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FINAL REPORT OF AN AUDIT

CARRIED OUT IN

KENYA

FROM 12 TO 19 NOVEMBER 2013

IN ORDER TO EVALUATE CONTROLS OF PESTICIDES IN FOOD OF PLANT ORIGIN  
INTENDED FOR EXPORT TO THE EUROPEAN UNION

*In response to information provided by the Competent Authority, any factual error noted in the draft report has been corrected; any clarification appears in the form of a footnote.*

## ***Executive Summary***

*This report describes the outcome of a Food and Veterinary Office (FVO) audit in Kenya, carried out from 12 to 19 November 2013. The objective of the audit was to assess controls on pesticide residues in fresh beans and peas in pods intended for export to the European Union.*

*Since 2012, the competent authority has introduced enhanced controls of exporters of fruit and vegetables and started controlling and training the large number of small growers producing for export. Comprehensive follow-up for notifications in the EU Rapid Alert System for Food and Feed (RASFF) and EU import control rejections in 2013 has taken place. These measures will facilitate compliance with EU pesticide maximum residue levels for peas and beans exported to the EU. However, growers have not always followed the label instructions of plant protection products, deficiencies of labels have been identified, and there is no legal basis to withdraw authorisations of plant protection products. This can explain the recent rejections at EU import controls. A comprehensive monitoring programme for peas and beans had started shortly before the audit, but critical shortcomings in the official laboratory affect the reliability of results.*

*The report makes a number of recommendations to the competent authorities, aimed at rectifying the shortcomings identified and enhancing the implementation of control measures.*

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## ABBREVIATIONS AND DEFINITIONS USED IN THIS REPORT

<b>Abbreviation</b>	<b>Explanation</b>
AFFA	Agriculture Food and Fisheries Act
CA(s)	Competent Authority(ies)
CAC/GL	Codex Alimentarius Commission/Guideline
CCA(s)	Central Competent Authority(ies)
CODEX	Codex Alimentarius Commission of the Food and Agriculture Organization of the United Nations and World Health Organization
DG(SANCO)	Health and Consumers Directorate-General
EN	European Norm
EU	European Union
FAO	Food and Agriculture Organisation
FVO	Food and Veterinary Office
GAP	Good Agricultural Practice
GC-MS	Gas chromatograph coupled to mass spectrometer
GC-ECD	Gas chromatograph coupled to electron capture detector
GC-MS/MS	Gas chromatograph coupled to tandem mass spectrometer
GC-NPD	Gas chromatograph coupled to nitrogen phosphorus detector
GMP	Good Manufacturing Practice
HCAS	Horticultural Competent Authority Structure
HCDA	Horticultural Crops Development Authority

HORTICAP	Horticultural Produce Phytosanitary Certification and Quality Assurance
HPLC	High Performance Liquid Chromatography
ISO	International Organisation for Standardisation
KARI	Kenya Agricultural Research Institute
KEPHIS	Kenya Plant Health Inspectorate Service
LC-MS/MS	Liquid Chromatograph coupled to tandem mass spectrometers
MOALF	Ministry of Agriculture, Livestock and Fisheries
MOH	Ministry of Health
MRL	Maximum Residue Level
MS(s)	Member State(s)
PCPB	Pest Control Products Board
PHI	Pre-Harvest Interval
PIP	Pesticides Initiative Programme
PPP(s)	Plant Protection Product(s)
RASFF	Rapid Alert System for Food and Feed
TC(s)	Third Country(ies)

## 1 INTRODUCTION

The audit took place in Kenya from 12 to 19 November 2013 in order to assess controls on pesticide residues in fresh beans and peas in pods, intended for export to the European Union (EU). The audit team comprised one auditor from the Food and Veterinary Office (FVO) and one expert from an EU Member State (MS).

The audit was undertaken as part of the FVO's annual audit programme in the context of a wider series of audits in third countries (TCs) to evaluate control systems and operational standards in this sector. The audit was carried out in parallel with audit DG(SANCO)/2013-6817 on phytosanitary controls in plants and plant products exported to the EU, and a separate report is available for the latter audit.

The FVO team was accompanied during the audit by representatives of the central competent authority (CCA), the Kenya Plant Health Inspectorate Service (KEPHIS).

