trainings timelines and locations should be publicized more to ensure greater participation by individual importers. KRA should avail more information regarding the iCMS system on its website or the Infotrade website, such as a manual or the relevant KRA contact persons for any iCMS related issues.
Registration on the Kenya Electronic Single Window Systems	<ul style="list-style-type: none"> • The KESWS is managed by KENTRADE. • Interested importers make a request online for login credentials. • KENTRADE assigns a unique username and password for the importer. 	Immediate	KENTRADE Clearing agents Importers Various licensing bodies such as PPB, AFA, KEPHIS etc	Lack of integration with EGMS means that importers of excisable goods have to register on two different systems Budgetary constraints in the implementation of the Window (due to these constraints, KENTRADE introduced fees for the use of the Single Window System though these fees are currently suspended)	The KRA should consider including the excise function in the iCMS to enable importers who import excisable goods to use one system. The government should adequately fund KENTRADE/devise ways for KENTRADE to raise funds without increasing the cost of doing business.
				Overlapping mandates of government agencies.	The agencies which have overlapping mandates should collaborate in order to reduce the processing time for users for example by signing memoranda of understanding/service level agreements. Review of enabling laws of those agencies to remove the overlapping mandates.

PROCESS	ACTIVITIES	TIME-LINES	RESPONSIBLE PARTY	CHALLENGES	RECOMMENDATIONS
Identify the supplier and the goods Import Declaration Form lodgment and Processing	<ul style="list-style-type: none"> The importer shall then source the goods to be imported and enter into the necessary contracts. The importer shall obtain the pro forma invoice from the supplier. The Importer shall login into the iCMS and lodge the pro forma invoice and follow the prompt for the IDF. Details of the applicable Harmonized Commodity Description and Coding System (harmonized HS Code) of each product must be declared to enable the system detect whether the goods are regulated and require further approval. Where the goods to be imported are not regulated, the IDF shall be processed by the KRA on the iCMS and an approval issued. Where the goods to be imported are regulated, the submitted IDF will be forwarded through the KESWS to the relevant agency whose approval is required for the importation of the regulated goods (eg PPB for pharmaceuticals). Once the IDF is reviewed by the relevant agency has issued its approval, the approved IDF will be generated bearing the Unique Consignment Reference number 	N/A	Importer and Supplier	Lack of harmonization of the data requirements of the different agencies	The WCO recommends that a single window system should have harmonized regulatory declarations so that users will not have to duplicate information.
				Lack of understanding of the system by some stakeholders	KENTRADE can develop e-learning modules to enable stakeholders to better understand the system, for example the Singapore Single Window System has e-learning modules.
				Dependent on the parties	Dependent on the parties.
				Knowledge of the applicable version of the HS Code.	KRA in conjunction with the sector regulators should train importers on the applicable version of the HS Code in use to eliminate instances of misdescription of goods.

PROCESS	ACTIVITIES	TIME-LINES	RESPONSIBLE PARTY	CHALLENGES	RECOMMENDATIONS
Pre-Export Verification of Conformity to Standards (PVoC)*	<ul style="list-style-type: none"> Upon receipt of the approved IDF, the importer shall appoint an authorized PVoC agent at the country of origin to inspect the goods. PVoC agents are authorized by KEBS to conduct inspection to ensure that the goods conform to Kenyan Standards. The inspection is conducted in accordance with set Kenyan Standards as per the respective HS Code outlined in the IDF. Upon completion of the inspection, the PVoC agents shall issue a CoC where the goods conform to the standards. 	3 weeks	PVoC authorized agents	<p>Lack of information on the relevant standards and exemptions by importers.</p> <p>Collusion of PVoC agents and some importers to permit the importation of substandard goods.</p> <p>Lack of clear directives on the PVoC program (re-introduction of 100% destination inspection).</p>	<p>Sensitization programs by KEBS to enable the importers understand the PVoC program.</p> <p>Strictness in the contracting of PVoC agents and immediate revocation of licences for those found colluding with importers.</p> <p>KEBS should publish an updated list of the goods subject to PVoC and those subject to 100% destination inspection bi-annually.</p>
Shipping arrangements	<ul style="list-style-type: none"> Upon receipt of the CoC, the importer shall then arrange for the cargo to be shipped to Kenya. All cargo destined to Kenya must be insured. The importer should have the following documents before the cargo leaves the country of origin: <ol style="list-style-type: none"> Final commercial Invoice, Packing list, Pro forma invoice, Approved IDF, Relevant permit for regulated goods, Bill of Lading, Insurance cover, The CoC, an ISM when applicable 	<p>Partial manifests should be released 7 days before the ship's arrival.</p> <p>Final manifests should be lodged and approved at least 48 hours before the vessel's ETA.</p>	Importer, Supplier KRA, Shipping lines	<p>This is subject to agreement by parties.</p> <p>Delays in approval of Manifests by KRA.</p>	<p>The process is made more efficient if each party performs its obligations under the Shipping Arrangements.</p> <p>Advance release of manifests by the shipping lines.</p> <p>KRA should approve manifests within the recommended timelines.</p>

**As per The Standards (Verification of Conformity to Standards and Other Applicable Regulations of Imports) Regulations, 2020²⁶ all goods subject to PVoC procedures which shall not have been inspected at the port of origin shall be subjected to destination inspection at a fee equivalent to five per centum (5%) of the approved customs value of the goods. In addition to the fee, the importer shall execute a security bond in favor of KEBS equivalent to the fee.*

SOPs for the Inspection and Verification of Imports at the Ports of Entry

SOP 2-Pre-Arrival of Cargo - March 2020

PROCESS	ACTIVITIES	TIMELINES	RESPONSIBLE PARTY	CHALLENGES	RECOMMENDATIONS
Entry Declaration, payment of taxes and processing	<ul style="list-style-type: none"> · The importer's agent will lodge the entry in the KRA iCMS. · The agent will then receive the customs declaration amount which should be settled by the importer. · Once the customs has been paid, the evidence of payment is sent to the agent. · All the relevant importation documents shall be submitted to the customs official who will prepare the consignments' file and share it with the KPA officials. · For accelerated clearance or clearance of cargo before arrival, importers should apply under the AEO Program. · The AEO guarantees: <ol style="list-style-type: none"> a Preferential customs facilitation when clearing. b Reduced time and cost at points of service. c Customs certified secured and reliable trading partner when trading. 	30 minutes (importers should ensure that tax is paid promptly to avoid delays).	KRA and KPA	Underutilization of the AEO program (more importers and agencies should be recruited to join the program).	<p>The KRA should sensitise the private sector on the benefits of the AEO program so that more entities can apply to be enlisted.</p> <p>The WCO recommends that countries can enter into agreements for mutual recognition of AEO authorisations. Kenya can therefore consider entering into such agreements with other countries.</p>

SOPs for the Inspection and Verification of Imports at the Ports of Entry

SOP 3-Verification and other enforcement intervention3 -March 2020

PROCESS	ACTIVITIES	TIMELINES	RESPONSIBLE PARTY	CHALLENGES	RECOMMENDATIONS
Verification	<ul style="list-style-type: none"> · Once the cargo has arrived at the port of entry, it will be received by a KPA official (who already has the consignment's file) and placed in a shed/warehouse (designated CFS). · Allocation of a verification officer is done via iCMS. · The importer's agent should be present with all the original importation documents. · The customs officer with the corresponding consignment file will be the first contact to verify the cargo. · The customs officer will confirm that the goods had been correctly declared and that the duty paid is correct. · The verification may entail a simple scan or the physical verification of the goods. · Where the correct duty was not paid, an uplift may be issued and the importer shall be required to pay additional duty. · Release of the consignment by KRA. 	<p>24 hours</p> <p>Any non-compliant documents should be rejected within 3 hours of the verification process to enable compliance.</p>	<p>Importer/Clearing Agent</p> <p>KRA</p>	<p>Image analysis delays at ICDN gates</p> <p>Lack/Non-publication of SOPs that clearly detail the time frame of various activities during inspection</p>	<p>Operationalization of the rail scanner</p> <p>Strict adherence by KRA to the allocated times for verification at ICDN.</p> <p>This may be done by creating internal supervisory mechanisms including implementing the use of time stamps by the staff of the various agencies in order to ensure compliance with the 24 hour directive.</p> <p>All compliant goods should be cleared within the two day timeframe allocated for efficient cargo inspection and verification at ICDN.</p> <p>Failure to which, the importer shall not be liable for storage charges.</p> <p>Additionally, a complaints department consisting of staff from the ministry of industry and trade should play an oversight role at the ports and ICDN to ensure that these strict timelines are met by the agencies.</p> <p>Automation of clearance processes and adoption of online releases by KRA</p>

