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FINAL REPORT OF AN AUDIT  
OF  
KENYA  
FROM 16 TO 28 SEPTEMBER 2020  
IN ORDER TO  
EVALUATE THE SYSTEM OF OFFICIAL CONTROLS FOR THE EXPORT OF  
PLANTS AND PLANT PRODUCTS 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 an audit carried out by the Directorate-General for Health and Food Safety of the European Commission in Kenya from 16 to 28 September 2020. It was undertaken as part of the published Directorate-General for Health and Food Safety work programme.*

*The objective of the audit was to evaluate the system of official phytosanitary controls of plants and plant products for export to the EU, in particular controls of fruits of *Capsicum sp.* (chillies) and *Rosa sp.* cut flowers (roses).*

*Kenya has a developed control system for plant health, based on appropriate legislation and detailed, continuously updated official procedures. An advanced laboratory system and IT network provide appropriate assistance for the implementation of the inspections in line with the EU requirements.*

*The Kenya Plant Health Inspectorate Service (KEPHIS), in cooperation with the industry, made significant efforts to develop pest management systems and own controls for the main export crops, in order to meet EU phytosanitary requirements. This applies in particular to the production of chillies in screen-houses and the application of a systems approach for the production and phytosanitary controls of roses. The growers and exporters are committed to implement additional measures as necessary.*

*Once implemented properly, the pest management systems and own controls applied by the stakeholders can ensure an enhanced level of compliance of the exported product with EU import rules, in particular concerning the place of production for chillies free from the false codling moth (FCM). However, for roses, the measures do not prevent the prevalence of FCM in the crops and do not ensure with an appropriate level of confidence that the consignments are free from the pest.*

*KEPHIS applies a risk-based approach for the EU export inspections, the elements of which have been improved since the previous audit in 2017. The system takes into consideration the harmful organism, the susceptibility of the product and the performance of the grower/packing house. The official procedures for the inspections at the places of production and at the point of export are generally in line with the EU requirements. The implementation of controls appears satisfactory for a range of areas, including the controls for plants for planting and the issuance of the phytosanitary certificates. In contrast, consignment inspections for a range of products and in particular for roses do not ensure entirely the compliance with EU import rules. In addition, the official controls for chillies do not sufficiently verify the FCM free status of the places of production.*

*Therefore, despite the recent positive developments, exports from Kenya, in particular of roses and chillies still pose a certain phytosanitary risk for the EU.*

*Recommendations to address shortcomings identified during the audit are included in the report.*

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## ABBREVIATIONS AND DEFINITIONS USED IN THIS REPORT

<b>Abbreviation</b>	<b>Explanation</b>
Chillies	Fruits of <i>Capsicum</i> sp.
Confidence level	As defined by point 3.1.1.3 of ISPM 31
DG Health and Food Safety	Directorate-General for Health and Food Safety of the European Commission
ECS	Electronic Certification System for recording export related phytosanitary inspections and for the issuance of phytosanitary certificates
ELISA	Enzyme Linked Immunosorbent Assay
EU	European Union
FAW	Fall armyworm ( <i>Spodoptera frugiperda</i> )
FCM	False codling moth ( <i>Thaumatotibia leucotreta</i> )
Fruit flies	Non-European insect species of the family Tephritidae, as defined in point 70 of Section C of Part A of Annex II to Commission Implementing Regulation (EU) 2019/2072
IPPC	International Plant Protection Convention
ISPM(s)	International Standards for Phytosanitary Measure(s)
JKIA	Jomo Kenyatta International Airport, Nairobi
KEPHIS	Kenya Plant Health Inspectorate Service
LAMP	Loop Mediated Isothermal amplification
MS	Member State of the European Union
NPPO	National Plant Protection Organisation
PC	Phytosanitary certificate, as defined by Article 71 of Regulation (EU) 2016/2031
PCR	Polymerase chain reaction
PFPP	Pest free place of production for chillies established and maintained according to provisions of Point 62(c) of Annex VII to Regulation (EU) 2019/2072, taking into consideration of requirements of ISPM 10
Plant	As defined by Article 2(1) of Regulation (EU) 2016/2031
Plant for planting	As defined by Article 2(2) of Regulation (EU) 2016/2031
RNQP	Regulated non-quarantine pest as defined by Article 36 of Regulation (EU) 2016/2031
Roses	Cut flowers of <i>Rosa</i> sp.
Sample unit	As defined by point 2 of ISPM 31
SOP	Standard Operating Procedure

<b>Abbreviation</b>	<b>Explanation</b>
The 2017 audit	Audit carried out by the DG Health and food Safety on phytosanitary export controls in 2017
ToBRFV	Tomato brown rugose fruit virus
TRACES	Trade Control and Expert System
Union quarantine pest(s)	Union quarantine pest(s), as defined in Article 4 of Regulation (EU) 2016/2031
WI	Work instruction

## 1 INTRODUCTION

The audit took place in Kenya from 16 to 28 September 2020 and was undertaken as part of the published work programme of the Directorate-General for Health and Food Safety of the European Commission (DG Health and Food Safety).

This audit was carried out by remote means and did not involve comprehensive on-site assessments. The results of the audit are therefore limited by the fact that certain aspects could not be verified in practice (see details in the relevant parts of the report). In particular, documentary checks by the audit team could not fully verify that the plant health inspections were implemented in line with the requirements of the competent authority.

The audit team consisted of four auditors from DG Health and Food Safety, and was assisted by two representatives of the EU Delegation in Nairobi in the form of visits to a *Capsicum* sp. fruit (chillies) grower and a *Rosa* sp. cut flower (roses) grower.

Activities of the Kenya Plant Health Inspectorate Service (KEPHIS), which is the National Plant Protection Organisation (NPPO) for Kenya, in relation to the phytosanitary controls of plants and plant products to be exported to the European Union (EU) were assessed. The exchange of information with representatives of the NPPO, growers, packinghouses and professional organisations took place by electronic means in the form of remote interviews, presentation and sharing documents.

An opening meeting was held on 16 September 2020 in the form of a video conference, during which the objectives of and the programme for the audit were confirmed, and additional information necessary for the conduct of the audit was requested.

Unless specified otherwise, the data quoted in the report were provided by the NPPO.

## 2 OBJECTIVES AND SCOPE

The objective of the audit was to evaluate the system of official controls for the export of plants and plant products subject to EU plant health import rules, in particular as defined by Regulation (EU) 2016/2031 of the European Parliament and of the Council and Commission Implementing Regulation (EU) 2019/2072.