An opening meeting was held on 12 November 2013 with KEPHIS, the Pest Control Products Board (PCPB), the Horticultural Crops Development Authority (HCDA), the Ministry of Health (MOH) and the Ministry of Agriculture, Livestock and Fisheries (MOALF). At this meeting, the objectives of and itinerary for the audit were confirmed, and additional information required for the satisfactory completion of the audit was requested.

## 2 OBJECTIVES AND SCOPE

The **objectives** of the audit were to verify whether there are control systems in place for the control of pesticide residues in fresh beans and peas in pods intended for export to the EU, and assess whether these systems offer adequate assurance that the produce concerned is within the specified residue limits laid down in EU legislation.

In terms of **scope**, the audit reviewed the controls in place on the production and export, including a review of national legislation, competent authority (CA) organisation, their controls and enforcement capability, facilities (laboratory capability) and measures in place for the determination of pesticide residues. As the residue controls are directly related to the national rules governing the authorisation, placing on the market and use of Plant Protection Products (PPPs), the control systems in this area were also part of the audit. As regards products concerned, the audit covered fresh beans and peas in pods.

In pursuit of these objectives, the following sites were visited:

Competent Authorities			Comments
Competent Authority	Central	5	KEPHIS, PCPB, HCDA, MH and MOALF;
	Regional/local	1	HCDA office in Mwea
<b>Laboratory</b>			
Public Laboratories		1	KEPHIS Analytical Chemistry Laboratory for pesticide residue analysis

<b>Growers</b>	3	Growers of French beans, runner beans and of snow peas in Mwea and Timau regions
<b>Exporters/Pack-Houses</b>	3	Two exporters/pack-houses met at Nairobi Airport, one exporter/packhouse in Mwea region
<b>Points of Export</b>	1	KEPHIS office at Nairobi Airport
<b>Other</b>	2	Fresh Produce Exporters Association of Kenya Association of growers and exporters of flowers

### **3 LEGAL BASIS AND STANDARDS**

#### **3.1 LEGAL BASIS**

The audit was carried out under the general provisions of EU legislation, in particular Article 46 of Regulation (EC) No 882/2004 of the European Parliament and of the Council which stipulates that EU controls in Third Countries (TC) may verify compliance or equivalence of TC legislation and systems with EU feed and food law and EU animal health legislation. These controls shall have particular regard to the assurances which the TC can give regarding compliance with, or equivalence to, EU requirements.

EU legal acts quoted in this report refer, where applicable, to the last amended version. Full references to the EU acts quoted in this report are given in Annex 1.

#### **3.2 STANDARDS**

Additionally Guidelines and Codes of Practice of the Codex Alimentarius Commission of the Food and Agriculture Organization of the United Nations and World Health Organisation (CODEX) were taken into account in the frame of the audit.

A full list of applicable standards referred to in this report is provided in Annex 2. Reference to specific provisions of these texts is provided at the beginning of each section.

### **4 BACKGROUND**

Since 2004, the FVO has carried out audits on pesticide controls in all main countries exporting fruit, vegetables and herbs to the EU. Reports of these audits have been published. An overview report summarising findings and conclusions of these audits has also been published.

This was the second FVO audit on pesticide controls in Kenya. The scope of the previous audit DG(SANCO) 2007-7221 of November 2007 also covered controls of pesticides in food of plant origin. All reports are available on DG(SANCO)'s internet site at [http://ec.europa.eu/food/fvo/index\\_en.cfm](http://ec.europa.eu/food/fvo/index_en.cfm)

In accordance with Annex 1 of Regulation (EC) No 669/2009, fresh beans and peas in pods from Kenya are subject to an increased level of import controls by the EU Member States. Since January 2013,

10 % of consignments of peas and beans from Kenya presented for import are analysed for pesticide residues. In the second quarter of 2013, the non-compliance rate for beans from Kenya was 2.8 %,

and for peas it was 9.6 %. The pesticides exceeding EU Maximum Residue Level (MRLs) in these checks included acephate, chlorpyrifos-ethyl, diafenthiuron, dimethoate, indoxacarb, methomyl, methamidophos and omethoate. In a few cases, the concentrations detected presented a possible acute health risk to consumers.

## **5 FINDINGS AND CONCLUSIONS**

### **5.1 RELEVANT NATIONAL LEGISLATION**

#### **Legal requirements**

Article 46 (1) (a) of Regulation (EC) No 882/2004 stipulates that EU controls shall have, *inter alia*, particular regard to the legislation of the TC.

