



KENYA PLANT HEALTH INSPECTORATE SERVICE

(KEPHIS)

INTERCEPTION POLICY

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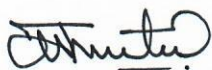
FOREWORD

Kenya Plant Health Inspectorate Service (KEPHIS) is a regulatory agency in the ministry of agriculture mandated to develop and implement sanitary and phytosanitary (SPS) measures to protect Kenya's agriculture from organisms harmful to plants and the environment and to assure the quality of agricultural inputs and produce. Trade in plants, plant products and regulated articles has faced the challenge of detection of regulated pests in imported/exported consignments, failure to comply with documentation requirements, export of unauthorized products and non-compliance with food safety and other regulatory requirements leading to interceptions.

Increase of KEPHIS presence at entry/exit points have enhanced the capacity for detection of non-compliant plant based consignments intended for import. Increasing non-compliances with SPS requirements have significantly affected trade in Kenya's agricultural products in international market.

Kenya has the responsibility to address non-compliances notified on plants, plant products and regulated articles products traded in the international market in accordance with guidelines for the notification of non-compliance and emergency action (ISPM 13). Failure to address non-compliances may lead to loss of market confidence, increased controls in export markets or even export ban. This policy therefore seeks to minimize the non-compliances during importation and exportation of plants, plant products and regulated articles by laying down strategies for KEPHIS and relevant stakeholders for a concerted effort in minimizing non-compliances. This policy is aligned to the KEPHIS Act No.54 of 2012, Plant Protection Act CAP 324, the Seeds and Plant Varieties Act CAP 326 and other international rules and regulations.

Signed by



PROF. THEOPHILUS M. MUTUI (PhD)

MANAGING DIRECTOR

DATE 12/7/2023

DEFINITION OF TERMS

Audit	On-site verification activity, such as inspection or examination, of a process or quality system, to ensure compliance to requirements. A systemic, independent and documented process for obtaining objective evidence and evaluation to objectively determine the extent to which phytosanitary requirements are fulfilled.
Consignment	A quantity of plants, plant products or other articles being moved from one country to another and covered, when required, by a single phytosanitary certificate (a consignment may be composed of one or more commodities or lots)
Corrective action	Action to eliminate the cause of a detected non-conformity and to prevent re-occurrence.
Export/Import	intentional trans-boundary movement from one country to another country;
Inspection	Official visual examination of plants, plant products or other regulated articles to determine if pests are present or to determine compliance with phytosanitary regulations
Interceptions (of consignment)	The refusal or controlled entry of an imported consignment due to failure to comply with phytosanitary regulations
Interceptions (of pest)	The detection of a pest during inspection or testing of an imported
Monitoring	An official ongoing process to verify phytosanitary situations
Non-compliance	Failure to comply with a requirement, standard, or procedure.
Plant products	Unmanufactured material of plant origin (including grain) and those manufactured products that, by their nature or that of their processing, may create a risk for the introduction and spread of pests

Pest	Any species, strain or biotype of plant, animal or pathogenic agent injurious to plants or plant products. Note: In the IPPC, plant pest is sometimes used for the term pest
Regulated pests	A quarantine pest or a regulated non-quarantine pest
Root cause analysis	An evaluation of the probable cause of a non-conformity, an apparent correction to the cause of non-conformity and a corrective action to prevent re occurrence of the non-conformity.
Systems approach	A pest risk management option that integrates different measures, at least two of which act independently, with cumulative effect

LIST OF ABBREVIATIONS

ECS	Export Certification System
HCD	Horticultural Crops Directorate
IPPC	International Plant Protection Convention
ISPM	International Standards for Phytosanitary Measures
KAA	Kenya Airports Authority
KCAA	Kenya Civil Aviation Authority
KEPHIS	Kenya Plant Health Inspectorate Service
KMA	Kenya Maritime Authority
KPA	Kenya Ports Authority
KRA	Kenya Revenue Authority
MRLs	Maximum Residue Levels
NPPO	National Plant Protection Organization

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1. INTRODUCTION

Agriculture plays a key role in Kenya's socio-economic development. In 2021, the overall value of marketed agricultural production increased by 4.3 per cent from KSh 505.3 billion in 2020 to KSh527.0 billion in 2021, constituting a 22.4 % contribution to the national Gross Domestic Product (GDP) (KNBS Economic Survey 2022). The sector contributes 65% to the value of national exports, with horticulture (cut flowers, fruits, vegetables, herbs, spices and nuts), coffee, tea, pulses, pyrethrum extract, and sisal products as the leading agricultural exports. The sector employs more than 40% of the total population and about 70% of the rural population.