In terms of scope, the audit reviewed the EU export related controls at the places of production, in the packinghouses and at the point of exit, and concentrated on the technical, organisational and administrative aspects of these controls, in particular concerning fruits of *Capsicum* sp. (chillies) and cut flowers of *Rosa* sp. (roses), in relation to the false codling moth (*Thaumatotibia leucotreta* – FCM). Official surveys for pests regulated by the EU, actions in response to EU interceptions, and the actions proposed by KEPHIS to address the recommendations of the report of the previous DG SANTE audit carried out in 2017 (the 2017 audit) were also evaluated.

To meet the objectives, the following meetings were carried out:

Participants in Kenya		No.	Comments
Competent Authorities	Central	1	Kenya Plant Health Inspectorate Service (KEPHIS)
	Regional	4	KEPHIS offices at Nairobi Airport, Naivasha, Nakuru and Timau
	Points of exit	1	Jomo Kenyatta International Airport, Nairobi
	Laboratories	2	Plant health laboratories Muguga, Nairobi
Stakeholders	Growers	6	Growers of roses, chillies, plants for planting, tomato and pepper seeds
	Packing houses	5	Packing houses for chillies and roses
	Associations	3	Professional organisations of growers and exporters of plants and plant products in Kenya

### 3 LEGAL BASIS

The audit was carried out under the general provisions of EU legislation and, in particular, Articles 120 and 122 of Regulation (EU) 2017/625 of the European Parliament and of the Council, and in agreement with the NPPO.

#### 3.1 RELEVANT EU LEGISLATION

Regulation (EU) 2016/2031 provides for protective measures against pests of plants and plant products. Uniform conditions for the implementation of that Regulation, including those pests, plants and plant products and other objects that must be subject to phytosanitary certification, and the conditions for the issue of such certificates, are established by Regulation (EU) 2019/2072. In addition, Regulation (EU) 2020/1191 defines requirement for the import of seeds for sowing of *Solanum lycopersicum* and *Capsicum* sp. in relation to FCM and Decision (EU) 2018/638 establishes emergency measures in relation to the fall armyworm (*Spodoptera frugiperda* – FAW). The legal references for these Regulations and other relevant EU legislation are listed in Annex 1. References to EU legislation are to the latest amended version, where applicable.

DG Health and Food Safety publishes information on the EU's requirements for plant health, including import requirements on its website: [https://ec.europa.eu/food/plant/plant\\_health\\_biosecurity\\_en](https://ec.europa.eu/food/plant/plant_health_biosecurity_en).

#### 3.2 INTERNATIONAL STANDARDS

Article X (4) of the International Plant Protection Convention (IPPC) establishes that contracting parties should take into account, as appropriate, international standards when undertaking activities related to the Convention. The International Standards for Phytosanitary Measures (ISPM) issued by the IPPC thus provide a basis for evaluating official export controls carried out by contracting parties. Kenya is a contracting party to the IPPC.



The full text of all adopted ISPMs is available on the International Phytosanitary Portal of the IPPC (<https://www.ippc.int>). The ISPMs that were of particular relevance to this audit are listed in Annex 2.

## **4 BACKGROUND**

This audit was carried out in view of the high volume of plants and plant products imported from Kenya into the EU. The audit took account of a number of interceptions of quarantine pests, and pests under EU emergency measures in consignments of cut flowers, vegetables and fresh herbs exported from Kenya, which were notified by EU Member States in the period of 2018-2020. In particular, the increase in the number of interceptions of roses and chillies with FCM were taken into consideration to initiate this audit.

### **4.1 PLANT HEALTH AUDITS IN KENYA**

The DG Health and Food Safety carries out regularly plant health audits in Kenya. There were four audits since 2007. The last one took place from 21 November to 1 December 2017 (the 2017 audit) and concentrated on the EU export related phytosanitary checks of plants for planting and seeds. The report of the 2017 audit is available at: [https://ec.europa.eu/food/audits-analysis/audit\\_reports/details.cfm?rep\\_id=3959](https://ec.europa.eu/food/audits-analysis/audit_reports/details.cfm?rep_id=3959).

Further information on the DG Health and Food Safety's Health and food audits and analysis Directorate, including audit reports and its work programme, are available at: [https://ec.europa.eu/food/audits\\_analysis\\_en](https://ec.europa.eu/food/audits_analysis_en).

### **4.2 NOTIFICATIONS OF INTERCEPTIONS**

The European Commission publishes a non-EU trade alert list, which is intended to draw the attention of relevant plant health authorities to the phytosanitary risks in any 12-month period. Kenya is on the second place on the last available list at the time of the audit, which indicates the exporting countries with the highest number of interceptions with quarantine pests in the period of 1 May 2019 to 30 April 2020. In this period there were particularly numerous interceptions of roses and chillies with FCM and basil (*Ocimum* sp.) with white flies (*Bemisia tabaci*).

The non-EU trade alert list and information about the annual and monthly number of intercepted consignments per exporting country is available on the DG Health and Food Safety website: [https://ec.europa.eu/food/plant/plant\\_health\\_biosecurity/non\\_eu\\_trade/alert\\_list\\_en](https://ec.europa.eu/food/plant/plant_health_biosecurity/non_eu_trade/alert_list_en) Table I. summarises the EU interceptions due to the presence of quarantine and other regulated pests in the period January 2018 – June 2020.

Table I. Number of consignments from Kenya intercepted due to the presence of quarantine and regulated pests (January 2018 – June 2020)

	Intercepted consignments		
	2018	2019	2020 I-VI.
<b>Total</b>	<b>79</b>	<b>92</b>	<b>53</b>
Main types of intercepted products			
Cut roses	41	42	24
Chillies	10	17	19
Basil	14	23	3
Main intercepted pests, regulated by the EU			
<i>Bemisia tabaci</i>	3	15	2
<i>Liriomyza</i> sp.	5	9	1
<i>Spodoptera</i> sp	20	11	-
from which <i>S. frugiperda</i>	2	3	-
<i>T. leucotreta</i>	49	50	37

Source: EURPHYT-Interceptions

Further detailed information is available for the registered NPPO users of the exporting country for plant health interceptions including reports of interceptions, in the Trade Control and Expert System (TRACES) of the EU (<https://webgate.ec.europa.eu/tracesnt/login>).

TRACES figures indicate that in the period June-September 2020 there were seven interceptions with quarantine and other regulated pests from Kenya, including four consignments of roses. In three cases, the reason was the presence of FCM and in one case of *S frugiperda* (fall armyworm – FAW). The figures indicate a decrease in the number of interceptions, compared to the first half of 2020.