#### **Findings**

The national legislation is described in audit report DG(SANCO) 2007-7221.

Since the last audit, KEPHIS is now established under the KEPHIS Act No 54 of 2012, which is yet to be implemented. A new Act, the Agriculture Food and Fisheries Act (AFFA) No 13 of 2013, combines several authorities in a “one-stop-shop”. The Act repealed The Agricultural Produce (Export) Act Cap 319 which contained the requirements for export control. However, the repeal has been suspended until 2014 by an Amendment of the Act. The KEPHIS, HCDA and PCPB are included in the AFFA. Implementing legislation is currently being discussed.

HCDA (Export) Order No 190 of December 2011 replaced the previous Order of 1995. It empowers the Authority to facilitate and enforce standards for all horticulture produce. The provisions include requirements for the safe use of pesticides and for traceability (detailed rules for traceability have yet to be adopted). Exporters have to be registered annually, and must have own production schemes or contracted growers. Exporters must keep records of their transactions and submit quarterly returns to HCDA. The Order also provides for sanctions.

#### **Conclusions**

Since the last audit in 2007, further legislation has been adopted. Once implemented, it should provide for strengthened export controls.

### **5.2 COMPETENT AUTHORITIES**

#### **Legal Requirements**

Article 46 (1) (b) and (c) of Regulation (EC) No 882/2004 stipulate that EU controls shall have, *inter alia*, particular regard to the organisation of the TC's CAs, their powers and independence, the authority they have to enforce the applicable legislation effectively, and the training of staff in the performance of official controls.



## Findings

The CAs are the same as described in audit report DG(SANCO) 2007-7221. Since the last audit, the Horticultural Competent Authority Structure (HCAS) has been established to co-ordinate controls within the scope of the audit. The HCAS includes KEPHIS, HCDA, PCPB and the Kenya Agricultural Research Institute (KARI). The MOALF provides the chair, but KEPHIS is the technical chair for pesticide residues and phyto-sanitary issues.

The tasks of CAs within the HCAS are as follows:

- KEPHIS: pesticide residue monitoring plans and analysis;
- HCDA: registration and control of exporters/pack-houses, implementation of traceability, training and control of farmers;
- PCPB: PPP authorisation, formulation analysis of PPPs, registration and controls of PPP retailers and storage facilities;
- KARI: research on Integrated Pest Management.

KEPHIS has a total staff of 422, including 21 staff in the Analytical Chemistry Laboratory. The laboratory staff have received extensive training in Kenya and in the EU.

HCDA has a total of 198 officers, with 66 officers in the Technical Department being responsible for control of exporters, pack-houses and growers. All 66 officers have been trained in Good Agricultural Practice (GAP) and traceability, with emphasis on pesticide use, through a HCDA-Pesticides Initiative Programme (PIP) initiative. PIP is an EU cooperation programme financed by the European Development Fund. The officers provide training to farmers. HCDA staff has also been trained in sampling procedures for pesticide residue analysis.

Since the last audit, the PCPB has recruited more staff and opened regional offices in Mount Kenya, Coast and Western regions. There are four trained inspectors in each region with six inspectors being stationed at the headquarters in Nairobi. In addition, seven staff work in the PPP authorisation department, and three in the formulation laboratory.

## Conclusions

CAs are clearly designated and controls are co-ordinated. The number of staff has increased since the last audit, and extensive training of staff has taken place.

### 5.3 OFFICIAL CONTROLS OF THE MARKETING AND USE OF PLANT PROTECTION PRODUCTS

#### Legal requirements

Article 46 (1) (e) and (b) of Regulation (EC) No 882/2004 stipulate that EU controls shall have, *inter alia*, particular regard to the existence and operation of documented control procedures and control systems based on priorities, and the CA's capability to enforce applicable legislation;

Article 28 of Regulation (EC) No 1107/2009 requires PPPs not be placed on the market or used unless they have been authorised in the MSs in accordance with this Regulation.

Article 55 of Regulation (EC) No 1107/2009 provides for the proper use of PPPs, including compliance with the conditions established and specified on the labelling.

Article 68 of Regulation (EC) No 1107/2009 requires MSs to carry out controls in order to enforce

compliance with this Regulation.