PROCESS	ACTIVITIES	TIMELINES	RESPONSIBLE PARTY	CHALLENGES	RECOMMENDATIONS
				<p>Non adherence of 24-hour operations guideline issued by the Head of Public Service by KRA</p>	<p>Strict adherence to the 24 hour directive including the hiring of more staff members to manage the 24 hour operations.</p> <p>This may be done by creating internal supervisory mechanisms including implementing the use of time stamps by the staff of the various agencies in order to ensure compliance with the 24 hour directive.</p> <p>All compliant goods should be cleared within the two day timeframe allocated for efficient cargo inspection and verification at ICDN.</p> <p>Failure to which, the importer shall not be liable for storage charges.</p> <p>Additionally, a complaints department consisting of staff from the ministry of industry and trade should play an oversight role at the ports and ICDN to ensure that these strict timelines are met by the agencies.</p>
				<p>Duplicated procedures for verification by KPA and KRA with regards to scanning to know the quantity of imported goods for tax purposes</p>	<p>KPA to scan all cargo on arrival at ICDN using rail scanner to reduce the need for increased number of KRA physical verifications</p>

PROCESS	ACTIVITIES	TIMELINES	RESPONSIBLE PARTY	CHALLENGES	RECOMMENDATIONS
Inspection	<ul style="list-style-type: none"> Once the KRA have verified that proper tax has been paid, the consignment file shall be handed over to KEBS. The importer/agent shall submit the documents for verification by KEBS. If the COC shows compliance, a KEBS release is issued. If the COC is non-compliant, the consignment is subjected to physical inspection. Depending on the PVoC certification of the cargo, KEBS shall conduct its inspection. Upon completion of the inspection, the consignment file will be returned to KRA and KPA if no other agency intervention is required. Importers of rejected goods shall be expected to re-ship the goods back to the country of origin at their own cost. All rejected goods not re-shipped within 30 days from the date of rejection shall be destroyed by KEBS at the expense of the importer. 	<p>If the consignment is compliant, 24 hours*</p> <p>If the consignment is non-compliant a certificate of rejection should be issued to the importer and copied to KRA.</p> <p>Importers of rejected goods shall be expected to re-ship the goods back to the country of origin at their own cost within 30 days.</p>	<p>Importer/Clearing Agent</p> <p>KEBS</p>	<p>Lack of access to the consignment file by other government agencies.</p> <p>Non-adherence to PVoC program</p>	<p>Other government agencies should be allowed access to the consignment file at this point to monitor imported cargo and determine risk levels the country is exposed.</p> <p>Where other government agency intervention is necessary, the accountability form should be filled and KEBS and KPA notified for planning of the inspection by the other agency.</p> <p>Recognition of CoCs issued by PVoC agents to avoid unnecessary verifications and duplication of services by KEBS.</p> <p>Enriched CoCs, which incorporate all government agencies requirements and issued by agents contracted by KEBS, will be the only document to be relied upon for verification. Enriched CoCs should also confirm the import classification of goods to avoid additional processes such as partial importation approval / tariff ruling.</p> <p>Penalize non-compliant CoCs service providers by making it mandatory to provide professional liability insurance equivalent to 1% of the cargo value.</p> <p>Confirmation should be provided to inspecting agencies that ISO certification is not the only acceptable quality check, as ISO certification does not apply to all imported items. Other quality checks include: IEC International Standards and African Standards developed by ARSO including the Eco Mark Africa (EMA).</p>

PROCESS	ACTIVITIES	TIMELINES	RESPONSIBLE PARTY	CHALLENGES	RECOMMENDATIONS
		<p>All rejected goods not re-shipped within 30 days from the date of rejection shall be destroyed by KEBS at the expense of the importer.</p> <p>Importers of goods destroyed by KEBS shall forfeit their bonds.</p>		<p>Lack of relevant knowledge and skill in checking spurious marks (counterfeit trade marks)</p>	<p>Recognition that the issuance of CoCs/ CoIs/ CoRs confirms both the quality and the HS Codes (import classification) of imported cargo. This will eliminate the invalidation of import classifications at the ports/ point of entry by customs officials. It will also reduce delays in customs clearance and eliminate additional costs for importers since they will not have to carry out additional processes prior to importation (such as partial importation approval / tariff ruling) in order to establish the import classification of the goods.</p> <p>To effectively curb trade in illicit trade, especially through trade in counterfeits, it is necessary for ACA officials to be allowed to work hand in hand with KEBS officials before any cargo is cleared. In its inspection, KEBS is only concerned with the standards of the goods whereas ACA will look into the aspect of counterfeiting.</p> <p>KEBS should implement the use of enriched CoCs in order to make the process more effective.</p> <p>Additionally, ACA should carry out its inspections within the two (2) day time limit allocated for efficient cargo inspection and verification at ICDN.</p> <p>KRA and KEBS should have a linked system such that the type of cargo and the inspection to be undertaken is identified beforehand to avoid unnecessary delays. KEBS should have the relevant work force/ human resource to ensure that upon receipt of the consignment file, swift inspection is done.</p>
				<p>Lack of collaboration between KEBS and the various agencies leading to duplicated processes</p>	

PROCESS	ACTIVITIES	TIMELINES	RESPONSIBLE PARTY	CHALLENGES	RECOMMENDATIONS
				Manual processes by KEBS	Automate KEBS clearance process and adoption of online releases instead of the current manual process.
				Non adherence to 24-hour operations guidelines issued by the Head of Public Service by enforcement agencies	KEBS to adhere to 24 hour operations including the hiring of more staff members to manage the 24 hour operations. This may be done by creating internal supervisory mechanisms including implementing the use of time stamps by the staff of the various agencies in order to ensure compliance with the 24 hour directive.
Other intervention	· For regulated goods, the relevant government agency may have to conduct further inspection before the goods are released.		PPB, KWS, DVS etc	Lack of proper coordination between the officials of the government agencies with different enforcement mandates.	Prior identification of the goods before their arrival is necessary and notification sent to all relevant agencies whose intervention is required. As per the directive by the Head of Public service, these agents should then file the accountability form in good time. Government agencies delaying processes beyond agreed timelines to give rebates of 1% of the value of the goods

SOPs for the Inspection and Verification of Imports at the Ports of Entry

SOP 4-Verification and Inspection of Goods Arriving without CoC - March 2020

PROCESS	ACTIVITIES	TIMELINES	RESPONSIBLE PARTY	CHALLENGES	RECOMMENDATIONS
Presentation of lodged customs declarations	<ul style="list-style-type: none"> All importers/clearing agents are required to present lodged customs declarations (i.e. declarations awaiting Customs approval) to KEBS at the relevant port of entry. 	Same day as arrival of cargo	importers/ clearing agents	Facilitates non-adherence to PVoC program as importers may still have the goods inspected in the country.	Recognition of PVoC in issuance of Certificates of Conformity (COCs) to hasten processes at ports/points of entry.
Payment of destination inspection fee	<ul style="list-style-type: none"> Payment of destination inspection at a fee equivalent to 5% of the declared customs value to KEBS and execution of a bond of the same amount in favour of KEBS 	Same day as arrival of cargo	importers/ clearing agents	Facilitates non-adherence to PVoC program as importers may still have the goods inspected in the country.	Penalty may be increased to curb this practice, alternatively these goods should be rejected and shipped back to the country of origin at the importers cost.
Hundred percent (100%) verification	<ul style="list-style-type: none"> Undertaking 100% verification at the port of entry. Generation of an inspection report. Drawing samples for analysis and reference Submitting the samples to KEBS laboratories for analysis against the relevant Kenya standards or approved specifications 	4 days	KEBS Inspectors	Lack of enough resources (man power, laboratories, other testing equipment) for the 100% inspection.	A special unit of KEBS should be established to inspect consignments arriving without CoC. The unit may also consist of other government agencies which carry out inspection of goods for industry applicable standards eg PPB, KEPHIS, DVS etc
Issuance of Certificate of Compliance (CoC)	<ul style="list-style-type: none"> If consignment shows compliance, a Certificate of Compliance (CoC) will be issued to KRA (Customs Authority) for them to process and approve the declaration 	3 days	KEBS KRA	Lack of manpower by KEBS inspectors to implement destination inspection	Hiring of more inspectors to conduct the destination inspection.
Presentation of customs approved entries	<ul style="list-style-type: none"> Importers/ Clearing agents of compliant goods shall present customs approved entries to KEBS Officers at the port of entry/ICDN for final release. This can only be done if the declared values and customs approved value are same. If there is any value uplift by Customs, then the importer/clearing agent shall make an additional payment of a fee equivalent to 5% destination inspection fee on the difference between the approved value and the initially declared value. 	1 day after issuance of CoC	Importers/ Clearing agents KEBS	Malfunctioning of online systems through which custom entries are presented	Ensuring online systems are regularly maintained and there is network redundancy to avoid any downtime.

