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Committee on Trade Facilitation

Original: English

**NOTIFICATION OF CATEGORY COMMITMENTS UNDER
THE AGREEMENT ON TRADE FACILITATION**

COMMUNICATION FROM KENYA

The following communication, of which the first draft was received 19 August 2019, is being circulated at the request of the delegation of Kenya for Members' information.

Following up from the notification dated 13 May 2015 (WT/PCTF/N/KEN/1), Kenya hereby makes the following notifications in response to Articles 15 and 16 of the Trade Facilitation Agreement (WT/L/931).

| Provision | Heading/Description | Category | Indicative date for implementation (for categories B and C) | Definitive date for implementation (for categories B and C) | Assistance and Support for Capacity Building Required for Implementation (for category C) |
|--|--|----------|---|---|--|
| Article 1 Publication and Availability of Information | | | | | |
| Article 1.1 | Publication | B | 22 February 2023 | 30 June 2026 | - |
| Article 1.2 | Information Available through Internet | C | 22 February 2026 | 30 June 2029 | Support to: <ol style="list-style-type: none"> 1. Review and update information relating to expediting the movement, release, and clearance of goods, including goods in transit available on the websites of Ministries /Agencies involved in the implementation of the Trade Facilitation Agreement (TFA), and to create an effective information management system; 2. Harmonize Information Technology (IT) policies of the Ministries/Agencies implementing the TFA and integrate them to the national trade portal; 3. Upgrade, secure and maintain the Information Communication Technology (ICT) infrastructure; and 4. Create awareness on the information portal and capacity building. |
| Article 1.3 | Enquiry Points | B | 22 February 2023 | 30 June 2026 | - |
| Article 1.4 | Notification | A | - | - | - |
| Article 2 Opportunity to Comment, Information before Entry into Force and Consultations | | | | | |
| Article 2.1 | Opportunity to Comment and Information Before Entry into Force | B | 22 February 2023 | 30 June 2026 | - |
| Article 2.2 | Consultations | B | 22 February 2023 | 30 June 2026 | - |
| Article 3 Advance Rulings | | | | | |
| | | B | 22 February 2023 | 30 June 2025 | - |
| Article 4 Procedures for Appeal or Review | | | | | |
| Article 4.1-4.5 | | A | - | - | - |
| Article 4.6 | | C | 22 February 2023 | 30 June 2026 | Support to: <ol style="list-style-type: none"> 1. Establish a framework to network all border agencies; and 2. Build capacity for Kenya Bureau of Standards (KEBS) and KenTrade to coordinate all border agencies on matters of administrative decisions through Single Window. |

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| Article 5 Other Measures to Enhance Impartiality, Non-Discrimination and Transparency | | | | | |
| Article 5.1 | Notification for Enhanced Controls or Inspections | C | 22 February 2023 | 30 June 2026 | Support to: 1. Develop modern systems of notifying stakeholders about enhanced controls and inspections; 2. Equip and establish infrastructure to detect food hazards, including early warning systems; and 3. Train staff on import alerts/ rapid alert tests |
| Article 5.2 | Detention | A | - | - | - |
| Article 5.3 | Test Procedures | C | 22 February 2023 | 30 June 2033 | Support to: 1. Establish, equip, accredit, and network, laboratories; 2. Attain mutual recognition of conformity from other Members; and 3. Review the legal framework of KEBS, Kenya Plant Health Inspectorate Services (KEPHIS), Directorate of Veterinary Services (DVS), Ministry of Health and other relevant border agencies to align with the relevant provisions of the Trade Facilitation Agreement. |
| Article 6 Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation and Penalties | | | | | |
| 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 | Support to: 1. Review and simplify the fees and charges levied basing them on criteria corresponding to the cost of the services rendered; 2. Develop a mechanism for periodic review of fees and charges for purposes of reducing their numbers and diversity; and 3. Draft guidelines on fees and charges to be used by the public sector and also set up a pool of experts to assist border agencies to set up their fees and charges. |