Article 10 of Regulation (EC) No 852/2004, in conjunction with Article 4.1 and Annex I, Part A.III of the same Regulation, requires that FBOs producing or harvesting plant products are, in particular, to keep records on any use of PPPs.

## **Findings**

### *5.3.1 Authorisation and marketing controls of Plant Protection Products*

No PPPs are produced in Kenya. In 2009/2010, a total of 8 832 tonnes of PPPs were imported into Kenya. The authorisation system for PPPs was described in audit report DG(SANCO) 2007-7221. Since the time of the last audit, the number of authorised PPPs has increased from 850 to 1 100, but the number of active substances included in the PPPs has remained at around 300. A list of PPP authorisations is published on the PCPB website, and available for a fee. The published information does not always include details on the authorised uses, such as the pre-harvest interval (PHI). A number of pesticides detected two or more times during 2013 in EU import controls of peas and beans, and notified through the EU RASFF system, are authorised in Kenya for the use on these crops. These include acephate, chlorpyrifos, dimethoate, omethoate and methomyl.

In 2012, the private sector decided to carry out a campaign to impose a “self-ban” on the use of dimethoate produces on all vegetables and fruits. One of the dealers of dimethoate went to court and challenged this campaign; as a result the self-ban was stopped. In a meeting between PCPB and stakeholders in September 2013, it was agreed not to recommend foliar applications of products containing dimethoate, chlorpyrifos and omethoate. The PCPB commented that draft legislation is being discussed to provide a legal basis for the official withdrawal of authorisations. However, the audit team saw that PPPs containing chlorpyrifos were still in the list of recommended PPPs at grower groups and exporters visited, and uses of chlorpyrifos were recorded in October 2013.

The label of a PPP containing dimethoate seen by the audit team did not contain information about the PHI. In another case, the label for a product containing chlorpyrifos specified uses on cereals, vegetables and cotton, while the register contained only an authorised use on cotton. The use of chlorpyrifos in beans was the reason for five RASFF notifications in 2013. The PCPB stated that since 2012 they only authorise new PPPs when the label contains full information about the authorised use. Newly authorised PPPs seen by the audit team contained comprehensive information for the growers. These new labels had been scanned by PCPB and were available for inspectors on a laptop.

One grower had recorded a use of a PPP containing carbendazim on beans, while the official register of this product only allowed the use on flowers.

The PCPB have registered 4 000 retailers of PPPs and the storage area of large growers who keep PPPs in storage. Certificates had been issued for the central storage areas of exporters and co-operatives met by the audit team. The PCPB also analyses 250 - 300 PPPs annually for identity and concentration of active substance, pH, moisture and density. They stated that there are very few non-compliances. The laboratory is not accredited.

### *5.3.2 Control of Growers*

The HCDA Order of 2011 requires exporters and pack-houses to operate on a contract basis with farmers or use own-production schemes. Exporters are required to submit details of their contracted

farmers to the HCDA. The HCDA verifies these details by inspecting the exporters and a representative number of the contracted growers. During this visit, a short check-list is completed. It contains basic requirements on GAP and hygiene. Regarding pesticides, there are two tick-boxes for plant protection equipment and pesticide stores without giving details on the required standard. The keeping of records for PPP applications, which is a requirement under Regulation (EC) No 852/2004, is not part of the check-list. However, all growers visited by the audit team kept such records. The details of farms contracted by exporters are recorded by the HCDA. The estimated number of such farms is 5 000-6 000.

PCPB, together with the PPP industry, has provided training on safe use of pesticides. In 2012/2013, they held 48 “farmer field days”. PCPB stated that each of these training sessions was attended by 100 farmers.

HCDA has provided further training with the help of PIP. This covered traceability, market requirements, pest/disease control measures, pesticide use and handling and IPM. About 1 000 farmers have been trained.

The Ministry of Agriculture has also provided training to 394 farmers.

## **Conclusions**

While there have been improvements in the controls of marketed PPPs since 2012, the majority of pesticides involved in the 2013 EU RASFF notifications are authorised for use on vegetables in Kenya. In addition, growers did not always follow the labels, and there were deficiencies with the information they contain. Furthermore, there is currently no legal basis to withdraw authorisations of PPPs. This can explain recent rejections of peas and beans at EU import controls.