SOPs for the Inspection and Verification of Imports at the Ports of Entry

SOP 5-Destination Inspection and Clearance of Consolidated Goods - March 2020

PROCESS	ACTIVITIES	TIMELINES	RESPONSIBLE PARTY	CHALLENGES	RECOMMENDATIONS
Destination Inspection	<ul style="list-style-type: none"> · KRA shall verify and approve the House Manifest to allow the Consolidator/Consignee or their clearing Agent to prepare the individual Customs Entries using the HBL. · The goods shall be subjected to the clearance process by the KEBS and KRA and any other requesting agency. · Goods identified as high risk by the PVoC Agent in the Col and not tested, shall be sampled by KEBS for tests at a prescribed fee. · Low risk goods meeting general requirements and accompanied with Col, shall be cleared by KEBS. · Imported goods shall undergo the prescribed Customs procedures and verification on arrival including inspection where necessary by other government agencies. · The consignment will be scanned and where there are discrepancies, the goods shall be subjected to physical verification. · High risk goods targeted for testing at destination shall be conditionally released and deposited at the registered warehouse belonging to the Consolidator until a satisfactory test report is issued by KEBS. · Where the risk can lead to contamination or spread of diseases or pests, the consignment shall be held at a designated place at the port of entry. 	3 days	KRA KEBS Requesting Agency	Non-adherence to the 24-hour operations guidelines issued by the Head of Public Service by KRA and KEBS.	<p>Adherence of 24-hour operations by KRA and KEBS including the hiring of more staff members to manage the 24 hour operations.</p> <p>This may be done by creating internal supervisory mechanisms including implementing the use of time stamps by the staff of the various agencies in order to ensure compliance with the 24 hour directive.</p>

PROCESS	ACTIVITIES	TIMELINES	RESPONSIBLE PARTY	CHALLENGES	RECOMMENDATIONS
	<ul style="list-style-type: none"> · Where high risk goods subjected to destination tests fail to conform to the relevant Standards, they shall be rejected. Such goods shall be re-shipped or destroyed at a cost to the Consolidator/Consignee. · Where goods subjected to destination inspection fail to comply with the relevant Standards in non-critical parameters, they shall be subjected to rectification/rework as may be applicable. · Any non-compliant items/goods within a consolidated consignment shall be deposited in the Customs Warehouse pending resolution to facilitate release of compliant items/goods. 				

SOPs for the Inspection and Verification of Imports at the Ports of Entry SOP 6-Cargo Clearance - March 2020

PROCESS	ACTIVITIES	TIMELINES	RESPONSIBLE PARTY	CHALLENGES	RECOMMENDATIONS
KRA release	<ul style="list-style-type: none"> Once the inspection of the cargo is completed, the consignment file is handed over to KRA for final review and release. 	30 minutes	KRA and agent	Inordinately long clearing times	Adherence of 24-hour operations by KRA and KEBS
KPA release	<ul style="list-style-type: none"> The agent is then tasked with payment of the port charges and obtaining the KPA release. The cargo is then released to the importer's agent. 	30 minutes Note: All imported cargo that is not declared and/or removed from the Port of Mombasa or the ICDs within 21 days from the date of discharge of the vessel will be transferred to a designated customs controlled area awaiting disposal in accordance with EACCMA, 2004.	KPA and agent		Automation of manual processes

INTERNATIONAL BEST PRACTICES AND RECOMMENDATIONS

3 CHAPTER



3.0 International Best Practices and Recommendations

There are a number of indicators that are used to measure the effectiveness of importation procedures. These indicators are collected from the research of organisations such as the World Bank, the WTO, WCO, UNCTAD, WEF and IMO among others.

In the WCO Performance Management and Sustainability Report, the following are the suggested measures of tracking performance:²⁷

1. Total time and cost of preparing the bundle of documents that will enable completion of the international trade;
2. Total time and cost of obtaining, preparing, processing, presenting and submitting documents.
3. Time and cost compliance for a shipment to cross the border for inspection and clearance due to Customs and other government agency regulations.
4. Total number of documents required;
5. Level of automation, that is, the extent to which data and records are handled electronically; whether manual documents are requested despite electronic handling.
6. Time and cost of border compliance, that is, where, and in how many places, border compliance procedures take place; who requires and conducts the procedures; and the probability that inspections will be conducted.

The World Bank Logistics Performance Index uses the following indicators:²⁸

1. The efficiency of customs and border management clearance;
2. The quality of trade and transport-related infrastructure;
3. The ease of arranging competitively priced international shipments;
4. The competence and quality of logistics services;
5. The ability to track and trace consignments; and
6. The frequency with which shipments reach consignees within the scheduled or expected delivery time.

The WEF report on Global Competitiveness is a report on the overall competitiveness of a country and it has indicators of performance across different sectors²⁹. The indicators which are relevant for this study are as follows:

1. Border clearance efficiency: Assessing the effectiveness and efficiency of the clearance process by customs and other border control agencies in the eight major trading partners of each country.
2. Efficiency of seaport services: Assessing the frequency, punctuality, speed and price of seaport services.

²⁷ World Customs Organisation Annual Report 2018-2019 http://www.wcoomd.org/-/media/wco/public/global/pdf/media/annual-reports/annual-report-2018_2019.pdf

²⁸ <https://lpi.worldbank.org/>

²⁹ World Economic Forum Global Competitiveness Report 2019 http://www3.weforum.org/docs/WEF_TheGlobalCompetitivenessReport2019.pdf

In the Mombasa Port and Northern Corridor Community Charter³⁰, the indicators used to measure the performance of the port of Mombasa are those used by UNCTAD, which include:

1. Waiting times at outer anchorage which is measured by the average time difference in hours from the time the vessel enters the port area to the time of berthing. It is a component of ship or vessel turnaround time;
2. Ship turnaround time, which is the duration of a vessel's stay in port and is calculated from the time of arrival to the time of departure;³¹
3. Berth occupancy/productivity which is measured by the average of the gross moves (on-load, off-load and repositioning) per hour for each vessel call recorded; and
4. Cargo dwell time which is measured by the time elapsed between cargo being unloaded from a ship until the cargo leaves the port gates.³²

The following countries have been selected to measure the performance of the Mombasa Port and Northern Corridor based on their aggregated LPI score and the WEF Global Competitiveness ranking. Additionally, the ports in these countries are linked to international transport corridors, that is, corridors that service an international hinterland. The countries are:

1. Germany;
2. Singapore;
3. Australia;
4. United Arab Emirates; and
5. South Africa.

According to the WEF Global Competitiveness Report of 2019, Germany had a score of 4.1 (out of a possible 5) for its border clearance efficiency, which is the highest score for that indicator. Singapore had a score of 6.5 (out of a possible 7) for its efficiency in seaport services (also the highest score for that indicator). Australia and the UAE have aggregate LPI scores of 3.7 and 3.66 respectively in relation to their efficiency of the clearance processes, that is, speed, simplicity and predictability of formalities by border control agencies, including customs. In Africa, South Africa is ranked highest (number 29) in the WEF Global Competitiveness Report. According to the World Bank Aggregated Logistics Performance Index for the years 2012-2018, South Africa is the highest ranked African country in relation to all the six dimensions of trade including border clearance efficiency (3.29 out of 5) and timeliness of shipments in reaching their destination within the scheduled or expected delivery time efficiency (3.85 out of 5).³³ In relation to seaport services South Africa has a score of 4.5 out of a possible 7.³⁴

In comparison to the selected countries, Kenya has an Aggregated LPI rank of 63.³⁵ Further according to the WEF Global Competitiveness Report of 2019, Kenya has a score of 2.7 out of a possible 5 for border clearance efficiency and 4.2 out of a possible 7 for efficiency in seaport services.³⁶

30 <https://www.kpa.co.ke/Documents/Mombasa%20Port%20Community%20Charter.pdf>

31 See the World Bank, Transportation, Water and Urban Development Department, Port Performance Indicators by Kek Choo Chung, December 1993 Transport No. PS-6 available at <https://docplayer.net/20807379-Port-performance-indicators-kek-choo-chung.html>. The Author suggests since the duration of a vessel's stay in port is influenced by the volume of cargo that it holds, a more useful measure of performance is the tonnage handled per day or hour that the vessel is in port.