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| 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 | Support to: 1. Draft guidelines on specific fees and charges to be used by the customs authority. |
| Article 6.3 | Penalty Disciplines | C | 22 February 2023 | 30 June 2033 | Support to: 1. Establish a mechanism of addressing an error where a person voluntarily discloses to a Kenya Customs administration the circumstances of a breach of customs law, regulations, or procedural requirements prior to the discovery of that breach by custom administration; 2. Formulate guidelines and policies which will help the officers distinguish between a mistake and fraudulent conduct before imposing penalties; 3. Develop procedure manuals for assessment of mitigations, settlement and collection of civil and administrative penalties; and 4. Align domestic law with the relevant provisions of the Trade Facilitation Agreement. |
| Article 7 Release and Clearance of Goods | | | | | |
| Article 7.1 | Pre-arrival Processing | C | 22 February 2023 | 30 June 2026 | Support to: 1. Upgrade the ICT systems and automate operations of the Customs administration and other relevant agencies; 2. Develop and implement an effective risk management system; 3. Integrate all border agencies systems to access Kenya Port Authority (KPA) Bay Plan to complement the shipping manifests; 4. Integrate Automated System for Customs Data (ASYCUDA) of Uganda, Tanzania Customs Integrated System (TANCIS) of Tanzania, and Integrated |

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| | | | | | Customs Management System (ICMS) systems to facilitate trade; 5. Enhance capacity building of border agencies; and 6. Train on the Integrated Customs Management Systems and Single Window. |
| Article 7.2 | Electronic Payment | B | 22 February 2025 | 30 June 2028 | - |
| Article 7.3 | Separation of Release from Final Determination of Customs Duties, Taxes, Fees and Charges | B | 22 February 2023 | 30 June 2026 | - |
| Article 7.4 | Risk Management | C | 22 February 2023 | 30 June 2026 | Support to: 1. Enhance the policy and strategic plan on risk management; 2. Train and capacity build border agencies on risk management; 3. develop a National Legal Framework on Risk Management; and 4. Establish an ICT infrastructure to support National Risk Management Framework. |
| Article 7.5 | Post-clearance Audit | C | 22 February 2023 | 30 June 2026 | Support to: 1. Formulate a National strategy for undertaking Post-Clearance Audit by all border agencies 2. Train staff of all border agencies on post audit procedures and methods; and 3. Sensitize stakeholders on Post Clearance Audit. |
| Article 7.6 | Establishment and Publication of Average Release Times | C | 22 February 2023 | 30 June 2026 | Support to: 1. Develop a National policy document on establishment and publication of average release time; 2. Establish a National inter-agencies coordination unit under State Department for Trade (SDT) to implement this measure; 3. Design a monitoring system of average release times and ensure their publication; |

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| | | | | | 4. Train and assign qualified persons to carry out time release studies; and 5. Establish, under SDT, a National unit for publication and timely release studies. |
| Article 7.7 | Trade Facilitation Measures for Authorized Operators | C | 22 February 2023 | 30 June 2026 | Support to: 1. Develop a National mechanism for coordination and cooperation between Customs and other border agencies; 2. Develop rules and procedures on governing National Authorised Economic Operators (AEOs). |
| Article 7.8 | Expedited Shipments | C | 22 February 2023 | 30 June 2026 | Support to: 1. Sensitize and create awareness among the stakeholders on TFA and expedited shipments; 2. Harmonize regulations and operations of border agencies on clearance of expedited shipment; and 3. Conduct time release studies on all agencies on the transit corridor dealing in processing and release of expedited cargo. |
| Article 7.9 | Perishable Goods | C | 22 February 2023 | 30 June 2030 | Support to: 1. Develop infrastructure to handle perishable goods at the ports of entry, such as cold rooms and animal holding facilities; 2. Harmonize the procedures and operations of all agencies involved in clearing and release of perishable goods, including harmonizing business hours at entry and exit border points; 3. Train staff on handling perishable goods. |
| Article 8 Border Agency Cooperation | | | | | |
| | | C | 22 February 2023 | 30 June 2026 | Support to: 1. Train members of Joint Border Committees on cross-border Cooperation requirements and procedures; |