The Government of Kenya has identified the agricultural sector as key in driving the country's economic development and growth of exports. The Integrated National Export Development and Promotion Strategy (2018-2022), seeks to grow exports by 25% per year by targeting various sectors including prioritized crops, livestock and fisheries products. The Agriculture Sector Transformation Strategy (ASTGS, 2019-2029) seeks to transform the agriculture sector to achieve 100% food and nutrition security, impact positively on the livelihoods of approximately 3.3 million farming households, and modernize agriculture into a vibrant and commercial venture that can support sustainable economic development.

Although agriculture plays a key role in Kenyas economic development, it is increasingly faced with the challenges of plant pests which impact production and biodiversity. This necessitates the implementation of sanitary and phytosanitary measures to minimize introduction and spread of plant pest into Kenya exacerbated by increased international trade in plants, plant products and other articles that act as a pathway of plant pests and increased international travel that hastens movement of goods and people.

Over the years, non-compliances have been detected on imported plants, plant products and regulated articles necessitating application of phytosanitary measures. The non-compliances have been due to failure to comply with prescribed import requirements, detection of regulated pests not listed as being associated with commodities from the exporting country and documentation requirements.

Additionally, Kenya's exported agricultural products in the international arena continue to face challenges of non-compliances with sanitary and phytosanitary requirements including detection of regulated pests in imported/exported consignments, failure to comply with documentation requirements, export of unauthorized products and non-compliance with food safety and other requirements. Kenya is obligated to address non-compliances notified on products traded in the international market in accordance with

the Guidelines for the notification of non-compliance and emergency action (ISPM 13). Failure to address non-compliances may lead to loss of market confidence, increased controls in export markets or even export ban.

For successful mitigation of non-compliances there is need for cooperation of all stakeholders in the value chains including regulators, farmers, exporters, farmer and exporters associations, cargo handlers, clearing and forwarding agencies, airlines, and public and private sector organizations in the industry.

KEPHIS responsibilities and that of various stakeholders in the value chain have been outlined to make the implementation of the policy tenable and to achieve the objectives of the policy.

1.1. Purpose

This interception policy outlines KEPHIS responsibilities and that of various stakeholders in the value chain towards mitigating and addressing non-compliances. It also provides guidelines for addressing non-compliances with sanitary and phytosanitary requirements and verification of effectiveness of corrective actions to prevent recurrence of non-compliances.

1.2. Scope

This policy provides guidelines for addressing non-compliances arising from:-

- Detection of regulated and non-regulated pests on imported or exported plants, plant products and other regulated articles,
- Export of prohibited plants, plant products and other regulated articles
- Documentation errors and forgeries
- Exceedances of Maximum Residue Levels (MRL's) and other chemical residues and presence of biological hazards,
- Non-conforming products

1.3. Objectives

- a) To provide guidelines for addressing non-compliances that occur on imported and exported consignments upon determination of sanitary and phytosanitary non-compliance.

- b) To describe the roles of different value chain players, interested parties and other stakeholders in relation to handling interceptions.
- c) To provide guidance for handling non-compliant plant, plant products and other regulated articles from passengers and accompanying baggage.
- d) To provide guidelines for addressing non-compliances that occur on imported and exported consignments due to food safety concerns including Maximum Residue Levels (MRL's)

1.4. The Policy and Legal Framework

This Policy is based on the following national and international policies, laws, agreements and conventions:

- Agricultural Policy, 2021
- National Phytosanitary Policy, 2023
- Agricultural Produce (Export) Act, (Cap. 319)
- The Plant Protection Act, (Cap. 324)
- Kenya Plant Health Inspectorate Service Act, No. 54 2012
- Kenya's import requirements
- Bilateral agreements e.g. Plant Protection Services of Israel, USDA protocol on pelargonium
- Importing countries requirements
- International Standards for Phytosanitary Measures (ISPMs).