32 The Mombasa Port and Northern Corridor Community Charter, 2018-2024.

33 <https://lpi.worldbank.org/international/aggregated-ranking>

34 http://www3.weforum.org/docs/WEF_TheGlobalCompetitivenessReport2019.pdf

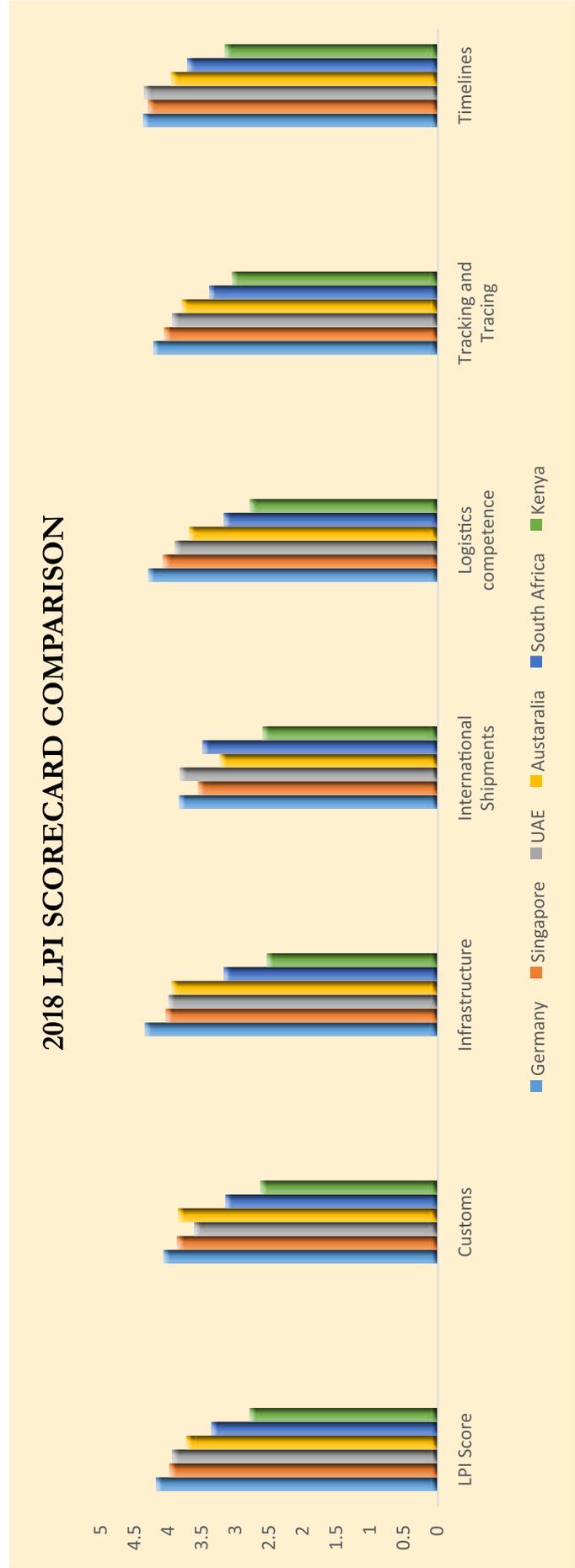
35 <https://lpi.worldbank.org/international/aggregated-ranking>

36 http://www3.weforum.org/docs/WEF_TheGlobalCompetitivenessReport2019.pdf

The table below is a comparison of the LPI rankings of the above countries for the year 2018:

COUNTRY	LPI RANK	LPI SCORE	CUSTOMS	INFRASTRUCTURE	INTERNATIONAL SHIPMENTS	LOGISTICS COMPETENCE	TRACKING AND TRACING	TIMELINES
Germany	1	4.2	4.09	4.37	3.86	4.31	4.24	4.39
Singapore	7	4	3.89	4.06	3.58	4.1	4.08	4.32
United Arab Emirates	11	3.96	3.63	4.02	3.85	3.92	3.96	4.38
Australia	18	3.75	3.87	3.97	3.25	3.71	3.82	3.98
South Africa	33	3.38	3.17	3.19	3.51	3.19	3.41	3.74
Kenya	68	2.81	2.65	2.55	2.62	2.81	3.07	3.18

Below is a graphical representation of the scorecard:



Despite the improvements in the last few years, Kenya still has a long way to go in streamlining its logistics procedures.

According to a Report of the joint technical committee on the improvement of efficiency and cost effectiveness of transportation of cargo using the SGR, it takes an average of 42.5 hours (1.8 days), with a worst time of 288 hours (12 days), for movement of imported cargo from a docked vessel to loading at the rail side. Thereafter, it takes an average of 20 hours for marshalling and transportation of the cargo to the ICDN³⁷.

At the ICDN, it takes an average of 134 hours (5.6 days), with a worst time of 552 hours (23 days), for customs processing and release of imported cargo. It then takes an additional 156 hours (6.5 days), with a worst time of 792 hours (33 days) for final Customs release and Cargo collection.³⁸

This chapter looks at some of the best practices from the selected countries that Kenya can borrow from to improve its competitiveness and efficiency in the handling, inspection, verification and clearance of imported cargo at the ports of entry. These recommendations are in addition to those specifically suggested under Chapter 2 to address specific challenges in the current processes.

3.1 Use of technology

Germany has started practical testing on the use of blockchain to release containers at the Port of Hamburg. Germany is expected to trigger further process steps should blockchain technology gain acceptance. Blockchain technology would ensure that transactions are stored in various servers with the participants, and not centrally with the port authority in a database. The use of Blockchain technology would enable data on release to be stored more securely and distributed to those entitled.³⁹

In addition to the use of blockchain technology, Germany is already using the 5G wireless communication technology in the port of Hamburg. This has increased the efficiency of port communication translating into the increase in the flow of traffic and goods.⁴⁰ Germany also utilizes an Import Message Platform (IMP), which is an intelligent platform that regulates the entire import process from a vessel's arrival until the delivery of goods to the importer. The platform offers forwarders an automation function enabling them to speed up their customs processes.⁴¹

Digitalization and the use of intelligent technologies such as artificial intelligence (AI), Cloud Computing, Smart Contracts, and the Internet of Things (IoT) will facilitate the automation of terminal processes at the Port of Mombasa. The use of intelligent technologies will also improve the PVoC program in Kenya, as it will ensure seamless data sharing between PVoC Agents and the relevant authorities tasked with ensuring the efficient importation of goods. It will also ensure the timely payment of taxes and duties and collection of cleared cargo from the ICDN by importers / traders. This is because such technologies would ensure a common database for all relevant parties. It is therefore important for Kenya to take steps to increase digitization and the use of intelligent technologies at the ports/points of entry in order to increase Kenya's global competitiveness.

KenTrade may also use such intelligent technologies to ensure that the KESWS regulates the entire import process from a vessel's arrival until the delivery of goods to the importer.

Additionally, technology has also been used to facilitate the remote inspection of cargo. In Germany, SGS, which is tasked with the inspection, verification, testing and certification of cargo, uses a mobile application that enables customers, for instance, to conduct warehouse inspections themselves. The inspector responsible monitors the inspection through a live feed on a monitor, finally accepting the goods. The estimated percentage of time saved is between 30 and 50 percent.⁴²

³⁷ Report Of The Joint Technical Committee On The Improvement Of Efficiency And Cost Effectiveness Of Transportation Of Cargo Using SGR, 2018

³⁸ Ibid

³⁹ Retrieved from https://www.hafen-hamburg.de/assets/files/magazin/poh12020_en/index.html#p=2

⁴⁰ Retrieved from <https://www.hafen-hamburg.de/en/press/media/brochure/be-amazed-about-the-port-of-hamburg---38065>

⁴¹ Retrieved from https://www.hafen-hamburg.de/assets/files/magazin/poh42018_en/index.html#p=17

⁴² Retrieved from https://www.hafen-hamburg.de/assets/files/magazin/poh42018_en/index.html#p=37

On 1st April, 2020, and in line with the measures undertaken to curb the spread of the Covid-19 pandemic, KEBS implemented the use of digital remote inspection of cargo. This was due to challenges faced in accessing factories and ports of loading for imported goods. This program is however set to run for three (3) months only. We recommend that KEBS should use this opportunity to monitor the effectiveness of remote inspections in Kenya. Should this program be successful, agencies such as the PCPB that issue Premise licences and KEBS should fully utilize remote inspection of cargo in order to quicken the process of issuing such licenses.

