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Committee on Trade Facilitation

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**NOTIFICATION OF ARRANGEMENTS AND PROGRESS IN THE PROVISION
OF TECHNICAL ASSISTANCE AND CAPACITY BUILDING
SUPPORT OF CATEGORY C DESIGNATIONS**

COMMUNICATION FROM KENYA

The following communication, dated 20 February 2023, is being circulated at the request of the delegation of Kenya.

Kenya hereby notifies information on the arrangements concluded and progress made in the provision of technical assistance and capacity building support of the following category C designations, in response to Article 16 of the Trade Facilitation Agreement (WT/L/931).

Provision	Heading/Description	Category	Indicative date for implementation	Definitive date for implementation
Article 1.2	Information Available through Internet	C	22 February 2026	30 June 2029
Donors/Agencies: German Development Cooperation(GIZ), TradeMark East Africa (TMEA), United Nations Conference on Trade and Development(UNCTAD), and International Trade Centre (ITC)				
Progress in the provision of technical assistance and capacity building support: The Kenya Trade Network Agency (KenTrade) is in receipt of technical support from GIZ, TMEA, and UNCTAD to establish and host the Trade Information Portal (TIP) as well as update information in the portal. The agency also received technical support from ITC to create awareness amongst key stakeholders and Partner Government Agencies (PGAs) on availability and access of information in the portal. The State Department for Trade received technical support from TMEA to develop the Kenya National Trade Information portal. The Department requires support to operationalize the Portal. Among the support areas in the operationalization of the portal; (i) Document, review, and update county/regional government trade procedures to ensure all information is available in the internet. (ii) Host, upgrade and set up a system update mechanism for the National Trade Information Portal (iii) Create awareness among stakeholders about the availability of information in the internet				

Provision	Heading/Description	Category	Indicative date for implementation	Definitive date for implementation
Article 4.6	Procedures for Appeal or Review	C	22 February 2023	30 June 2026
Donors/Agencies: To be determined				
Progress in the provision of technical assistance and capacity building support: The Ministry responsible for international trade requires technical support from development partners to; (i) Develop a framework to set up procedures for appeal/review of administrative decisions (ii) Set up institutional mechanism for appeal/review of administrative decisions				

Provision	Heading/Description	Category	Indicative date for implementation	Definitive date for implementation
Article 5.1	Notification for Enhanced Controls or Inspections	C	22 February 2023	30 June 2026
Donors/Agencies: TMEA, WTO, EU				
<p>Progress in the provision of technical assistance and capacity building support:</p> <p>The Kenya Bureau of Standards (KEBS) received capacity-building support from TMEA to hold regular meetings and train stakeholders on notifications. The Bureau also received support from the WTO to capacity-build staff from different government border agencies.</p> <p>The Directorate of Veterinary Services (DVS) received technical support from the EU for new equipment for the detection of food hazards, and refurbish food safety laboratories.</p> <p>Kenya still requires support as detailed below;</p> <p>Kenya Plant Health and Inspectorate Service and KEBs will require assistance to;</p> <ul style="list-style-type: none"> (i) Equip and establish infrastructure to inspect and detect food hazards, including early warning systems at all points of entry. (ii) Develop better and proper mechanism for notifying stakeholders about enhanced controls and inspections (iii) Train border agencies and other stakeholders on import alerts/ rapid alert tests 				

Provision	Heading/Description	Category	Indicative date for implementation	Definitive date for implementation
Article 5.3	Test Procedures	C	22 February 2023	30 June 2033
Donors/Agencies: TMEA, EU				
<p>Progress in the provision of technical assistance and capacity building support:</p> <p>The Kenya Bureau of standards (KEBS) received technical support from TMEA and EU to establish laboratories for testing and to procure laboratory and testing equipment.</p> <p>Kenya Plant Health and Inspectorate Service received technical support from TMEA to install analytical equipment for testing and personnel training at EU reference laboratories.</p> <p>However, other key Agencies still require support. The Department of livestock, Department of Fisheries do not have sufficient laboratories for 2nd tests. Technical assistance is required to establish testing laboratories and other logistics and also capacity building for Test Procedures.</p> <p>Development partners' assistance is required in the following areas:</p> <ul style="list-style-type: none"> 1. Review of the legal frameworks of various border agencies to provide an opportunity for a second test. 2. Establishment and accreditation of more laboratories for testing 3. Equipment 4. Calibration 5. Training and capacity building 				

Provision	Heading/Description	Category	Indicative date for implementation	Definitive date for implementation
Article 6.1	General Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation	C	22 February 2030	30 June 2033
Donors/Agencies: TMEA				

Progress in the provision of technical assistance and capacity building support:

Kenya received technical support from TMEA through the Shippers Council of Eastern Africa (SCEA) to undertake a study on fees and charges.