2. GUIDELINES FOR ADDRESSING NON-COMPLIANCES

KEPHIS shall collaborate with all relevant stakeholders towards the implementation of phytosanitary measures and official controls at the places of production and processing of plants, plant products and other regulated articles. KEPHIS shall develop standard operating procedures and protocols where necessary to provide further description of the provisions in this policy. Where non compliance or interception occurs, corrective actions shall be prescribed and verification of implementation of the corrective actions shall be undertaken to assure prevention recurrence of the non-compliance or interception. Phytosanitary measures and actions shall be guided by Kenyas laws and relevant international phytosanitary measures such as ISPM 7, 13, 20, 23, 31, 32, 42, 43 and 46.

2.1. Imported consignments

All consignments of plants, plant products and other regulated articles upon arrival shall be inspected for compliance to prescribed import conditions specific to the plant, plant product or regulated article being imported. Samples may be taken for laboratory analysis to verify for compliance with import requirements. Non-compliant consignments will be intercepted and phytosanitary measure undertaken.

2.1.1 Non-compliance due to harmful organisms

In the event of detection of a harmful organism(s) specified in the import requirements as prescribed in the plant Import Permit or other regulated pests not listed as being associated with commodities:-

- a) The product shall be intercepted and may be treated with an appropriate phytosanitary treatment and the consignment released, or be destroyed or shipped back to the exporting country.
- b) A notification of non-compliance shall be sent to the country of export.

2.1.2 Non-compliance due to detection of pests at post entry quarantine

In the event of detection of a quarantine or regulated non-quarantine pest(s) specified in the import requirements as prescribed in the Plant Import Permit or other regulated pests not listed as being associated with plant, plant products and other regulated articles at the post entry quarantine:-

- a) The plant, plant products and other regulated articles shall be destroyed and facility decontaminated where applicable.
- b) A notification of non-compliance shall be sent to the country of export.

2.1.3 Non-compliance due to food safety requirements

KEPHIS implements food safety monitoring program for imported plant products to verify compliance to food safety standards. The data on non-compliant consignment is shared with the importer and or the country of origin.

2.1.4 Non-compliances due to documentation errors

In case of non-compliance due to documentation (missing phytosanitary certificate, missing or inadequate additional declarations) the importer shall be required to seek for correct documents. Where the importer fails to provide the required documents the consignment shall be intercepted and appropriate action taken.

2.1.5 Non-compliances due to forgery and modification of documents

In event of suspected forgery or modification of import documentation, KEPHIS shall notify the National Plant Protection Organisations of the countries of origin of the non-compliance for investigation and confirmation of authenticity. Upon confirmation that the documents are forged or modified, the incident shall be reported to the relevant enforcement agencies for legal action.

2.1.6 Non-compliances associated with passenger luggage and international courier parcels

KEPHIS shall cooperate with relevant border agencies including Kenya Revenue Authority (KRA), Kenya Airports Authority (KAA), National Police Service (NPS), Kenya Ports Authority (KPA), Kenya Postal Corporation (KPC) in monitoring including scanning of passenger luggage for detection of plants, plant products and other regulated articles. Where plants, plant products and other regulated articles are declared or detected, the owner of the luggage shall be required to present relevant phytosanitary import documentation. If a passenger fails to present the documents, interception notification will be issued to the passenger and the plant material detained to await phytosanitary measures.

2.2. Consignments for export

2.2.1. Non-compliance prior to exports (Rejections)

Where a consignment is found non-compliant with regulatory and market requirements during inspection prior to export, the produce shall be rejected and a rejection notification issued. Follow up audits may be carried out at farm level to evaluate pest management measures in place for quarantine pests. If the rejection is due to a follow

up audit shall be carried out immediately. Further producers with 3 (three) or more incidences of rejections within 3 (three) months will have their farms audited.

2.2.2. Non-compliance at export destinations due to presence of harmful organisms or exceedance of MRLs (Interceptions)

2.2.2.1. Notification of stakeholders

When a non-compliance is notified from an exporting country due to presence of harmful organisms or exceedance of MRLs, a written communication shall be sent to the exporter/producers to inform them of the non-compliance and request for root cause analysis for the non-compliance together and corrective action taken to prevent re-occurrence. Access to the electronic certification system may be restricted as a stop gap measure. Restriction may be specific to the commodity type, form & destination.