DP World, the cargo logistics company that manages the port operations in the UAE, uses technology (BoxBay Storage) to ease the storage, sorting, access and retrieval of containers. Through an automated system, retrieval of containers is made possible without the need to shuffle containers.⁴³ The technology allows port operators direct access to any sea container, overcoming the need to “reshuffle” containers whenever one is needed.⁴⁴

It is critical that the Government of Kenya considers investing in the said technologies. An automated storage system (such as the BoxBay storage) will allow for greater capacity at the Port. Blockchain technology has been globally recognized as a potentially powerful tool for tracking and managing transactions.⁴⁵ It is therefore important for KPA and the relevant agencies to implement the use of such technology to enhance the cargo clearance and handling processes in Kenya.

The UNCTAD, in its report on maritime transport for 2019, stated that automation of processes will contribute significantly to increasing efficiency.⁴⁶ Additionally, the Report of the Kenya Taskforce on Blockchain Technology and Artificial Intelligence pointed out that Kenya can implement blockchain technology in its importation procedures in order to reduce the delays and costs associated with the importation process.⁴⁷

The government should therefore invest in the requisite technology to automate manual processes and to streamline other import procedures. As stated above, a good starting point would be the use of blockchain technology at the ports of entry. The Kenya Taskforce on Blockchain Technology and Artificial Intelligence has made various recommendations in this regard. Automation and use of technology are key measures in reducing the cargo dwell time, which is one of the major indicators of port performance.

3.2 Pre-Arrival Notifications

The Standard Operating Procedures for Container Terminals at the ports of Durban, Ngqura, Port Elizabeth and Cape Town have included a number of pre-arrival notification procedures before vessel arrival.⁴⁸

For example, at least twenty one (21) days prior to first vessel arrival, the Customer must provide the Terminal Operator with among others, the number of vessels in the Customer’s service, the names of those vessels and the technical data of those vessels intended to call at the Terminal. The customer must thereafter continue providing the required information at least fourteen (14) days prior to the estimated time of arrival, at least seven (7) days prior to the revised estimated time of arrival (if at all) and at least three (3) days prior to the revised estimated time of arrival (if at all).⁴⁹

In Germany, in order to avoid any delays and extra charges, masters of ships calling at the port of Hamburg are advised to contact the port authority and provide their Estimated Time of Arrival (ETA) data twelve (12) hours and finally one (1) hour prior to the arrival at the port, stating relevant details such as the Name of the vessel, Call sign and Destination. A different channel has been designated for captains of the ship to contact the port authority two (2) hours before the arrival of the vessel at Elbe light buoy.⁵⁰

43 Wadhwa P. DP World’s Gateway to the Future - Three logistic innovations set to disrupt the industry. (9th October 2019) Retrieved from <https://www.sme10x.com/technology/dp-worlds-gateway-to-the-future>

44 Dubai Media Office. DP World is set to disrupt global logistics industry. (9th October 2019). Retrieved from <https://www.emirates247.com/news/emirates/dp-world-is-set-to-disrupt-global-logistics-industry-2019-10-09-1.690130>

45 World Economic Forum. Shaping the Future of Technology Governance: Blockchain and Distributed Ledger Technologies. Retrieved from <https://www.weforum.org/platforms/shaping-the-future-of-technology-governance-blockchain-and-distributed-ledger-technologies>

46 The United Nations Conference on Trade and Development, Review of Maritime Transport 2019 https://unctad.org/en/PublicationsLibrary/rmt2019_en.pdf

47 Report of the Kenyan Taskforce on Blockchain and Artificial Intelligence <https://www.ict.go.ke/blockchain.pdf>

48 Transnet. (2018-2019). Standard Operating Procedures for Container Terminals. Retrieved from <https://www.yumpu.com/en/document/view/28622384/standard-operating-procedures-for-container-terminals-transanet>

49 ibid

50 ibid

In Kenya, importers are required to lodge the manifests before the arrival of the vessels. There is no prescribed time for this and some importers lodge the manifest after the ship has arrived at the port. Strict measures relating to the communication of a vessel's ETA should be implemented in Kenya. As recommended by the Joint Technical Committee on the improvement of efficiency and cost effectiveness of transportation of cargo using the SGR, manifests should be lodged within 48 hours prior to the arrival of the vessels and the notice of arrival lodged at least seven (7) days before a vessel's ETA⁵¹. This will ensure suitable planning by KPA officers and timely offloading of imported cargo from the vessel. KRA and KPA should come up with procedures, including penalizing shipmasters that do not lodge the manifests on time.

To manage container entry and departure from the port, a stack opening and closing period system should be utilised. The stack period is the period within which containers will be loaded onto or unloaded from the ship. The port or container terminal in conjunction with the vessel operator sets stack periods based on the ETA of the ship at a port. At the ICDN, KPA should also ensure strict adherence to the stack period in relation to offloading of cargo and transportation of empty containers that needs to be railed from the ICD to the port. Setting penalties for non-adherence to the stack period or non- acceptance of cargo that arrives at the port after the stack period will ensure adherence to the prescribed timelines.

3.3 Simplified documentation formalities

The South African Revenue Service (SARS) administers the customs department of South Africa. SARS offers a Single Administrative Document (SAD) to facilitate customs procedures.⁵²

Although the Government Circular OP/CAB 9/83A of 4th June 2019 which was aimed at operationalising and improving cargo logistics at both the ports of entry and the inland container depots in Kenya, ordered that Enriched Certificates of Conformity ("Enriched CoCs") be operationalized with effect from 30th June 2019, this is yet to be implemented. In December 2019, KEBS advertised tenders for the provision of enlarged PVoC inspection. This was aimed at empowering PVoC agents to inspect all goods including those regulated by other government agencies. However, the program was never implemented due to criticism by PVoC agents whose contracts had not yet expired. Further, KEBS appeared to have lowered the technical requirements for the new bidders. The use of Enriched CoCs has thus not yet been operationalized. In line with the directive, it is vital that KEBS implements Enriched CoCs in order to enable the consolidation of some processes as well as ensure overall efficiency in the process of importation of cargo into Kenya. Additionally, Enriched CoCs should also confirm the import classification of goods to avoid additional processes such as partial importation approval / tariff ruling by importers.

3.4 Collaboration and sharing of information by government agencies

Despite the use of the single window system, there is still duplication of roles and an overlap of duties amongst the government agencies involved in the importation process. In Annexure 1 to these Standard Operating Procedures, we have indicated the areas in which there is overlap in the functions of different agencies. For instance, an importer of beans is required to obtain an import health certificate from Port Health, plant import permit from KEPHIS and an import licence from the AFA Horticultural Crops Directorate. The purpose of all these documents is to certify that the beans being imported into Kenya are fit for human consumption.

The simplification of documentary requirements is one of the best practices which has reduced the time and costs of importation in other jurisdictions. The World Bank Report on Trade Logistics in the Global Economy states that cooperation among government agencies is important in trade facilitation.⁵³

Therefore it is important to eliminate such duplication of roles in order to reduce the documentary requirements with respect to the importation of cargo into Kenya. This will in turn reduce the time and costs of pre-clearance procedures. In the long run, the government should consider the amendment of the enabling laws of the agencies in order to eliminate the duplication of roles.