The new HCDA Order of December 2011 has introduced a legal basis to control and train the farmers producing for export to the EU, and HCDA demonstrated the substantial work carried out since 2012.

Effective training has been given to the growers by several CAs, and farmers have kept records of uses of PPPs as required by Regulation (EC) No 852/2004.

## **5.4 OFFICIAL CONTROLS OF PESTICIDES RESIDUES IN FOOD OF PLANT ORIGIN**

### **Legal requirements**

Article 46 (1)(b), (c), (d), (e) and (h) of Regulation (EC) No 882/2004 stipulate that EU controls shall have, inter alia, particular regard to: the existence and operation of documented control procedures and control systems based on priorities, the CA's capability to enforce applicable legislation, the resources including diagnostic facilities available to competent authorities, the training of staff in the performance of official controls and the assurances which the third country can give regarding compliance with, or equivalence to, EU requirements.

Article 11 of Regulation (EC) No 178/2002 stipulates that food and feed imported into the EU for placing on the market within the EU shall comply with the relevant requirements of food law or conditions recognised by the EU to be at least equivalent thereto.

Article 18 of Regulation (EC) No 396/2005 requires that products covered by Annex I of the same Regulation shall not contain, from the time they are placed on the EU market as food or feed, any pesticide residue exceeding EU MRLs, or 0.01 mg/kg for those products for which no specific MRL is set.

The CODEX has also established MRLs for pesticides, which are considered for the establishment of EU MRLs (CAC/MRL 1-2009).

Commission Directive 2002/63/EC establishes EU methods of sampling for the official control of pesticides residues in and on products of plant and animal origin or equivalent international standards (e.g. CODEX Guidelines CAC/GL 31-1999).

Article 10 of Regulation (EC) No 852/2004 in connection with Article 6 of the same Regulation requires that every FBO shall notify the appropriate CA of each establishment under its control that carries out any of the stages of production, processing and distribution of food, with a view to the registration of each such establishment.

Point 41 of Guidelines of CODEX CAC/GL 26-1997 on the Design, Operation, Assessment and Accreditation of Food Import and Export Inspection and Certification Systems lays down that inspection services should utilize laboratories that are evaluated and/or accredited under officially recognized programmes to ensure that adequate quality controls are in place to provide for the reliability of test results. In accordance with Guidelines of CODEX CAC/GL 27-1997, point 3, the laboratories should comply with ISO/IEC Guide 17025.

Point 6 of the CODEX Guidelines CAC/GL 25-1997 specifies that upon information about a rejection of a food consignment presented for import, the food control authorities in the exporting country should undertake the necessary investigation to determine the cause of any problem that has led to the rejection of the consignment.

## **Findings**

### *5.4.1 Sampling Programmes for Pesticide Residues*

The first national monitoring plan for pesticide residues was implemented in 2009 with the assistance of the Horticultural Produce Phytosanitary Certification and Quality Assurance (HORTICAP), funded by the European Union. Before the implementation of the plan, a training supported by the Food and Agriculture Organisation (FAO) and HORTICAP was held. Monitoring has continued until the time of the audit. During the year 2012-2013 a total of 532 samples were taken and analysed at the KEPHIS Analytical Chemistry Laboratory. A total of three commodities, kales and tomato (mainly domestic consumption) and passion fruit (exported to the EU) were included in the programme. The sampling and analysis was carried out by KEPHIS. Samples were taken in nine regions. A total of 46 samples tested positive with a total of six pesticides, which relates to 8.6 % of the samples.

Following the inclusion of Kenyan peas and beans in Regulation (EC) No 669/2009, the monitoring plan was enhanced to include a more extensive number of samples of peas and beans in pods and other commodities. The plan was signed on 4 October 2013. It provides for 8 000 samples to be taken per year, including 6 000 samples of peas and beans for export to the EU. KEPHIS stated that the number of samples and the sampling points are designed to provide statistical confidence of compliance for exported produce. This was proposed after a consultant of an EU funded support programme carried out an assessment of the industry in May 2013. Risk factors are not included in the design of the programme. Samples are taken by trained HCDA staff from production areas, collection centres and pack houses, for analysis by KEPHIS. The sampling procedure was explained to the audit team by a sampling technician of HCDA. The procedure followed the CODEX Guidelines CAC/GL 33-1999. Until the time of the audit, 270 samples of beans and 187 samples of peas have been sampled within the extensive programme.