2.2.2.2. Follow up audits for non-compliance due to harmful organisms and exceedance of pesticide Maximum residue levels

After the evaluation of the root cause analysis from the exporter, an audit shall be carried out to verify measures put in place to address non-compliances due to presence of harmful organisms and exceedance of maximum pesticide residues levels. Audits will involve documented procedures review, evaluation of the farm/production systems and review of corrective actions to address the non-compliance. Where the corrective actions instituted are found sufficient to assure that the non-compliance will not recur, the exporter /producer shall be allowed to resume export and restriction to Export Certification System (ECS) account shall be lifted. The audit findings shall be communicated to the client through appropriate communication channels.

2.2.2.3. Loss of status of pest free place of production

Interception of quarantine pests in plants and plant products produced in established pest free places of production shall result in the loss of the pest free status. Export from the production place shall be restricted for at least one month while taking into consideration the pest life cycle. The pest free status of the place of production shall be reinstated after verification of pest status by KEPHIS.

2.2.3. Documentation non-compliances

In cases of interception due to documentation errors (export with phytosanitary certificates that are missing or incorrectly indicated additional declarations, incomplete documentation, wrong weight, wrong crop or product), documentation audit shall be carried out. Evaluation of the effectiveness of corrective action(s) shall be determined and if satisfactory, the ECS account shall be reinstated. A training may also be undertaken for all documentation clerks or staff.

Request to replace phytosanitary certificates that may have been lost, misplaced, defaced etc will be evaluated on case by case basis.

Where non-compliance is due to due to forgery, the incident shall be reported to the relevant enforcement agencies for legal action.

2.3. Phytosanitary treatment and Destruction of non-compliant or intercepted materials

During inspection, phytosanitary treatment or destruction may be prescribed depending on the phytosanitary risk that the consignment poses.

2.3.1. Phytosanitary treatment

Where phytosanitary treatment has been prescribed a phytosanitary measure, it should be specific and provide a means for the killing, inactivation or removal of pests, for rendering pests infertile or for devitalization, of pests.

2.3.1.1. Fumigation

Fumigation may be prescribed as guided in ISPM No. 43 which provides technical guidance for application of fumigation as a phytosanitary measure in the implementation of market requirements.

2.3.1.2. Heat treatment

Heat treatment as a phytosanitary measure is used to achieve pest mortality (including devitalization of seeds as pests) at a specified efficacy. The treatment raises the

temperature of the commodity to the minimum required temperature or higher throughout a specific period for specified efficacy to be achieved. Heat treatment may be in form of dry heat, hot water immersion, vapour heat or dielectric treatment. Heat treatment may be prescribed as guided by ISPM 42 which provided requirements for the use of temperature treatments as phytosanitary measures

2.3.2. Destruction

Destruction may be prescribed as a phytosanitary measure. The method of destruction should be appropriate and fit for purpose.

2.3.3. Incineration (Burning)

Burning is often the preferred method of disposal as it eliminates the affected material and immediately kills any pathogens it may contain.

2.3.4. Burying

Burying infected plant material is appropriate in cases where burning is not practical, such as large volumes of potatoes or root vegetables. Care should be taken to prevent the escape of pathogens using sealable containers or impermeable covers on high-sided trucks in transit.

2.4. Appeals for rejections or interceptions

KEPHIS shall appeal against unjustified interceptions notifications by importing countries due to incidences such pest not in the quarantine list, pest does not occur in Kenya, erroneous reports. Stakeholders may also appeal to the Managing Director of KEPHIS if they feel that the rejection was unjustified. The appeals shall be handled as described in standard operating procedures for inspection.

2.5. Recurrence of non-compliance

Reccurrence of interception may lead to suspension of the company from exporting. An exporter/producer may be restricted from exporting to specific destinations or exporting certain products or varieties if non-compliance recurs.

3. RESPONSIBILITIES OF OTHER STAKEHOLDERS

Cooperation of all stakeholders in the value chains including regulators, farmers, exporters, farmer and exporters associations, cargo handlers, clearing and forwarding agencies, airlines, and public and private sector organizations in the industry is paramount for successful mitigation of non-compliances. Communication to stakeholders on but not limited to market requirements non-compliances notified or noted, import and export system functionalities, Kenya's import requirements, changes in market requirements and emerging matters. Responsibilities of stakeholders shall include but not limited to:-

3.1. Importers into Kenya

Importers shall obtain an import permit from KEPHIS and ensure that all plants and plant products imported into Kenya meet the import requirements prescribed in the plant import permits. Importers should also obtain phytosanitary certificates from the exporting countries National Plant Protection Organisation (NPPO) that correspond to the requirements in the plant import permit. Importers are required to present the consignments to KEPHIS officers at the entry points for inspection accompanied by a copy of plant import permit, a phytosanitary certificate and any other relevant documents for clearance of imported consignments.