⁵¹ Supra note 33

⁵² <https://howtoexportimport.com/Import-Customs-procedures-in-South-Africa-8868.aspx>

⁵³ World Bank 2018 Connecting to Compete 2018: Trade Logistics in the Global Economy

3.5 Wholesome inspection of goods

In addition to the inspection of goods for conformity to health, safety and technical standards, the Australian Border Force (ABF) is allowed under Australian Law, to seize goods that infringe copyright, trade marks, protected Olympic expressions and related major sporting events indicia and images.⁵⁴

Following the government's directive through Circular OP/CAB 9/83A, once the enriched PVoC program is implemented, KEBS, through its PVoC agents, will be able ensure that the standards of all goods are inspected at the port of origin. The enriched CoC will also cater for the inspection that is conducted by other government agencies. The Port Health officials stationed at the port in turn shall ensure that the goods meet the applicable health standards. However, the use of enriched CoCs will eliminate re-inspection of goods by ensuring that the port health officials will not be able to inspect for counterfeit goods that infringe IP rights.

It is the role of the ACA to combat counterfeiting and the trade in counterfeit goods in Kenya⁵⁵. Up until June 2019, the ACA was stationed at the ports of Mombasa where it was involved in the inspection of imports for counterfeit goods. Pursuant to the presidential directive, ACA is one of the agencies that was removed from the port in a move which was meant to reduce the clearing time for goods.⁵⁶

The role of the ACA in relation to the inspection of counterfeit goods, spurious marks and pirated material is unique and is not performed by any of the Lead Agencies which are currently at the port (KPA, KEBS, KRA and the Port Health). It is also important to note that IP rights are ever-changing due to assignments, licenses, changes in names and addresses, and at times removal of those IP rights from the relevant register. The ACA has trained officers who are able to detect spurious marks and pirated materials during the importation process.

We therefore recommend that the ACA be reinstated at the ports of entry so that it can protect IP rights and eventually eliminate the trade in counterfeit goods. In the event that government is concerned that the inclusion of ACA at the port will lead to increased clearance time, it should leverage the use of blockchain technology as recommended by the Report of the Kenya Taskforce on Blockchain Technology and Artificial Intelligence in order to reduce the time spent in such clearance.⁵⁷

3.6 Training of stakeholders

SGS specialists offer manufacturers exporting to Germany training in order to set up their production processes so that these meet the requirements of the German market.⁵⁸

Similarly, PVoC Agents in exporting countries should carry out trainings to ensure that exporters are aware of Kenyan Standards before beginning their manufacturing or production processes. KEBS should also train importers of the relevant local standards so that the importer does not exclusively rely on the exporter's suggestions.

In the recent past there has been confusion on the application of the PVoC programs as goods are still subjected to destination inspection even after being verified by the PVoC agents in the country of export.

In the Budget Statement for the financial year 2019-2020, the Cabinet Secretary for Treasury noted that the lack of streamlining of PVoC led to increased demurrage charges and other clearance costs. He further directed that once PVoC is conducted at the point of export and information relayed to the Customs and Standards teams (KESB and KRA), the same goods should not be subjected to further inspection unless there is prior intelligence on non-compliance.⁵⁹

The PVoC program should therefore be implemented fully in order to reduce the costs and clearing times for importers.

KRA and KenTrade should also take up increased training of importers on the online portals to ease the importation process.

⁵⁴ Retrieved from <https://www.abf.gov.au/imports/files/fact-sheets/protecting-intellectual-property.pdf>

⁵⁵ Section 5(b) of the Anti Counterfeit Act, Act Number 13 of 2008 of the Laws of Kenya

⁵⁶ <https://www.nation.co.ke/news/Anxiety-as-major-State-agencies--kicked-out-of-ports/1056-5168026-2nwoscz/index.html>

⁵⁷ Report of the Kenyan Taskforce on Blockchain and Artificial Intelligence <https://www.ict.go.ke/blockchain.pdf>

⁵⁸ Retrieved from https://www.hafen-hamburg.de/assets/files/magazin/poh42018_en/index.html#p=37

⁵⁹ Kenya Budget Statement FY 2019/20 <https://www.treasury.go.ke/component/jdownloads/send/201-2019-2020/1442-budget-statement-for-fy-2019-20-final.html>

3.7 Recommended Timelines

Simplified trade processes, efficiency in cargo inspection, verification and clearance, quality and affordable primary transport infrastructure, increased compliance by operator's on customs and OGA requirements and effective stakeholder engagement are great indicators of the efficiency of customs clearance processes in a country. Efficiency in such processes leads to reduced Cargo dwell time.

Generally, average dwell time for competitive ports is usually less than a week. In Germany the average dwell time is about 4 days while in Australia it is 3 days.⁶⁰ In Kenya, the dwell time is very unpredictable with some cargo taking up to 23 days at the port.⁶¹ On average, delays caused by poor handling and operational factors are found to generally account for the long dwell time.⁶²

KPA has come up with timelines for the various agencies tasked with the inspection, verification and clearance of imported cargo in Kenya. The various agencies are also signatories to the KPA charter. The timelines have been referred to as the Monitoring Log frame.⁶³

According to KPA, the Log Frame is a tool used by the Charter's management in identifying the strategic elements (outputs, outcomes and impact) and their causal relationships and indicators that may influence the success and failure of the importation process. It facilitates planning, execution and evaluation of the Charter's interventions.⁶⁴

These timelines have been developed through a bench-marking framework under the charter. The timelines will increase port efficiency thus significantly reducing cargo dwell time. The table below highlights the timelines to be achieved by 2024.

60 http://www.srm-maritimeconomy.com/wp-content/uploads/woocommerce_uploads/2015/09/int-kogebahn-eng.pdf

61 Supra note 33

62 World Bank Why Does Cargo Spend Weeks in Sub-Saharan African Ports?

63 The Mombasa Port and Northern Corridor Community Charter. (2018-2024). (Page 52-66)

64 ibid

Best Practice Clearance Timeframe/Timelines to be achieved by 2024

PROCESS	ACTIVITIES	TIMELINES	RESPONSIBLE PARTY
Efficient yard operations	Ship waiting time for containerized vessel	TBD	KPA
	Gross vessel turnaround	81 hours	
Efficient ship operations	Bulk cargo vessel turnaround time	6 days	
	Container vessel turnaround time	1.8 days	
Efficient yard operations	Berth productivity	42 moves per ship per hour	
	Crane productivity	24 moves per crane per hour	
Timely and accurate submission of all relevant documents by vessel agents prior to arrival of a vessel at the port of Mombasa	Average cargo dwell time (port)	48 hours	
	Average container dwell time at ICDN	2 days for cargo that undergoes pre-shipment inspection*	KPA, KRA, KEBS
Efficiency in submission of manifests	Proportion of consignments with all relevant submitted prior to arrival of vessel	3 days prior to vessel arrival	KENTRADE
	Average time to submit manifests (under iCMS)	Instant	KENTRADE, KRA
Efficiency of issuance of release order	Average time between passing of an entry and issuance of a delivery order	TBD	KRA
	Average turnaround time	12 hours	KR
Efficient SGR operations	Average turnaround time	1 hour	KR
	Number of KAM members registered under AEO	20%	KAM
Increased utilization of the AEO by KAM members	The average time from sitting cargo for inspection until cargo is passed for clearance	2 days*	All relevant agencies
	Implementation of efficient KEBS testing services	5 days	KEBS
Raise compliance to PVoC programme	% of PVoC compliance on cargo cleared by KAM and KIFWA members	100%	KEBS
	Enhancement of PVoC to include other government agencies requirements	TBD	KEBS
COC recognition by KEBS and multi-agencies (OGAs)	Number/level of government agencies' with requirements integrated in PVoC	100%	KEBS
	Proportion of consignments pre-cleared	TBD	KAM
Increased Pre-Clearance of Consignments by KAM Members	Average time from sitting cargo for inspection until cargo is passed for inspection	2 hours	KEBS
	Clearance of cargo upon submission of COC data and inspection		
Efficient cargo inspection and verification	Number of members	250	KRA
	Number of shipments with radiation-free certificates	75%	KIFWA

* suggested by consultant

Source KPA

CONCLUSION

4

CHAPTER



4.0 CONCLUSION

In the last six years, Kenya has made great strides in streamlining its import procedures; most notably, the introduction of the KESWS by KENTRADE,⁶⁵ the introduction of the ICMS by KRA,⁶⁶ integration of ICMS with the KESWS and the introduction of the AEO program.