#### *5.4.2 Control at Pack-Houses, Processors, Exporters*

The HCDA Order of 2011 provides for strengthening and enforcement of exporters standards, including traceability systems. HCDA stated that 158 out of the active 200 exporters of fruits and vegetables have been controlled and registered under the Order, and the remainder has not received the registration and stopped to export.

Surveillance controls are performed by HCDA to improve the standards. Annual registration of exporters is required under the Order. Traceability systems have been established by the exporters visited allowing the trace-back of consignments to the growers. In addition, exporters have to submit quarterly returns on production and exports of produce. The information includes data on production schemes, farms, the quantities exported and destinations. The controls include inspections of the pack-houses/exporters and check at representative growers (see section 5.3.2). In addition, regular meetings are held between competent authorities and exporters to address issues of non-compliance such as interceptions at EU borders. Six interactive meetings have been held since January 2013.

HCDA in collaboration with US AID-Kenya Agricultural Value Chain Enterprises have initiated a programme to geo-reference all the farms of beans and peas. Data from a total of 3 200 farmers have been collected from exporters and captured in the HCDA system.

#### *5.4.3 Laboratories for Pesticide Residue Analysis*

The audit team visited the KEPHIS laboratory. It is the only official laboratory in Kenya which has performed official pesticide residue analysis. It is responsible for the national pesticide residue monitoring plan. KEPHIS also provides residue analysis of private samples. The period between sampling and reporting of the analytical results varies from 1 to 10 working days. There were 729 samples analysed in 2013, of which 489 were export samples mainly for the EU market.

##### Resources and training

A new laboratory building has been constructed in 2012 with very good facilities and space to cover the different types of residue, water and soil analysis. The laboratory staff includes eight persons with third level degrees and thirteen technicians. The laboratory staff has been regularly trained and is sufficiently qualified to operate the existing equipment.

##### Analytical spectrum and methods

The laboratory is equipped with GC-MS and LC-MS/MS and also with GC classical detectors GC-ECD and GC-NPD, which are used for the multi-residue analysis of pesticides. KEPHIS stated that in addition a GC-MS/MS is available, which was not seen by the audit team. They apply a QuEChERS multi-residue method (EN 15662). One aliquot is used for LC-MS/MS and a second one, changing the solvent to isooctane, is used for GC-MS. Classical detectors are only used in specific cases to facilitate identification or quantification activities. The multi-residue method covers about 50 compounds. The validated scope did not represent the pesticides commonly used in Kenya. Some deficiencies in the extraction procedure and quantification with the method applied were detected, in particular the evaporation system applied was not enough efficient. Both aspects represent a considerable limitation in obtaining positive residue findings in the performed analysis.

## Quality assurance procedures

The laboratory has been accredited to ISO 17025 by the South African National Accreditation Body in May 2006. Then, as a consequence of the move of the laboratory, the accreditation was suspended in 2012. The re-instatement of the accreditation was granted in August 2013. Method validation data was available for 35 compounds amenable to GC analysis. Quality control procedures, based on daily recovery checks, linearity and repeatability are implemented and performed in every batch of samples. Quality control activities were upgraded from the last mission in 2007 such as the use of matrix-matched standards for quantification, confirmation of positive samples and balance checks. However, there is a lack of additional quality control checks based on internal standards and the estimation of uncertainty was not clearly defined, evaluated and reported. KEPHIS stated that a procedure on estimation of uncertainty was in place. A substantial number of certified standards are available. Although monitoring of standards is carried out, the preparation of new standards and working solution procedures presented some deficiencies.

The laboratory participated in a 2012 proficiency test for pesticide residues provided by the National Measurement Institute of Australia with unsatisfactory results. Only one compound obtained an z-score below 2.

### *5.4.4 Response to RASFF Notifications*

Kenya notified a central contact point for the RASFF to the European Commission, in order to receive direct electronic access to the system. At the time of the audit, access to the system had not been granted yet. Instead, KEPHIS receives the RASFF notifications through the EU Delegation in Nairobi, typically on the same or next day.

Not all EU import control rejections have resulted in RASFF notifications. KEPHIS have actively requested full information about all rejected consignments from the EU Member States concerned, through DG SANCO of the European Commission.