Kenya requires technical assistance from development partners to;

- (i) Implement the recommendations of the study findings, including a legal review on existing legislation to allow for a review of fees and charges.
- (ii) Sensitization of importers/exporters, and agents on the applicable fees, charges, and penalties.

Provision	Heading/Description	Category	Indicative date for implementation	Definitive date for implementation
Article 6.2	Specific Disciplines on Fees and Charges for Customs Processing Imposed on or in Connection with Importation and Exportation	C	22 February 2023	30 June 2026

Donors/Agencies: TMEA

Progress in the provision of technical assistance and capacity building support:

As noted under Art. 6.1, a study was carried out on fees and charges with the support of TMEA.

Kenya requires technical assistance from development partners to;

- (i) Implement the recommendations of the study findings including a legal review on existing legislation to allow for review of fees and charges, specifically for Customs.
- (ii) Sensitize sensitization of importers/exporters, and agents on the applicable fees charges, and penalties under Customs.

Provision	Heading/Description	Category	Indicative date for implementation	Definitive date for implementation
Article 6.3	Penalty Disciplines	C	22 February 2023	30 June 2033

Donors/Agencies: To be determined

Progress in the provision of technical assistance and capacity building support:

Kenya requires technical support to;

- (i) Established a legal framework/mechanism to guide on the application of penalties.
- (ii) Review national laws to align them with the provisions of the TFA.

Provision	Heading/Description	Category	Indicative date for implementation	Definitive date for implementation
Article 7.1	Pre-arrival Processing	C	22 February 2023	30 June 2026

Donors/Agencies: GIZ

Progress in the provision of technical assistance and capacity-building support:

The Kenya Revenue Authority (KRA) received support from GIZ to facilitate the establishment and operationalization of a Multi-Agency Pre-Arrival Processing Committee to coordinate implementation of Pre-Arrival Processing (P-AP). The Authority also received support from GIZ to undertake a study on P-AP.

Kenya still requires support from development partners to;

- (i) Upgrade agencies' systems to incorporate artificial intelligence to recognize pre-arrival declaration
- (ii) Integrate non-cellular vessels into the Integrated Customs Management System for compatibility.
- (iii) Build capacity and sensitization of stakeholders and border agencies on Pre-Arrival Processing
- (iv) Undertake legal review to accommodate P-AP
- (v) Benchmark with other WTO members who have fully implemented Pre-Arrival Processing

Provision	Heading/Description	Category	Indicative date for implementation	Definitive date for implementation
Article 7.4	Risk Management	C	22 February 2023	30 June 2026
Donors/Agencies: GIZ				
Progress in the provision of technical assistance and capacity building support:				
<p>The Kenya Trade Network Agency received technical support from GIZ to roll out the Risk Management Module in the Single Window.</p> <p>Kenya still requires assistance to implement the Article;</p> <p>The Kenya Revenue Authority and Kenya Trade Network Agency support to;</p> <ul style="list-style-type: none"> (i) Develop a risk management governance framework for all border agencies (ii) Integrate systems for all border agencies to implement Risk Management (iii) Train and build capacity of border agencies on Risk Management (iv) Train relevant stakeholders on risk management 				

Provision	Heading/Description	Category	Indicative date for implementation	Definitive date for implementation
Article 7.5	Post-clearance Audit	C	22 February 2023	30 June 2026
Donors/Agencies: WCO				
Progress in the provision of technical assistance and capacity building support:				
<p>The Kenya Revenue Authority staff were trained on post-clearance audit by WCO.</p> <p>Kenya requires technical assistance from development partners to;</p> <ul style="list-style-type: none"> (i) Develop national framework on post clearance audit (ii) Train staff of border agencies on post-clearance audit procedures and methods (iii) Sensitize stakeholders on post-clearance audit 				

Provision	Heading/Description	Category	Indicative date for implementation	Definitive date for implementation
Article 7.6	Establishment and Publication of Average Release Times	C	22 February 2023	30 June 2026
Donors/Agencies: To be determined				
Progress in the provision of technical assistance and capacity building support:				
<p>Kenya lastly undertook an Average Release Times study in 2011. Currently, it is relying on reports from government agencies that are not conclusive.</p> <p>Kenya therefore requires technical assistance from development partners to;</p> <ul style="list-style-type: none"> (i) Develop National Framework on Average Release Times (ii) Train and build capacity of customs officials on Average Release Times (iii) Conduct an Average Release Times study 				

Provision	Heading/Description	Category	Indicative date for implementation	Definitive date for implementation
Article 7.7	Trade Facilitation Measures for Authorized Operators	C	22 February 2023	30 June 2026
Donors/Agencies: World Customs Organization (WCO), GIZ, Commonwealth Secretariat				

Progress in the provision of technical assistance and capacity building support:

Kenya Revenue Authority received technical support from the GIZ to establish a Technical Working Group (TWG) on Authorized Economic Operators' (AEOs) Recognition Framework. The Framework will facilitate expedited clearance of cargo for AEOs by all the relevant border agencies.