Nonetheless, it is important for the government to eliminate the remaining bottlenecks in the importation process in order to achieve the recommended timelines set out in Chapter 3. This will in turn significantly reduce the cost of doing business in Kenya. It is imperative for the relevant government agencies to comply with the recommended procedures in order to resolve these challenges. In the short term, the government agencies should work towards the following:

1. Effecting 24-hour operations by all agencies;
2. Strict adherence to the PVoC program- as stated in Chapter 3 including adherence to Pre-arrival clearance, elimination of re-inspection of compliant cargo by the agencies, timely inspection of goods by PVoC Agents as well as the implementation of enriched COCs;
3. Collaboration and sharing of information by government agencies;
4. Reinstating ACA at the ports of entry due to its unique role in curbing the importation of counterfeit goods;
5. Training of stakeholders; and
6. In the long term, a review of the laws to eliminate the duplication of roles.

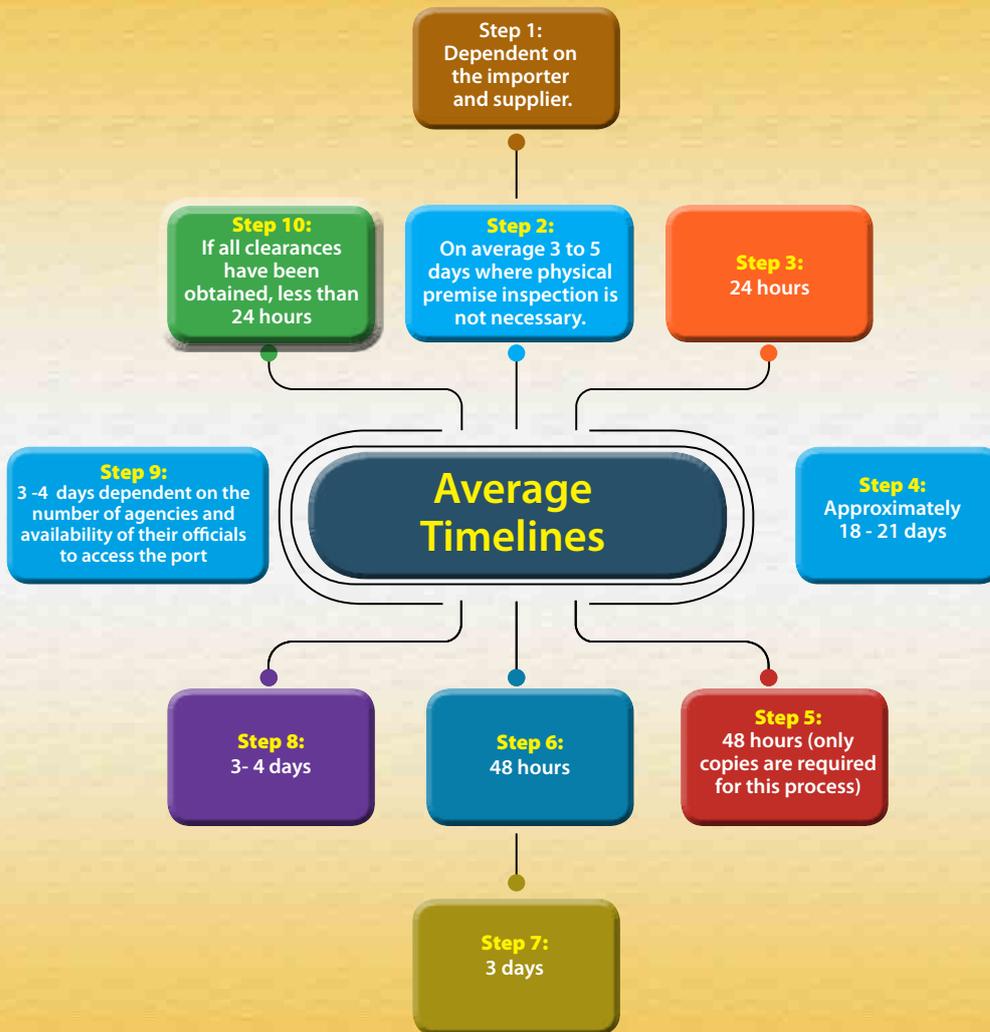
Implementation of the above recommendations will lead to efficiency at the ports and reduce the cost of doing business in Kenya.

The diagram below shows the current timelines as compared to the expected outcome in the importation process once the recommendations have been effected:

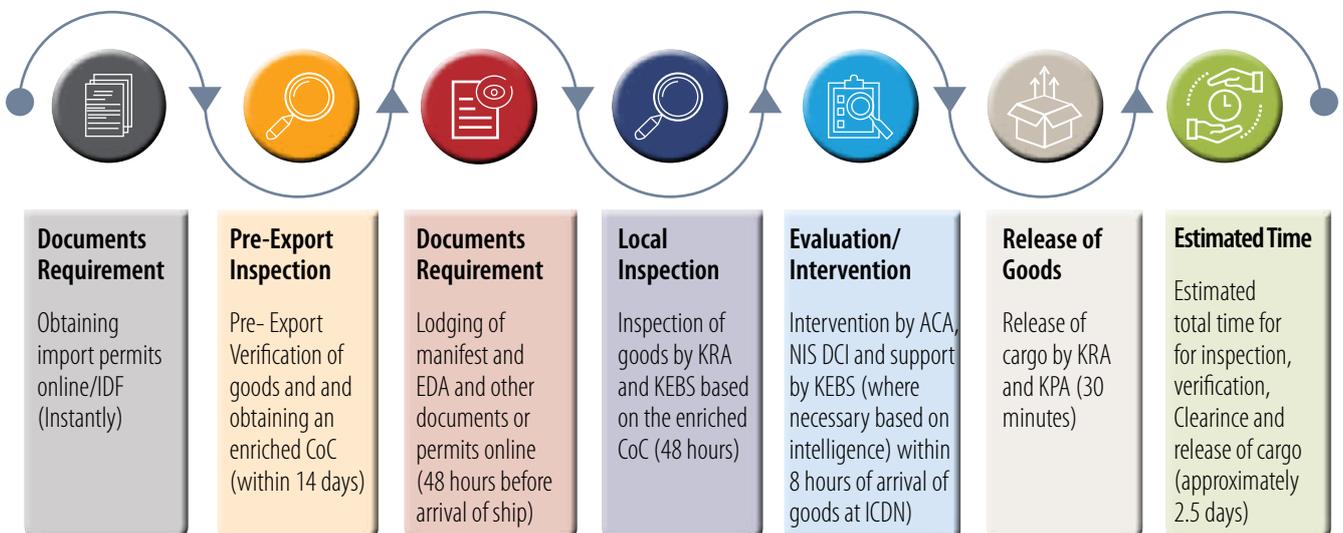
⁶⁵ Implementation of Single Window In Kenya (Kenya TradeNet) <https://www.trademarka.com/news/implementation-of-single-window-in-kenya-kenya-tradenet/>

⁶⁶ Implementation of Integrated Customs Management System (iCMS) for Cargo Clearance <https://www.kra.go.ke/en/media-center/public-notice/554-implementation-of-integrated-customs-management-system-icms-for-cargo-clearance>

Current timelines for the clearance process in Kenya



Expected timelines in the importation process



Annexure 1-List of Some of the Regulated products and overlaps in mandates

PRODUCT	AGENCIES/INSTITUTIONS	PERMITS AND LICENCES	OVERLAPS AND RECOMMENDATION
1. Pharmaceutical products	Pharmacy and Poisons Board	<ul style="list-style-type: none"> · Commercial medicines import permit/ Import permit for pharmaceutical products · Product registration certificate/ Retention certificate · Wholesale dealer's licence · Drug sample import permit · Certificate of premise registration · Certificate of analysis · Certificate of good manufacturing practices · Annual practice licence for pharmacists · Product Marketing Authorisation in the country of origin and other countries 	<p>1. Certificate of analysis, Product registration certificate/ Retention certificate (PPB), Import Health Certificate (PHS) and CoC (PVOC Agents)</p> <p>Overlap in the issuance of certificates by PPB, Port Health Services and PVoC Agents.</p> <p>The Import Health Certificate, the Certificate of analysis, the Product registration certificate/ Retention certificate and the CoC all ascertain that the drugs are fit for human consumption.</p> <p>Re-inspection should only be necessitated by an intelligence report. The role of PHS should therefore be confined to release where the above-mentioned documents are presented by an importer.</p>
2 Beans	Port Health Services	<ul style="list-style-type: none"> · Import Health Certificate 	<p>Overlap in the issuance of certificates:</p> <p>1. Import Health Certificate, Phytosanitary certificate (from the country of origin) and CoC</p> <p>The Import Health Certificate, the Phytosanitary certificate (from the country of origin) and the CoC all ascertain that the Beans are fit for human consumption.</p> <p>Also, to get an import health certificate an importer is required to submit a certificate of quality from the country of origin.</p> <p>Consignment inspection by PHS should only be necessitated by an intelligence report.</p> <p>Port Health Services should therefore only verify the clearance documents and issue a release.</p>
	PVoC Agents	<ul style="list-style-type: none"> · Certificate of Compliance (CoC) 	
	KEPHIS	<ul style="list-style-type: none"> · Plant Import Permit (valid for six months from the date of issue) · Phytosanitary certificate (from the country of origin) 	
	Port Health Services	<ul style="list-style-type: none"> · Import Health Certificate (issued for each consignment) 	
	AFA Horticultural Crops Directorate	<ul style="list-style-type: none"> · Import Licence 	