#### 4.3 PRODUCTION AND EXPORT OF PLANTS AND PLANT PRODUCTS TO THE EU

Kenya exports significant volumes of plants and plant products to the EU. Kenya is the largest supplier of roses to the EU. In the period of 2018-2020 Kenya did not export *Momordica* sp. and *Luffa* sp. gourds to the EU. Table II. lists the main types of plants and plant products which were exported to the EU in the period of January 2018 – August 2020.

Table II. Export of plants and plant products from Kenya to the EU

Commodity	Volume of export (tonnes)			
	2017	2018	2019	2020 I-VIII.
Cut flowers	172,428	197,218	194,472	111,376
from that <i>Rosa</i> sp.		96,568	105,265	75,457
<i>Gypsophila</i> sp.		4,628	5,188	1,548
Fruits	67,287	41,462	33,538	59,072
Vegetables	94,249	62,328	93,829	59,072
from that <i>Capsicum</i> sp.		854	947	1,485

Commodity	Volume of export (tonnes)			
	2017	2018	2019	2020 I-VIII.
aubergines <i>Solanum</i> sp.		1,052	1,505	1,088
Herbs ( <i>Ocimum</i> sp. - basil)	732	921	1,344	1,504
Plants for planting		6,079	5,208	4,597
Seeds		62	75	51

Source: KEPHIS

Figures of the EU Statistical Office (EUROSTAT) indicate that 112,392 t and 128,417 tonnes of roses were imported from Kenya in 2018 and 2019, respectively. The main destination was the Netherlands. The annual value of the rose imports was nearly 400 million euro. In the same years, 762 and 817 tonnes of chillies were imported, mainly by the United Kingdom, Germany and the Netherlands.

In addition to the domestic production, Kenyan companies import avocado and green beans from Tanzania, which after processing and packaging are re-exported to EU.

The vast majority of the plants and plant products are transported to the EU by air from the Jomo Kenyatta International Airport in Nairobi (JKIA).

## 5 FINDINGS AND CONCLUSIONS

### 5.1 ORGANISATIONAL ASPECTS OF PLANT HEALTH CONTROLS

#### Legal requirements and international standards

Articles 71 and 76 and Annex V to Regulation (EU) 2016/2031, Regulation (EU) 2020/1191 ISPM 7, ISPM 23, ISPM 27

#### Findings

##### 5.1.1 National Plant Protection Organisation

1. KEPHIS is a state corporation under the auspices of the Ministry of Agriculture Livestock and Fisheries. The EU export related plant health controls are organised and carried out by the headquarters, regional offices, and plant health inspection stations. Further information can be found at [www.kephis.org](http://www.kephis.org).
2. At the time of the audit there were 147 plant health inspectors in Kenya, 26 of them at the JKIA. Since the 2017 audit, and in order to facilitate the inspectors' work, 47 inspector assistants are employed at various inspection units, including the JKIA.
3. The audit team noted that since the since the 2017 audit the number of inspectors were increased. In particular at the JKIA the employment of the inspector assistants and the fine-tuned sampling regime reduced the workload of the inspectors, however, it still remained very demanding (see *chapters 5.3.6 and 5.4.3*)

4. KEPHIS informed the audit team that the inspectors receive regular training about the EU requirements and about the detection methods of the newly regulated pests. In particular, inspectors were informed about the new EU requirements, which entered into force in December 2019. There is also mentoring and in-the-job training regime for the new colleagues.
5. KEPHIS has a well-established system for internal communication and for the up- and downstream information flow. A range of standard operating procedures (SOPs) and work instructions (WIs) regulate the EU export related inspections. A complex Electronic Certification System (ECS) assists the registration of the export related plant health inspections and the issuance of the export phytosanitary certificates (PC). Other relevant databases (e.g. an open document system) and the use of various means of communication (e-mails, social media groups) facilitate the internal communication. The audit team noted that inspectors have timely access to the documentation, which is necessary for their work (see *chapters 5.1.3 and 5.3*).
6. KEPHIS maintains strong work relations with professional organisations for developing effective pest management and own control systems and for ensuring their proper implementation among others with providing training for the growers, packing houses and traders. The inspectors are also in close contact with growers of goods to be exported to the EU.

#### *5.1.2 National Legislation*

7. The EU export related plant health controls are regulated by:
  - The Act No 54 of 2012 established KEPHIS and prescribes its responsibilities which include regulating matters relating to plant protection, seeds and plant varieties; administration and enforcement of sanitary and phytosanitary measures; establishment of plant health laboratories; undertaking of inspection and grading of plants and plant produce at the ports of entry and exit and regulation of import and export of plants and plant materials
  - The Plant Protection Act (CAP 324) provides for the control of importation and exportation of any plants and plant products and regulated articles including inspection prior to imports or exports of plants and plant products.
  - The Agriculture Produce Export Act (CAP 319) contains requirements for export of plants and plant produce from Kenya.

The Plant Protection Act is under revision to provide better background for the plant health controls. One of the changes foreseen is the possibility to delegate plant health controls to private bodies. This would increase the export inspection capacities and mitigate the current burden on the KEPHIS inspectors.

### 5.1.3 Documented Control Procedures

8. The inspection activity is based on SOPs, WIs and other internal guidance documents. The most relevant for the EU export related phytosanitary controls are as follows:
  - Procedure for registration for export certification;
  - Handbook for phytosanitary inspections;
  - SOP and WI for the phytosanitary inspection and certification of exports;
  - SOP for risk profiling for export certification;
  - SOP and WI for farm system audits;
  - Farm audit certification protocol for roses and basil for exports to the EU;
  - FCM checklist for inspections in rose cut-flower facilities;
  - Checklist for auditing basil farms;
  - Protocol for the establishment of FCM-free places of production of *Capsicum* sp.;
  - Checklist for chilli farm audit;
  - Policy for dealing with phytosanitary non-compliances.

Considerable efforts were made to adapt the control system to the amended EU plant health legislation and to achieve conformity with the new EU requirements on roses and chillies. Some of the developments were assisted by EU and other international aid initiatives.

9. The audit team checked the relevant SOPs and WIs and noted that they contain comprehensive information, which provides wide-ranging assistance for the work of the inspectors. The documents are regularly updated and are also available electronically for the inspectors. The latest versions referred correctly to the EU legislation in force at the time of the audit.
10. The ECS facilitates the inspection of the consignments to be exported and the issuance of the phytosanitary certificates. The system was adapted to the new EU requirements (see details in *chapters 5.4 and 5.5*).
11. After each EU export related inspection at the place of production or in the packinghouses, a written report is prepared. Copies of the reports are uploaded into an electronic system (open data key) and are available for the inspectors.