3.2. Exporters/producers

Exporters/producers shall: -

1. Ensure that they are aware, understand and have documented requirements of the destination market.
2. Source for Plant Import Permits where applicable.
3. Ensure that all the products destined for export to various markets destinations meet the required sanitary and phytosanitary requirements of specific destinations and put in place internal mechanisms for assuring compliance and continual improvement.
4. Ensure that the plants and plant products are certified and appropriate documentation issued.
5. Verify correctness of information in export documents; including but not limited to import requirements, description and quantities of products to be exported, phytosanitary treatment.

6. Upon notification of non-compliance, exporters/producers shall be required to undertake a root cause analysis to establish the cause of the non-compliance, institute corrective measure, and communicate the root cause analysis report to KEPHIS for verification.
7. The exporter shall implement any additional phytosanitary measures prescribed by KEPHIS.

Exporters may report occurrence of non-compliance to KEPHIS once they become aware of the occurrence.

3.3. Horticultural Crops Directorate (HCD)

Horticulture Crops Directorate (HCD) is responsible for promotion, production and marketing of horticultural produce in accordance to their institutional mandate. HCD vets and issues export license to eligible exporters. The list companies issued with export license shall be availed to KEPHIS to ensure that only licensed and genuine exporters are registered in KEPHIS system

3.4. Horticultural producer groups and exporters' associations

Farmer groups and all exporter associations who represent the interests of growers/exporters shall be responsible for informing their members about market requirements. The farmer groups and exporter associations shall ensure that all their members adhere to the regulatory procedures in place for compliance . This includes enhancing of self-auditing/assessment framework for members to aid in verification of compliance.

3.5. Kenya Revenue Authority (KRA)- Customs department

The KRA customs department will ensure that plant and plant products have prior clearance from KEPHIS before release

3.6. National Police Service (NPS)

The National Police Service will support KEPHIS on enforcement of the border controls in accordance to the SPS requirements as well as dealing with fraud and fake documents (forgeries).

3.7. Kenya Airports Authority (KAA)

The Kenya Airports Authority (KAA) will support KEPHIS in clearing plant and plant products both for import and export. This collaboration will ensure that no plant material is imported or exported without the knowledge of KEPHIS.

KAA will further involve KEPHIS in the various committees at the points of entry and exit. Through the various committees and workshops KEPHIS will sensitise stakeholders on their roles at entry and exit points.

3.8. Kenya Civil Aviation Authority (KCAA)

The Kenya Civil Aviation Authority (KCAA) will assist in notifying travellers to avoid carrying unauthorized plant and plant products in their baggage. This shall include the need to have all plants and plant products declared at the point of entry.

3.9. Kenya Ports Authority (KPA)

The Kenya Ports Authority (KPA) will ensure that all imports and exports of plants and plant products under their custody are not released before approval from KEPHIS

3.10. Kenya Maritime Authority (KMA)

Collaboration with the KMA shall ensure that all imports and exports of plants and plant products imported through the waterways are brought to the attention of KEPHIS.

3.11. Courier Service Providers

Courier service providers will ensure any plant and plant products under their custody is not released without KEPHIS approval. They should also ensure all the plant and plant products have all the necessary document before import or export.

3.12. Other relevant stakeholders

KEPHIS shall engage with other relevant stakeholders on a need basis and discuss with them on areas of interest that may include handling interceptions.

4. AWARENESS CREATION

KEPHIS will hold regular sensitization workshops with all stakeholders on market requirements to enhance compliance

5. MONITORING AND EVALUATION

KEPHIS will undertake monitoring and evaluation of the implementation of the interception policy. The objective shall be to assess the impact of the strategies set out in the policy in addressing non-compliances; trend analysis of rejections and interceptions shall be done on quarterly basis.

6. PROMOTING PARTNERSHIPS

KEPHIS shall sensitize and continue engaging all relevant stakeholders for the successful implementation of this policy. Meetings with stakeholders shall be held on a need basis to inform and consult on various issues that will affect trade.

7. POLICY REVIEW

The policy shall be reviewed every three years or as need arises.