GIZ also supported the Authority to undertake a study on implementation of AEOs Programme.

The Authority also received technical assistance from WCO to train staff on AEOs security validation.

The Kenya International Freight and Forwarding Association (KIFWA), is undertaking sensitization for its members on AEOs programme with the technical support from GIZ and Commonwealth Secretariat.

Under the AEOs programme, GIZ will further support the following activities;

1. Engagement of CEOs of the Partner Government Agencies (PGAs) on AEOs
2. Workshop for Senior Managers of the PGAs
3. Training of staff from the various PGAs on the AEO Programme
4. Workshops of the National Trade Facilitation Committee for development of the AEO Recognition Framework

However, Kenya still requires assistance from development partners to;

- (i) Build capacity of the border agencies and the private sector on the programme
- (ii) Implement findings of the study on implementation AEOs programme
- (iii) Develop a legal framework for AEOs programme recognition

Provision	Heading/Description	Category	Indicative date for implementation	Definitive date for implementation
Article 7.8	Expedited Shipments	C	22 February 2023	30 June 2026

Donors/Agencies: To be determined

Progress in the provision of technical assistance and capacity building support:

Kenya requires technical support from development partners to;

- (i) Harmonize operations of the agencies at the border to enable expedited shipment.
- (ii) Develop national framework on expedited shipments to on-board all border agencies
- (iii) Sensitize and create awareness on expedited shipments

Provision	Heading/Description	Category	Indicative date for implementation	Definitive date for implementation
Article 7.9	Perishable Goods	C	22 February 2023	30 June 2030

Donors/Agencies: To be determined

Progress in the provision of technical assistance and capacity building support:

Kenya requires technical assistance from development partners to;

- (i) Set up plug-ins reefer, cold rooms, and other holding facilities at all entry points
- (ii) Build capacity and sensitize border agencies on the handling of perishable goods.

Provision	Heading/Description	Category	Indicative date for implementation	Definitive date for implementation
Article 8	Border Agency Cooperation	C	22 February 2023	30 June 2026

Donors/Agencies: TMEA, World Bank Group (WBG), African Development Bank (ADB), Japan International Cooperation Agency (JICA), EU.

Progress in the provision of technical assistance and capacity building support:

Kenya received technical support from the following development partners to establish One Stop-Border Posts (OSBPs);

- (i) TMEA- Malaba, Busia, and Moyale.
- (ii) JICA- Taveta, and Namanga
- (iii) WBG- Rhamu and Mandera
- (iv) ADB- Suam (under construction)

Kenya also received technical support from EU through the European Development Fund (EDF) to train border agency officials & small-scale traders on joint border operations.

Kenya still requires technical assistance from development partners to;

- (i) Train border agencies on border agency cooperation requirements and procedures
- (ii) Establish shared facilities at the OSBP and harmonising procedures and formalities
- (iii) Upgrade infrastructure facilities at the remaining OSBPs.

Provision	Heading/Description	Category	Indicative date for implementation	Definitive date for implementation
Article 10.1	Formalities and Documentation Requirements	C	22 February 2023	30 June 2026

Donors/Agencies: TMEA, GIZ

Progress in the provision of technical assistance and capacity building support:

The Kenya Trade Network Agency received support from TMEA and GIZ to simplify procedures for the online documented commodities for export. This was done through the Simplification Working Group. The agency has so far simplified the procedures for nine commodities for export and established working groups for different PGAs to work on the simplification of the commodities.

TMEA has contracted a consultant to provide technical assistance to the State Department for Trade. The technical assistance will carry out the following;

- (i) Undertake legislative and regulatory review on procedures and documentation requirements
- (ii) Develop simplified SOPs for trade regulatory agencies for ease of trading
- (iii) Carry out stakeholders' sensitization on the simplification of procedures in collaboration with National Trade Facilitation Committee
- (iv) Develop documentation toolkit and train stakeholders on business process analysis
- (v) Alignment of national trade procedures among border agencies in accordance with the regional Protocols

However, Kenya still requires assistance from development partners to;

- (i) Simplify procedures for all the documented products for exports with an aim of reducing the administrative burden costs
- (ii) Simplify & standardize trade documents
- (iii) Sensitize all border agencies and MSMEs to conform to standards operating procedures
- (iv) Review legislation of all border agencies to simplify formalities and procedures

Provision	Heading/Description	Category	Indicative date for implementation	Definitive date for implementation
Article 10.2	Acceptance of Copies	C	22 February 2023	30 June 2026

Donors/Agencies: To be determined

Progress in the provision of technical assistance and capacity building support:

Kenya needs support on the sensitization of all Partner Government Agencies on the acceptance of copies and its role in trade facilitation.