### 5.1.4 Laboratories

12. The Plant Quarantine and Biosecurity Station in Muguga provides support for EU export related official plant health activities. It is the regional plant health reference laboratory for the East-African region. The molecular, virology and bacteriology laboratories of the Station are accredited according to ISO 17025 since 2014. The scope of accreditation includes the detection of *Ralstonia solanacearum* with enzyme linked immunosorbent assay (ELISA) and polymerase chain reaction (PCR) methods and the detection of sweet potato viruses by grafting and ELISA. A recent EU support contributed to the development of the diagnostic capacities. The laboratory is capable to test samples for the

presence of EU quarantine and other regulated pests with conventional, serological and molecular methods.

13. The laboratory at KEPHIS headquarters operates since 2018. It is accredited according to ISO 17025. The laboratory is in the process of accreditation of its PCR detection method for chrysanthemum stunt viroid. The Nakuru seed and plant health laboratory carries out tests on seed samples including the detection of tomato brown rugose fruit virus (ToBRFV) and potato spindle tuber viroid with serological and molecular methods.
14. The laboratories apply test protocols according to ISPM 27 or methods developed by international organisations (e.g. the European and Mediterranean Plant Protection Organisation – EPPO and the Centre for Agriculture and Bioscience International – CABI) and are able to carry out mandatory tests as required by the EU legislation.

#### **Conclusions on organisational aspects of plant health controls**

15. Kenya has a developed control system for plant health based on appropriate legislation and detailed, continuously updated official procedures. A developed laboratory system and IT network provide appropriate assistance for the implementation of the inspections in line with the EU requirements.
16. The intensive and wide-ranging cooperation and exchange of information between the plant health authorities and the industry enhances the work of the parties to produce and certify goods in line with EU import requirements.

## **5.2 PHYTOSANITARY STATUS**

### **Legal requirements and international standards**

Article 71 and Annex V to Regulation (EU) 2016/2031 and Annexes II, IV and VII to Regulation (EU) 2019/2072. The requirements for additional declarations referred to by article 71(2) of Regulation (EU) 2016/2031 are set out in Annex VII of Regulation (EU) 2019/2072; Regulation (EU) 2020/1191

ISPM 6, ISPM 8, ISPM 10 and ISPM 17

### **Findings**

17. KEPHIS carries out general and specific surveys for pests, which may affect the access of Kenyan plants and plant products to various export markets, including the EU. The planning and implementation of the surveys are in line with the provisions of ISPM 6. For general surveys, information from various sources is collected about the pest and the area concerned. Specific surveys are carried out for certain pests in the main host crops. The status in Kenya of the Union quarantine pests and other EU regulated pest most relevant for the country's EU export or subject to interceptions are as follows:

### 5.2.1 Union quarantine pests

18. *Bemisia tabaci* – widespread in each production area of the country.
19. *Neoleucinodes elegantalis* – in 2018 Kenya officially informed the EU that the pest does not occur in the country based on the information available in the literature. In order to verify the country's pest status, KEPHIS carried out surveys in the main tomato and aubergine producing areas. Altogether 111 farms were checked and 151 samples were taken including wild hosts plant of the pest. No signs of the pest were detected. The surveillance will continue.
20. *S. eridiana* – no records of the pest in Kenya.
21. *S. frugiperda* (FAW) – the presence in Western Kenya was confirmed during a survey conducted in March 2017. Since then, the pest has invaded nearly all agricultural areas. While the pest is reported to be widely distributed in maize farms in Kenya, it was not detected on roses in the production facilities during the period of the surveillances in 2017 and 2019 and during the quarterly inspections. However, there were EU interceptions with the pest since 2018, including roses (see *chapter 4.2*).
22. *S. litura* – no records of the pest in Kenya.
23. Tephritidae (non-European) are present in the main production areas of the country. As the freedom of mango consignments cannot be guaranteed under the current conditions Kenya applies an export ban to the EU. KEPHIS plans the introduction of the hot water treatment, an option provided by the EU legislation.
24. *T. leucotreta* (FCM) – In July-August 2019 a survey was carried out in 12 counties. The presence of the pest was checked in rose farms. The results indicated that the pest was present in the warm and dry areas of the country. The level of infestation peaked after the periods with rain. However, rose growers in cool and wet areas had no FCM in the crops and there were no EU interceptions with their products.  
  
There are no FCM-free areas in Kenya established in relation to the exports to the EU. There are places of production free from FCM, which have been established by KEPHIS to produce chillies for the EU market (see *chapter 5.3.3*).
25. *Thrips palmi* – a detection survey was carried out in January-February 2018 in nine counties and targeted growers of plants for planting producing for export. Various host plant crops produced under different conditions and the surrounding host weed species were scouted, at least 30 plants per site, for Triptidae insects. Altogether 149 composite samples were collected. The species was identified in the laboratory according to morphological keys and *T. palmi* was not found. During the previous survey, carried out in 2009/2010 the pest was not detected in the territory of Kenya.
26. *Xylella fastidiosa* – Between April and June 2016 a specific survey was carried out. Greenhouses and open fields of plants for planting and a range of fields with host plants

(*Vitis* sp., *Coffea* sp. and *Citrus* sp.) was checked negative for visual symptoms. 103 samples of annual and perennial host plants (including *Rosmarinus*, *Lavandula*, *Geranium*) were taken and tested negative. Since 2016, official samples from plants for planting to be exported to the EU are taken and tested. Based on the negative results KEPHIS officially informed the Commission that the pest is not present in the country.

### 5.2.2 Other pests regulated by the EU

27. Tomato brown rugose fruit virus – In August-September 2020 a survey was conducted in the major tomato growing areas of the country representing zones with variations in rainfall and temperature. No visual symptoms were detected. 256 samples were collected and tested negative (with ELISA method). The import of tomato and *Capsicum* sp. seeds is subject to phytosanitary controls, which includes laboratory tests. In addition, seed production crops are inspected quarterly (see *chapter 5.3.3.*);

### Conclusions on the phytosanitary status

28. The scope and implementation of the general and specific surveys provide adequate information to verify the status of Union quarantine and other EU regulated pests in Kenya.

## 5.3 EXPORT CONTROL PROCEDURES

### Legal requirements and international standards

Articles 71 to 76, 96 to 98, and Part A of Annex V to Regulation (EU) 2016/2031; Annexes IV, VI and VII to Regulation (EU) 2019/2072; Regulation (EU) 2020/1191, Decision (EU) 2018/638

ISPM 7, ISPM 10, ISPM 12, ISPM 14, ISPM 23, ISPM 31, ISPM 36, ISPM 38

### Findings

#### 5.3.1 Own controls of producers and packinghouses

29. The growers of plants and plant products for EU export apply integrated pest management measures. The most common practice is to fine-tune pesticide applications by the results of regular scouting of the crops. The use of sticky and pheromone traps in the crops is a common practice. In general there is a multistage own control system at the harvest and in the packinghouses, which targets any pest or their symptoms.