After receipt of the RASFF notification, KEPHIS prepares a letter to the exporter, asking for an explanation and informing that the issuing of phytosanitary certificates is suspended, pending the investigation. Following receipt of the explanation, an inspection of the exporter is performed by KEPHIS staff, in some cases jointly with HCDA inspectors. After verification of adequate corrective actions, the suspension of phytosanitary certification is lifted.

KEPHIS demonstrated that this procedure has been followed for all border rejections in 2013. The audit team noted that the trace-back for the consignments to the grower was possible.

## **Conclusions**

Exporters and pack-houses processing peas and beans for export to the EU are registered, as required by Regulation (EC) No 852/2004. Effective traceability systems were implemented by the exporters visited.

The KEPHIS laboratory is accredited to ISO 17025 and has adequate facilities, equipment and staff. Since the last audit, the quality control procedures have improved. However, the current limited scope and deficiencies in the some critical quality control aspects for routine analysis mean that the results do not provide reliable data.

A comprehensive monitoring programme for peas and beans had started shortly before the audit. Sampling procedures are in line with the CODEX Guideline, but the lack of risk analysis reduces the effectiveness of the programme. The shortcomings in the KEPHIS laboratory used for analysis affect the reliability of results obtained.

Comprehensive follow-up of all RASFF notifications and border rejections was demonstrated. This has allowed the CAs to take corrective actions at the core of the problem.

## **5.5 PRIVATE CONTROLS ON PEAS AND BEANS EXPORTED TO THE EU**

### **Findings**

The Fresh Products Exporters Association have 154 exporters as members, and represent most exporters registered by HCDA.

The audit team visited pack-houses and exporters for beans, peas and other vegetables at Nairobi Airport area and in the production zones for beans and peas, and their growers. The exporters visited had been involved in EU RASFF notifications in 2013. The pack-houses have been certified to private EU Good Manufacturing Practice (GMP) standards.

Some of the exporters had their own large scale farms of up to 400 hectares. These farms were certified to private GAP standards. In addition, they contracted up to 600 small growers with plot sizes of below one hectare to five hectares. The small growers were organised in grower groups or co-operatives of up to 40 members, with agronomists to advise the farmers on the use of pesticides. The small growers were not certified to private GAP standards, with the exception of a four hectare farm. However, as a result of the EU border rejections the farmer groups have implemented centralised systems for the purchase and application of pesticides. The agronomist of the farmer groups carry out scouting visits for pests and diseases every week and advise on the PPPs to be used, based on the scouting result. The farmers now source their PPPs from the central pesticide store maintained by the exporter or the farmer group. In some cases the application of the PPPs was also centralised. The small growers apply the PPPs with knapsack sprayers, and have been trained in the calibration of the equipment. Lists of recommended PPPs, and records of PPP applications were kept.

Records of private sampling and pesticide residue analysis were seen by the audit team. Analysis is performed in the KEPHIS laboratory or by accredited private laboratories in the EU with an analytical scope with over 200 pesticides.

### **Conclusions**

A large number of small growers produce peas and beans for export to the EU. While they are not certified to private GAP standards, they are organised in grower groups which provide co-ordination of GAP and self-controls. These recent measures will help to improve compliance with EU MRLs for peas and beans exported to the EU.

## **6 OVERALL CONCLUSION**

Since 2012, the competent authority has introduced enhanced controls of exporters of fruit and vegetables and started controlling and training the large number of small growers producing for export. Comprehensive follow-up for notifications in the EU Rapid Alert System for Food and Feed (RASFF) and EU import control rejections in 2013 has taken place. These measures will facilitate

compliance with EU pesticide maximum residue levels for peas and beans exported to the EU. However, growers have not always followed the label instructions of plant protection products, deficiencies of labels have been identified, and there is no legal basis to withdraw authorisations of plant protection products. This can explain the recent rejections at EU import controls. A comprehensive monitoring programme for peas and beans had started shortly before the audit, but critical shortcomings in the official laboratory affect the reliability of results.

## 7 CLOSING MEETING

A closing meeting was held on 19 November 2013 with representatives of the central competent authorities. At this meeting, the audit team presented the main findings and preliminary conclusions of the audit. The competent authorities provided initial comments and clarifications.