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| | | | | | <ol style="list-style-type: none"> 2. Establish shared facilities for the remaining border posts as well as harmonising; procedures and formalities; and 3. Map out and analyse each agency's existing procedures, mandate and operations with a view to designing a new set of joint operations aligned to international standards and best practices; 4. Train officers on joint border operations and risk management; and 5. Build capacity to establish electronic information exchanges with WTO Members. |
| Article 9 Movement of Goods Intended for Import under Customs Control | | | | | |
| | | A | - | - | |
| Article 10 Formalities Connected with Importation, Exportation and Transit | | | | | |
| Article 10.1 | Formalities and Documentation Requirements | C | 22 February 2023 | 30 June 2026 | <p>Support to:</p> <ol style="list-style-type: none"> 1. Harmonize national procedures at the border points among the Kenya border agencies, with those of the East Africa Community (EAC) partner states, and other bordering countries; 2. Train stakeholders on trade documentation tool kit and business process analysis; 3. Simplify and standardize trade documents, both manual and electronic, with a view reducing them (where applicable); 4. Analyse the existing regulations, procedures and forms with a view to producing simplified trade documents; 5. undertake legislative and regulatory review on procedures and documentation requirements; and 6. Carry out stakeholders' sensitisation on the revised procedures. |

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| Article 10.2 | Acceptance of Copies | C | 22 February 2023 | 30 June 2026 | Support to: 1. Develop a legal framework and/or administrative procedures for accepting copies. |
| Article 10.3 | Use of International Standards | C | 22 February 2023 | 30 June 2026 | Support to: 1. Create awareness among stakeholders on the various international standards applicable; 2. Evaluate the impact of standards on national and regional economy; 3. Develop National, Regional and International Standards; and 4. Participate in international meetings on development and review of standards. |
| Article 10.4 | Single Window | C | 22 February 2023 | 30 June 2033 | Support to: 1. Upgrade ICT infrastructure for the Single Window; 2. Develop legal framework to link all border agencies to the Single Window platform; 3. Develop and integrate ICT platforms for various border agencies; and 4. Develop a mechanism for information sharing among border agencies. |
| Article 10.5 | Pre-shipment Inspection | A | - | - | - |
| Article 10.6 | Use of Customs Brokers | A | - | - | - |
| Article 10.7 | Common Border Procedures and Uniform Documentation Requirements | B | 22 February 2023 | 30 June 2026 | - |
| Article 10.8 | Rejected Goods | C | 22 February 2023 | 30 June 2033 | Support to: 1. Install modern incinerators and other disposal facilities; and 2. Review policy and/or legal framework on rejected goods to ensure conformity with the relevant TFA provisions. |
| Article 10.9 | Temporary Admission of Goods and Inward and Outward Processing | B | 22 February 2021 | 30 June 2024 | - |
| Article 11 Freedom of Transit | | | | | |
| | | C | 22 February 2023 | 30 June 2026 | Support to: 1. Enhance the legal framework supporting implementation of Cargo tracking; 2. Improve the infrastructure along the transit corridor; |

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| | | | | | 3. Simplify formalities, documentation procedures and Customs controls on cargo in transit; and 4. Harmonize the EAC Electronic Cargo tracking system. |
| Article 12 Customs Cooperation | | | | | |
| Article 12.1 | Measures promoting Compliance and Cooperation | C | 22 February 2023 | 30 June 2026 | Support to: 1. Capacity build Kenya's customs administration on matters of cooperation with other customs authorities; and 2. Review EAC customs law to ensure compliance with provisions of this Article. |
| Article 12.2 | Exchange of information | C | | | |
| Article 12.3 | Verification | B | 22 February 2023 | 30 June 2026 | - |
| Article 12.4 | Request | C | 22 February 2023 | 30 June 2026 | Support to: 1. Capacity build Kenya's customs administration on matters of cooperation with other customs authorities; 2. Review EAC customs law to ensure compliance with provisions of this Article. |
| Article 12.5 | Protection and confidentiality | C | | | |
| Article 12.6 | Provision of information | C | | | |
| Article 12.7 | Postponement or refusal of a request | C | | | |
| Article 12.8 | Reciprocity | C | | | |
| Article 12.9 | Administrative burden | C | | | |
| Article 12.10 | Limitations | C | | | |
| Article 12.11 | Unauthorized use or Disclosure | C | | | |
| Article 12.12 | Bilateral and Regional Agreements | B | 22 February 2023 | 30 June 2028 | - |