#### 5.3.1.1 Plants for planting and seeds

30. The 2017 audit report describes in detail the production system of plants for planting and seeds and the controls applied by the growers. The audit team did not receive information about any change. In summary: the production takes place in greenhouses, with advanced level of protection against infestation of the crop. The mother plants are usually originating from the EU and imported in the form of in-vitro cultures. The companies



apply a test regime for a range of viruses. The integrated pest management includes strict hygiene measures to avoid mechanical transmission of diseases.

#### 5.3.1.2 *Chillies*

31. Chillies are produced in greenhouses. In line with KEPHIS requirements for EU export (see *chapters 5.3.2 and 5.3.3*) the growers are required to apply the following measures to ensure that the place of production is free from FCM (PFPP):
- Production in greenhouses covered by an insect isolation net;
  - Double door system and continuous maintenance of the isolated status of the crop;
  - Pheromone traps for FCM inside and around the greenhouse;
  - A buffer zone around the greenhouse with no hosts of FCM;
  - Integrated pest management based on the trap records and crop scouting;
  - Weekly report of trap findings and scouting reports to KEPHIS.
32. There is a multistage quality control during the harvest and export preparation. The packinghouses use destructive sampling for FCM detection. Representatives of chilli growers and packinghouses interviewed by the audit team stated that they implement the measures, listed above.

#### 5.3.1.3 *Roses*

33. Over two hundred growers produce a very high volume of roses for the EU market.
34. KEPHIS, in cooperation with the industry and with assistance of international organisations, has recently developed a systems approach for FCM management. Growers are requested to implement a detailed protocol, the elements of which are as follows:
- Production in greenhouses with a level of isolation (i.e. the side walls are protected with insect nets, but there are roof openings for a proper ventilation);
  - Integrated pest management, based on scouting records and trap findings;
  - Pheromone traps are used both for pest detection and mass trapping;
  - Multistage controls of FCM presence during the harvest and export preparation;
  - Traceability system to identify the greenhouse or block in which the roses were produced.

The representatives of the growers interviewed by the audit team confirmed that they have made strong efforts to implement the protocol. However, based on the presentations, documents provided and the information collected by representatives of the EU Delegation, the audit team noted that:

- The double door system does not always operate properly;
- The humidity management of the crop requires the growers to compromise the isolation after heavy rains (i.e. the isolation nets on the sidewalls are lowered for a certain period to reduce the humidity).

### 5.3.2 Risk profiling system for export related inspections

35. KEPHIS applies a risk profiling system for the better organisation of the inspections, better use of the inspection capacities in relation to the established plant health risk and requirements of the importing countries.
36. The risk profiling takes into consideration farm audit/inspection reports, rejections at JKIA, EU interceptions, performance of the growers and packinghouses in relation to crop management and own controls of goods prepared for export. Any relevant information on the susceptibility to pests of plant species and varieties is also taken into consideration. The available data are analysed monthly.
37. Growers, exporters, commodities are placed into one of the three categories (high, medium and low risk) which determines the sampling regime for export inspection (see *chapters 5.3.6 and 5.4.3*).
38. The audit team noted that:
  - Since the 2017 audit, the system was fine-tuned to take into consideration EU import rules and information on the susceptibility of plant varieties to certain pests;
  - *Rosa, Capsicum, Ocimum, Momordica, Luffa, Solanum* sp. products and plants for planting are all in the high-risk category. As the place in this category is determined by the commodity, the risk of individual companies cannot be taken into consideration (i.e. products from each company are subject to the same sampling regime).

### 5.3.3 Registration of producers and packinghouses

39. Each grower producing for export is registered, based on a pre-approval plant health audit. Specific attention is paid to the implementation of the following measures: product traceability, pest management in general, calibration of sprayers and scouting in particular, hygiene of the produce, internal controls and procedures for addressing non-conformities. New exporters of roses and chillies and roses must comply with additional product-specific requirements (see *chapter 5.3.4*). If the grower fulfils the requirement, the export is authorised and the registration data is stored in the ECS, which is accessible to the inspectors;

### 5.3.4 Inspections at places of production

40. KEPHIS stated that regular, scheduled inspections are carried out at the places of production of a range of commodities. The inspection frequency for herbaceous plants for planting (which are practically unrooted cuttings) is once in every three weeks, while for chillies, roses, basil and seeds of *Solanum* sp. and *Capsicum* sp. it is once quarterly.

#### 5.3.4.1 Chillies

41. KEPHIS certifies the conformity with point 62(c) of Annex VII to Regulation (EU) 2019/2072, i.e. that the places of production are established and maintained to be free

from FCM. At the time of the audit, 23 chilli PFPPs for FCM were authorised to produce for EU export.

42. Audits are carried out for approval of sites as PFPP. The maintenance of the pest free status is verified by quarterly scheduled inspections. KEPHIS stated that during the approval audit and the regular inspections, the conformity with specific requirements is checked and verified (see *chapter 5.3.1.2*).
43. If the presence of FCM in the crop or in the traps or other non-compliance is detected, the PFPP status is withdrawn. It may be re-established after a follow-up process by KEPIS, which is also applied after EU interceptions or rejections (see details in *chapter 5.6*).

#### 5.3.4.2 *Roses*

44. KEPHIS stated that, in order to achieve compliance with EU import rules in relation to FCM, a systems approach is applied since August 2020, which includes the following elements:
  - Protocol for the management of FCM during the production by the growers (see *chapter 5.3.1.1*);
  - Quarterly official inspections at the places of production to verify the implementation of the protocol (see *chapter 5.4.1*);
  - Specific rules for consignment checks at the point of exit (see *chapters 5.3.6 and 5.4.3*);
  - Systematic follow-up on the corrective measures by the growers (see *chapter 5.6*)

#### 5.3.4.3 *Seeds of Solanum lycopersicum sp. and Capsicum sp.*

45. KEPHIS stated that for achieving compliance with the new EU Regulation for tomato brown rugose fruit virus, the places of production of *Solanum lycopersicum sp.* and *Capsicum sp.* are inspected quarterly. The inspections are carried out in the growth stages of the crops, which are most suitable for the detection of the pest symptoms.