## 8 RECOMMENDATIONS

The competent authorities are invited to provide details of the actions taken and planned, including deadlines for their completion ("action plan"), aimed at addressing the recommendations set out below, within 25 working days of receipt of this report.

The CA should:

N°.	Recommendation
1.	Ensure that growers of peas and beans correctly apply plant protection products, for example, but not exclusively, by providing training to growers and by enhanced label checks of PPPs, to provide a guarantee that the exported produce meets the requirements laid down in Article 11 of Regulation (EC) No 178/2002 and Article 18 of Regulation (EC) No 396/2005.
2.	Ensure that the scope of analyses for export samples is broadened in order to provide a guarantee that the exported produce meets the requirements laid down in Article 11 of Regulation (EC) No 178/2002 and Article 18 of Regulation (EC) No 396/2005. The analytical scope should include the pesticides commonly used and identified in EU RASFF notifications, and should take account of the residue definitions specified by CODEX.
3.	Ensure that the quality control system in the laboratory is supported by satisfactory results in proficiency testing programmes in line with international standards, such as ISO/IEC 17025.

The competent authority's response to the recommendations can be found at:

[http://ec.europa.eu/food/fvo/rep\\_details\\_en.cfm?rep\\_inspection\\_ref=2013-6692](http://ec.europa.eu/food/fvo/rep_details_en.cfm?rep_inspection_ref=2013-6692)



## ANNEX 1 - LEGAL REFERENCES

Legal Reference	Official Journal	Title
Reg. 178/2002	OJ L 31, 1.2.2002, p. 1-24	Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety
Reg. 882/2004	OJ L 165, 30.4.2004, p. 1, Corrected and re-published in OJ L 191, 28.5.2004, p. 1	Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules
Reg. 852/2004	OJ L 139, 30.4.2004, p. 1, Corrected and re-published in OJ L 226, 25.6.2004, p. 3	Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs
Reg. 396/2005	OJ L 70, 16.3.2005, p. 1-16	Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC
Dir. 2002/63/EC	OJ L 187, 16.7.2002, p. 30-43	Commission Directive 2002/63/EC of 11 July 2002 establishing Community methods of sampling for the official control of pesticide residues in and on products of plant and animal origin and repealing Directive 79/700/EEC
Reg. 669/2009	OJ L 194, 25.7.2009, p. 11-21	Commission Regulation (EC) No 669/2009 of 24 July 2009 implementing Regulation (EC) No 882/2004 of the European Parliament and of the Council as regards the increased level of official controls on imports of certain feed and food of non-animal origin and amending Decision 2006/504/EC

<b>Legal Reference</b>	<b>Official Journal</b>	<b>Title</b>
Reg. 1107/2009	OJ L 309, 24.11.2009, p. 1-50	Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC

## ANNEX 2 – STANDARDS QUOTED IN THE REPORT

Reference number	Full title	Publication details
CODEX Guidelines CAC/GL 25-1997	Guidelines for the exchange of information between countries on rejections of imported food (CAC/GL 25-1997).	<a href="http://www.codexalimentarius.net/web/standard_list.jsp">http://www.codexalimentarius.net/web/standard_list.jsp</a>
CODEX Guidelines CAC/GL 26-1997	Guidelines on the design, operation, assessment and accreditation of food import and export inspection and certification systems (CAC/GL 26-1997).	<a href="http://www.codexalimentarius.net/web/standard_list.jsp">http://www.codexalimentarius.net/web/standard_list.jsp</a>
CODEX Guidelines CAC/GL 27-1997	Guidelines for the Assessment of the competence of testing laboratories involved in the import and export control of food (CAC/GL 27-1997).	<a href="http://www.codexalimentarius.net/web/standard_list.jsp">http://www.codexalimentarius.net/web/standard_list.jsp</a>
CODEX Guidelines CAC/GL 31-1999	Recommended methods of sampling for the determination of pesticide residues for compliance with MRLs (CAC/GL 33-1999).	<a href="http://www.codexalimentarius.net/web/standard_list.jsp">http://www.codexalimentarius.net/web/standard_list.jsp</a>
CAC/MRL 1-2009	Maximum Residue Limits (MRLs) for Pesticides	<a href="http://www.codexalimentarius.net/mrls/pestdes/jsp/pest_q-e.jsp">http://www.codexalimentarius.net/mrls/pestdes/jsp/pest_q-e.jsp</a>