Provision	Heading/Description	Category	Indicative date for implementation	Definitive date for implementation
Article 10.3	Use of International Standards	C	22 February 2023	30 June 2026
Donors/Agencies: TMEA, European Union Market Access Upgrade programme (MARKUP)				
Progress in the provision of technical assistance and capacity building support:				
<p>The Kenya Bureau of Standards received technical assistance from TMEA for the following activities;</p> <ul style="list-style-type: none"> (i) Build capacity of staff on standards (ii) Participate in development and harmonization of regional standards (iii) Create awareness among stakeholders on standards (iv) Train SMEs & Businesses on standards and technical regulations <p>The Bureau also received support from EU Mark-Up Programme for sensitization and training of stakeholders on international standards.</p> <p>The Kenya Bureau of Standards still requires assistance from development partners to;</p> <ul style="list-style-type: none"> (i) Participate in development and review of regional & international standards (ii) Undertake a study to evaluate the impact of national, regional and international standards on trade 				

Provision	Heading/Description	Category	Indicative date for implementation	Definitive date for implementation
Article 10.4	Single Window	C	22 February 2023	30 June 2033
Donors/Agencies: TMEA and GIZ				
Progress in the provision of technical assistance and capacity building support:				
<p>Kenya received technical support from TMEA to;</p> <ul style="list-style-type: none"> (i) Develop Maritime Single Window (ii) Integrate the National Electronic Single Window with the Integrated Customs Management System and the Pharmacy and Poisons Board's systems (ongoing). (iii) Develop a mechanism for sharing information - Business Intelligence Tool (BI) <p>Kenya also received support from GIZ for capacity building for PGAs on risk management module under the Single Window.</p> <p>Kenya still requires assistance from development partners to;</p> <ul style="list-style-type: none"> (i) Train and create awareness among stakeholders and all border agencies in the use of the single window (ii) Develop enabling regulations for the implementation of the Kenya National Electronic Single Window (iii) Integrate all agencies' systems to the Single Window and BI 				

Provision	Heading/Description	Category	Indicative date for implementation	Definitive date for implementation
Article 10.8	Rejected Goods	C	22 February 2023	30 June 2033
Donors/Agencies: To be determined				
Progress in the provision of technical assistance and capacity building support:				
<p>Kenya requires assistance from development partners to provide and install disposal facilities at entry points such as incinerators and other disposal facilities.</p>				

Provision	Heading/Description	Category	Indicative date for implementation	Definitive date for implementation
Article 11	Freedom of Transit	C	22 February 2023	30 June 2026
Donors/Agencies: TMEA				
Progress in the provision of technical assistance and capacity building support:				
<p>The Kenya Revenue Authority received technical assistance from TMA to develop and host the Regional Electronic Cargo Tracking System (RECTS) and procurement of vehicles for Rapid Response Unit responsible for responding to cargo diversion in transit.</p> <p>The Kenya Revenue Authority also received technical support from GIZ to simplify procedures on transit.</p> <p>Kenya requires assistance from development partners to;</p> <ul style="list-style-type: none"> (i) Integrate the cargo tracking systems in the northern and central corridors (ii) Capacity building of relevant stakeholders on cargo tracking systems 				

Provision	Heading/Description	Category	Indicative date for implementation	Definitive date for implementation
Article 12.1 & 12.2	Measures promoting Compliance and Cooperation & Exchange of information	C	22 February 2023	30 June 2026
Donors/Agencies: To be determined				
Progress in the provision of technical assistance and capacity building support:				
<p>Kenya requires assistance from development partners to:</p> <ul style="list-style-type: none"> (i) Build capacity on customs cooperation with other customs authorities (ii) Identify areas that need a legal review in the EACCMA 2004 and other regional and multilateral agreements to ensure compliance with TFA 				

Provision	Heading/Description	Category	Indicative date for implementation	Definitive date for implementation
Article 12.4 - 12.11	Request, Protection and confidentiality, Provision of information, Postponement or refusal of a request, Reciprocity, Administrative burden, Limitations, Unauthorized use or Disclosure.	C	22 February 2023	30 June 2026
Donors/Agencies: To be determined				
Progress in the provision of technical assistance and capacity building support:				
<p>All border agencies require assistance from development partners to:</p> <ul style="list-style-type: none"> (i) Build capacity on customs cooperation (ii) Identify areas that need a legal review in EACCMA, 2004 and other regional and multilateral agreements to ensure compliance with TFA 				