#### 5.3.5 *Inspections at packinghouses*

46. The growers producing for EU export generally have own packing facilities. KEPHIS does not carry out separate audits at the packinghouses, unless the establishment has no growing facilities. The audits and regular inspections at the places of production (see *chapter 5.3.4*) include checking the packaging facilities and the consignments under preparation at the time of the inspection.

#### 5.3.6 *Inspections at point of export*

47. KEPHIS stated that each consignment of plants and plant products destined to the EU is subject to plant health inspections at the point of exit, which is the JKIA for the vast majority of the products. The inspection procedure is in line with provisions of ISPM 7 and 23, and has the following steps:

- The exporter submits a request via the ECS including the indication of the type of product, quantities, the designated inspection location at the JKIA, the destination of the product, and the timeslot when the goods will be available for inspection;
  - Each request is assigned to an inspector at the exit point;
  - The consignment is inspected in accordance with guidelines provided in the standard operating procedure including documentary and identity checks;
48. For consignment inspections and sampling, KEPHIS interprets the relevant terms of ISPM 5 and 31 as follows:
- In line with the provisions of ISPM 5, the consignment is the quantity of plants, plant products which is transported by a single PC;
  - In general, the lot is the number of boxes containing plants or plant parts of the same species. Other factors, including the exporter, grower and place of production are also considered in determination of the homogeneity of the lot. Where a consignment comprises more than one lot, each lot is sampled and inspected separately. This interpretation is in line with the definition laid down in Article 2(7) of Regulation (EU) 2016/2031;
  - The sample unit is the box in which the plants and plant parts are packed (the size of the box may vary per type of product);
  - The sampling and inspection method depends on the identified risk level of the product/exporter (see *table III* and *chapter 5.3.2*);
  - For lots belonging to the high-risk category the stratified hypergeometric sampling is used. For the determination of the number of sample units, tables 5 and 6 in Appendix 5 to ISPM 31 are used which ensure at 95% level of confidence the detection of any infection or infestation with a minimum level of 10%;
  - For the subdivision of the sample units taken from a lot, composed by more than one plant variety, a stratified sampling is used, in line with provisions of point 3.1.3.3 of ISPM 31. The stratification is applied according to the share of the varieties in the lot;
  - For chillies, basil, bitter gourds and aubergines, the entire content of the sample units is checked. For roses, however, 700 stems are selected randomly from the sample units, with stratification to the varieties, as appropriate;
  - For the medium- and low-level risk categories, a fixed proportion sampling is applied, with 2% of the boxes randomly selected.

Table III. Sampling rates for the different risk categories

Risk level	Criteria (commodities/companies)	Sampling method, sampling sample size, inspection
<b>High</b>	Companies with one EU interception or 3 rejections in the last month. Commodities with high susceptibility to pests of concern, e.g. FCM, <i>Lyriomyza</i> sp, <i>Bemisia</i> sp. – plants for planting, <i>Capsicum</i> sp. <i>Ocimum</i> sp., <i>Momordica</i> sp., <i>Luffa</i> sp. <i>Rosa</i> sp. <i>Solanum</i> sp.	<b>Stratified statistical sampling</b> Roses - 700 stems collected randomly from the sample units for individual inspection. <i>Capsicum</i> sp. - 100% of the content of the sample units is checked. Ten fruits per box are cut. Basil-100% of the content of the sample units is checked. <i>Momordica</i> sp: 100% of the content of the sample units is checked. Aubergines: 100% of the content of the sample units is checked. 1 fruit per box is cut.
<b>Medium</b>	Companies with no EU interception and maximum 1 rejection in the last month, but the previous inspection/audit detected insufficient pest management. Other commodities to the EU other than those listed in level III	<b>Fixed proportion sampling</b> According to ISPM 31 2% of the lot checked
<b>Low</b>	Companies with no EU interception and maximum 1 rejection in the last month, and the previous inspection/audit confirmed the proper pest management. Products that undergo processing before export. Sampling is as ISPM 31	<b>Fixed proportion sampling</b> According to ISPM 31 2% of the lot checked

Source: KEPHIS

49. At the JKIA, the inspections are carried out in dedicated zones, where the necessary conditions (tables, lighting and inspection kits) are ensured. The inspections are carried out by visual means, if necessary samples are taken. After the inspection is completed, the inspector enters the results into the ECS (see *chapter 5.5*).
50. The audit team noted that:
- The sampling method is in line with the provisions of ISPM 31 on statistical or fixed sampling, as appropriate. It ensures the detection of a minimum 10% infection/infestation concerning the entire lot at a 95% level of confidence for the high-risk goods if it is composed by the same variety. However, the confidence level is different for the individual varieties if the stratification is applied;
  - These levels might not be appropriate for the certification of the compliance of the exported consignments with the EU import rules, i.e. that they are free from quarantine and other regulated pests, in particular when the achievable level of detection is higher than the actual level of infection/infestation, especially for quarantine pests;
  - The practice, which is applied for roses reduces the level of confidence and/or increases the minimum level of detectable infection/infestation. The exact figures depend on the total number of stems in the sample unit.

### 5.3.7 Traceability of consignments

51. The audit team was provided with examples of the traceability codes applied by the growers on the export boxes and which are referred to by the trade documents.
52. KEPHIS stated that in the case of a rejection these codes make possible the identification of the place of production and also in many cases the block or bed in the greenhouse.
53. For chilli consignments, these codes are indicated on the PC as traceability information, required by point 62(c) of Annex VII to Regulation (EU) 2019/2072, in relation to the FCM.

#### **Conclusions on export control procedures**

54. Once implemented properly, the pest management systems and own controls applied by the stakeholders can ensure an enhanced level of compliance of the exported product with EU import rules, in particular concerning the FCM-free place of production for chillies. However, for roses, those measures do not prevent the prevalence of FCM in the crops and do not ensure with an appropriate level of confidence that the consignments are free from the pest.
55. For planning and implementing the EU export related inspections, a risk-based approach is followed, the elements of which have been improved. The system takes into consideration the harmful organism, the susceptibility of the product and the performance of the grower/packing house. The official procedures for the inspections at the places of production and at the point of export are generally in line with the EU requirements.
56. Although the applied sampling method follows the guidance of ISPM 31, the achieved level of confidence and minimum level of detection is not always sufficient for declaring the conformity with EU import requirements and in particular not for chillies and cut flowers. This means a phytosanitary risk for the EU.