3	Flowers	<p data-bbox="414 1686 438 1765">KEPHIS</p> <p data-bbox="414 1514 614 1765">AFA Horticultural Crops Directorate</p> <p data-bbox="414 1397 438 1514">Port Health Services</p>	<p data-bbox="414 922 470 1386">· Plant Import Permit (valid for six months from the date of issue)</p> <p data-bbox="414 990 542 1386">· Phytosanitary certificate (from the country of origin)</p> <p data-bbox="414 1191 438 1386">· Import Licence</p> <p data-bbox="414 1102 438 1386">· Import health certificate</p>	<p data-bbox="156 208 188 900">2. Import Licence by HCD and Plant Import Permit by KEPHIS</p> <p data-bbox="212 208 292 900">Both the Import Licence and the Plant Import Permit (PIP) are issued in order to ascertain that the consignment of beans can be imported.</p> <p data-bbox="316 208 371 900">These two documents could be merged to allow for importation of beans.</p> <p data-bbox="414 208 470 900">1. Import Health Certificate, Phytosanitary certificate (from the country of origin) and CoC</p> <p data-bbox="494 208 574 900">The Import Health Certificate, the Phytosanitary certificate (from the country of origin) and the CoC all ascertain that the flowers have met acceptable standards.</p> <p data-bbox="598 208 630 900">2. Import Licence by HCD and Plant Import Permit by KEPHIS</p> <p data-bbox="654 208 734 900">Both the Import Licence and the Plant Import Permit (PIP) are issued in order to ascertain that the consignment of flowers can be imported.</p> <p data-bbox="758 208 813 900">These two documents could be merged to allow for importation of flowers.</p>
4	Processed (dry, chilled, and frozen) fish	<p data-bbox="861 1514 885 1765">Kenya Fisheries Service</p> <p data-bbox="861 1397 885 1514">Port Health Services</p> <p data-bbox="861 1635 885 1765">City Council</p>	<p data-bbox="861 990 917 1386">· Import permit for fish and fishery products (FD01)</p> <p data-bbox="861 1102 989 1386">· Sanitary health certificate (from the country of origin)</p> <p data-bbox="861 1191 885 1386">· Import Health Certificate</p> <p data-bbox="861 1124 885 1386">· Food hygiene licence</p> <p data-bbox="861 1214 885 1386">· Fish movement permit</p> <p data-bbox="861 1303 885 1386">· Fish trader's licence</p>	<p data-bbox="861 208 941 900">1. Import Health Certificate, Sanitary health certificate (from the country of origin), Fish health certificate and Food hygiene licence</p> <p data-bbox="965 208 1045 900">The Import Health Certificate, the Sanitary health certificate (from the country of origin) and the Food hygiene licence all ascertain that the processed fish is fit for human consumption.</p> <p data-bbox="1069 208 1125 900">2. Inspection report (KFS), Fish trader's licence and Fish Movement Permit</p> <p data-bbox="1149 208 1276 900">Traders intending to import fish and fishery products are required to have a facility where the fish will be processed and packaged. As the competent authority, Kenya Fisheries Service will inspect the facility to ensure compliance with the set standards prior to issuing an inspection.</p> <p data-bbox="1300 208 1380 900">The City Council also issues a Fish trader's licence and a Fish Movement Permit to facilitate the processing and packaging of fish for trade.</p>

5.	Fresh fish	<p>Kenya Fisheries Service</p> <p>Port Health Services</p> <p>City Council (through the office of the County Director of fisheries)</p> <p>DVS</p>	<ul style="list-style-type: none"> · Import permit for fish and fishery products (FD01) · Import Health Certificate · Food hygiene licence · Fish movement permit · Fish trader's licence · Import permit for live fish issued by Directorate of Veterinary Services 	<p>1. Import Health Certificate, Sanitary health certificate (from the country of origin), Fish health certificate and Food hygiene licence</p> <p>The Import Health Certificate, the Sanitary health certificate (from the country of origin) and the Food hygiene licence all ascertain that the processed fish is fit for human consumption.</p> <p>2. Inspection report (KFS), Fish trader's licence and Fish Movement Permit</p> <p>Traders intending to import fish and fishery products are required to have a facility where the fish will be processed and packaged. As the competent authority, Kenya Fisheries Service will inspect the facility to ensure compliance with the set standards prior to issuing an inspection.</p> <p>The City Council also issues a Fish trader's licence and a Fish Movement Permit to facilitate the processing and packaging of fish for trade.</p> <p>3. Import permit for live fish issued by DVS and Import permit for fish and fishery products (FD01) issued by KFS</p> <p>These two documents can be merged to allow the importation of fresh fish.</p>
6.	Live fish	Kenya Fisheries Service	<ul style="list-style-type: none"> · Import permit for live fish (FD02) · Live fish movement permit · Food hygiene licence · Health clearance certificate · Veterinary health certificate (Issued by a registered veterinary in the country of origin) 	<p>1. Import Health Certificate, Sanitary health certificate (from the country of origin), Fish health certificate and Food hygiene licence</p> <p>The Import Health Certificate, the Sanitary health certificate (from the country of origin) and the Food hygiene licence all ascertain that the processed fish is fit for human consumption.</p> <p>2. Inspection report (KFS), Fish trader's licence and Fish Movement Permit</p> <p>Traders intending to import fish and fishery products are required to have a facility where the fish will be processed and packaged. As the competent authority, Kenya Fisheries Service will inspect the facility to ensure compliance with the set standards prior to issuing an inspection.</p>

	DVS	<ul style="list-style-type: none"> Import permit for live fish issued by Directorate of Veterinary Services 	<p>The City Council also issues a Fish trader's licence and a Fish Movement Permit to facilitate the processing and packaging of fish for trade.</p> <p>3. Import permit for live fish issued by DVS and Import permit for fish and fishery products (FD01) issued by KFS</p> <p>These two documents can be merged to allow the importation of live fish.</p>
	City Council (through the office of the County Director of fisheries)	<ul style="list-style-type: none"> Food hygiene licence Fish movement permit Fish trader's licence 	
	Port Health Services	<ul style="list-style-type: none"> Import Health Certificate 	
	KEPHIS	<ul style="list-style-type: none"> Plant Import Permit 	
7.	Pharmacy and Poisons Board	<ul style="list-style-type: none"> Medical device import permit Wholesale dealer's licence Certificate of premise registration Certificate of free sale (from the country of origin for goods originating from the US market) CE (European Conformity) certificate (from the country of origin, for goods originating from the EU/ UK/ Ireland markets). Regulatory approval certificate (of the manufacturing site from the country of origin). Certificate of analysis (from the country of origin, where applicable). Medical device listing (valid for one calendar year). 	<p>Certificate of radio analysis and Certificate of analysis (from the country of origin)</p> <p>They all show the levels of radiation</p>
	Radiation Protection Board	<ul style="list-style-type: none"> Certificate of radio analysis 	

(Footnotes)

1 See Annexure 1 for a comprehensive list of licences and permits required for registration and clearance

2 The various versions of the EAC Common External Tariff are available at <https://www.eac.int/documents/category/eac-common-external-tariff>

3 ***To avoid demurrage charges verification and other enforcement intervention must be concluded within the 4 days free hold period for imports through the Port of Mombasa and the 3 days free hold period for imports through the Jomo Kenyatta International Airport.

4 Supra note 8



SOPs



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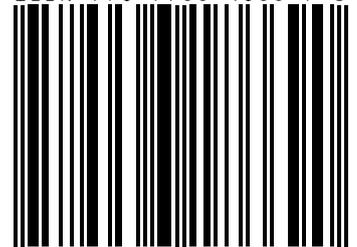
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