## **5.4 EXPORT CHECKS**

### **Legal requirements and international standards**

Article 71 and Annex V of Regulation (EU) 2016/2031; Annexes IV, VI and VII to Regulation (EU) 2019/2072; Regulation (EU) 2020/1191; Decision (EU) 2018/638

ISPM 14, ISPM 23, ISPM 31, ISPM 32, ISPM 36, ISPM 38

### **Findings**

57. Due to the remote characteristic of the audit, the audit team had limited possibilities to observe the implementation of the export checks at various sites and to verify that the implementation takes place in line with the EU requirements and internal rules of KEPHIS. For the findings and conclusions of this chapter, the visits of representatives of

the EU Delegation in Nairobi to a chilli and a rose grower were taken into consideration, in addition to the records of KEPHIS on checks carried out.

#### 5.4.1 *Inspections at the place of production*

##### 5.4.1.1 *Tomato seeds*

58. KEPHIS has made efforts to achieve compliance with the new EU Regulation on ToBRFV. In particular, the inspectors received training on the identification of the pest. The timing of the quarterly visits will be adjusted to see the crop in the period when the symptoms are most visible.

##### 5.4.1.2 *Chillies*

59. The inspection reports checked by the audit team indicated that
- For the timing of the inspections, risk factors, such as the production cycle of the crop and weather conditions (e.g. heavy rains) were not taken into consideration;
  - There was evidence that the continuous isolation of the crop was not always ensured due to various reasons (e.g. improper double doors and damages by the weather);
  - The inspections concentrated on the assessment of the production and not specifically on the isolated status of the PFPP;
  - The frequency of verifying the companies' scouting records and trap findings does not provide real-time information about the status of the PFPP.

Therefore, the official controls cannot verify appropriately the maintenance of the FCM-free status of the place of production.

60. The reports of the interception follow-up inspections, checked by the audit team, showed that not the entire scope of the corrective measures was assessed. This approach may not provide comprehensive evidence for the re-establishment of the PFPP status.

##### 5.4.1.3 *Roses*

61. The audit team noted that:
- The full implementation of the pest management protocol can significantly reduce the FCM prevalence of FCM in the rose crop, however cannot guarantee a pest-free status;
  - In addition, there is evidence that growers do not maintain the isolated status of the crop after heavy rains due to the humidity management reasons;
  - The self-controls during the harvest and the preparation of the export consignment can provide some level of confidence that the consignment is not infested by FCM;
  - The applied frequency and timing of the inspections at the places of production, and the current practice of follow-up inspections on the corrective measures after an EU interception or JKIA rejection, may not be sufficient to verify the proper implementation of the pest management protocol;

- The combination of the self-controls and official inspections at the exit point do not provide an appropriate level of confidence that the consignment is free from FCM (see *chapter 5.4.3*);
- There were similar shortcomings in the interception follow-up inspection reports as in the case of chillies.

#### 5.4.2 Inspections at packinghouses

62. There are no specific export related inspections at the packinghouses (see *chapter 5.3.5*).

#### 5.4.3 Inspections at the places of exit

63. Table IV. and V. indicate the annual number of PCs issued to the high risk goods and the monthly workload at the JKIA. The volume of the exports means a high workload on the inspectors, in particular in the peak season (February to April) which is linked to the high demand for cut flowers and in particular roses for Valentine’s Day and Mother’s Day.

Table IV. Number of PCs issued for the high risk goods

Year	<i>Rosa</i> sp.	<i>Gypsophila</i> sp.	<i>Capsicum</i> sp.	<i>Ocimum</i> sp.	<i>Solanum</i> sp. Aubergines	Plants for planting
2018	144,282	8,097	1,199	1,221	1,026	7,354
2019	141,720	10,369	1,755	2,544	1,295	8,340
2020 I-VIII.	72,387	3,429	1,855	2,667	1,005	5,492

Source: KEPHIS

Table V. Number of PCs issued and export volumes in 2019

Month	Number of PCs	Export volume (tonnes)
January	11,630	9,479
February	14,322	15,535
March	13,543	11,367
April	12,142	10,547
May	10,796	10,446
June	11,208	9,364
July	10,886	7,650
August	11,510	7,069
September	12,070	9,287
October	12,853	8,704
November	12,467	8,785
December	10,516	8,743
<b>Total</b>	<b>143,943</b>	<b>116,973</b>

Source: KEPHIS

64. KEPHIS stated that the proper scheduling of the inspectors’ work, together with the assistance provided by the ECS, the inspector assistants and workers of the logistic companies, a minimum of 10 minutes is allocated for each plant health check.



65. The audit team noted that at the JKIA, since the 2017 audit, the burden on the inspectors was reduced. However, due to the volume of exports the inspectors still face an enormous workload, in particular in the peak export periods.
66. The audit team considers that the claimed implementation of the minimum time requirement for the plant health checks (10 minutes per plant health check) stands in contradiction to the facts that:
- The 26 inspectors at the airport, working in pairs, have to inspect daily 300 to 500 consignments;
  - The airport logistic system provides limited time slots for the inspection of an individual consignment.

In addition, ten minutes are not enough for the meticulous inspection of 700 stems of roses or of the entire content of the 28 selected boxes of chillies - even if the random selection of the sample units and collection of the rose stems is carried out by the inspector assistants and the airport logistic staff.

#### **Conclusions on export checks**

67. The export checks demonstrated to the audit team were carried out in line with the SOPs, however there are shortcomings in particular as referred to in paragraphs 68 and 69.
68. As the official controls do not sufficiently verify that the growers maintain the PFPP continuously free from FCM, there is a phytosanitary risk for the EU in relation to importing chillies from Kenya.
69. For roses, the method of consignment inspection and its implementation do not ensure compliance with EU requirements. Therefore, the imports from Kenya mean a phytosanitary risk for the EU.

### **5.5 PHYTOSANITARY CERTIFICATES**

#### **Legal requirements and international standards**

Articles 71 to 76, 96 and Annex V to Regulation (EU) 2016/2031; Annex VII to Regulation (EU) 2019/2072; Part A of Annex XI to Regulation (EU) 2019/2072; Regulation (EU) 2020/1191, Decision (EU) 2018/638

ISPM 7, ISPM 12

#### **Findings**

##### *5.5.1 Certification procedure*

70. The exporters (growers) have protected on-line access to the application for the inspection module of the ECS. They are obliged to enter all data necessary for the inspection and PC issuance together with the time and place of availability of the consignment for inspection.

71. After the inspection confirmed the compliance of the consignment with EU import requirements, the inspector initiates the PC issuance. A hard copy is printed, stamped and signed by the inspector. A scanned copy of it is archived in the ECS.
72. The audit team noted that the PC issuance procedure is fully in line with the EU requirements and the relevant international standards.
73. KEPHIS stated that the ECS is fully capable for electronic certification (e-phyto) via the IPPC platform.

#### *5.5.2 Additional declarations*

74. The text of additional declarations required by the EU is stored in the ECS. The text is linked to the plant species and type of product and added automatically to the PC according to the composition of the consignment.
75. The database was updated according to requirements of Regulations (EU) 2016/2031 and 2019/2072. In particular, the entire text of the requested additional declarations is added automatically.
76. The text of each additional declaration is available on-line for the inspectors while they carry out the documentary check or approve electronically the issuance of the PC. This contributes significantly to the implementation of the inspections in line with requirements of the importing country.
77. KEPHIS stated that the database is regularly updated with the newly published EU legislation. The audit team checked the stored information for some products and noted that the text of the declarations is in line with the requirements of Regulation (EU) 2019/2072. However, some amendments of the EU legislation of August 2020 were not incorporated at the time of the audit.

#### **Conclusions on phytosanitary certificates**

78. The issuance of the export PCs is in line with the EU legislation and the relevant ISPMs. The ECS ensures that the text of the declarations on the PC are in line with EU requirements.

### **5.6 ACTIONS TAKEN IN RESPONSE TO NON-COMPLIANCES AND EU INTERCEPTIONS**

#### **International standards**

ISPM 7, ISPM 13, ISPM 17, ISPM 23.

## Findings

### 5.6.1 Follow-up of EU interceptions

79. KEPHIS stated that headquarters used to receive the interception notifications from the EUROPHYT-Interceptions notification system. Since June 2020, the relevant interception reports in TRACES are checked daily. Table VI. indicates the number of EU interceptions with FCM in the period January 2018 – August 2020.

Table VI. Intercepted consignments by EU due to the presence of FCM

Commodity	2017	2018	2019	2020 I-VIII.
Roses	0	37	39	26
Chillies	13	10	14	10

Source: EUROPHYT-Interceptions and TRACES

80. A detailed procedure is applied for following up the EU interceptions, the main elements of which are as follows:

- The exporter/grower receives a notification;
- If the reason is an EU quarantine or other regulated pest, the PC issuance for the grower is suspended in the ECS;
- Root-cause analysis and action plan are requested;
- If the company's reply is assessed as satisfactory an audit is scheduled;
- During the follow-up audit(s) the inspectors verify the implementation of the action plan and assess whether they can prevent the recurrence of the interceptions;
- If the audit verifies the conformity, the right for export is re-established.

KEPHIS stated that the application of this strict procedure contributes significantly to the reduction of the number of interceptions.

81. The dossiers checked by the audit team indicated that

- In each case the SOP was followed, however
- The root-cause analysis of the growers contained the same standard elements and referred to weather extremities, considered as *force majeure*, as reason of non-compliance;
- Not each element of the measures proposed by the grower are verified during the follow-up audit.

Based on these findings the audit team considers that the implementation of the follow-up procedure cannot always sufficiently prevent the recurrence of the EU interceptions.

### 5.6.2 Follow-up of consignment rejections during EU export

82. KEPHIS stated that in the case of rejections at the exit point, the exporter receives a notification in writing and the ESC does not issue a PC to the consignment. If the reason of the rejection is the presence of EU quarantine pests in the consignment, the procedure

described in *chapter 5.6.1* is followed. Table VII. indicates the number of consignments rejected at the JKIA due to the presence of FCM in the period January 2018 – August 2020 (roses and chillies).

Table VII. Consignments rejected at the JKIA due to the presence with FCM in the period January 2018 – August 2020

Commodity	2017	2018	2019	2020 I-VII.
Roses	21	50	51	22
Chillies	12	2	1	3

Source: KEPHIS

83. The audit team noted that the trend of rejections due to FCM for roses was in line with that of the EU interceptions. However, significantly fewer consignments of chillies were rejected than intercepted by the EU. This could relate to the lower level of confidence of plant health checks at the JKIA, compared to the EU.

#### Conclusions on action taken in response to non-compliances and EU interceptions

84. There is an appropriate procedure to follow-up EU interceptions and rejections at the point of exit. However, the implementation of the follow-up procedure cannot always sufficiently prevent the recurrence of the EU interceptions.

### 5.7 ACTIONS TAKEN TO ADDRESS THE RECOMMENDATIONS OF THE 2017 AUDIT REPORT

Table VIII. summarises the assessment of the actions to address those recommendations of the 2017 audit report for which additional information or verification was necessary.

Table VIII. Actions on the recommendations of the audit report DG(SANTE) 2017-6174

No	DG(SANTE) 2017-6174	Assessment
1	Ensure that inspection and sampling rates of consignments, applied prior to EU exports, provide for an appropriate level of confidence that the commodities are free from harmful organisms as required by Council Directive 2000/29/EC.	<b>Partially addressed</b> – number of future EU interceptions may verify the implemented measures <i>See findings Nos 47 to 50 and 65; conclusion No 56 and 68 and recommendation No. 2 ( for this audit provisions of Regulation (EU) 2016/2031 apply)</i>
2	Ensure that the risk profiling system used for targeting pre-export inspections and establishing sampling criteria takes all possible risk factors into consideration immediately and entirely. In particular, to ensure that the risk profiling is carried out with an increased frequency.	<b>Partially addressed</b> – number of future EU interceptions may verify the implemented measures <i>See findings No 47 to 50 and 63 to 66; conclusion No 56 and 69 and recommendation No 2.</i>
3	Ensure that all plants and plant products, regulated by the relevant annexes of Council Directive 2000/29/EU are subject to a plant health inspection before the phytosanitary certificate is issued. In particular, ensure that each lot of the commodities categorised by	<b>Addressed</b> <i>See findings No 47; conclusion No 56. (For this audit provisions of the Annexes to Regulation (EU) 2019/2072 apply)</i>

	KEPHIS as low risk are subject to phytosanitary checks prior to export.	
4	Ensure that additional declarations of the phytosanitary certificates refer correctly to those EU requirements listed in the relevant points of Annex IV, Part A, Section I, of Directive 2000/29/EC, which are relevant to the commodity in question, in particular for plants for planting.	<b>Addressed</b> <i>See findings Nos 74 to 77; conclusion No 78. (for this audit provisions of Annex VII to Regulation (EU) 2019/2072 apply)</i>

## 6 OVERALL CONCLUSIONS

Kenya has a developed control system for plant health based on appropriate legislation and detailed, continuously updated official procedures. An advanced laboratory system and IT network provide appropriate assistance for the implementation of the inspections in line with the EU requirements.

KEPHIS, in cooperation with the industry, made significant efforts to develop pest management systems and own controls for the main export crops, in order to meet EU phytosanitary requirements. This applies in particular to the production of chillies in screen-houses and the application of a systems approach for the production and phytosanitary controls of roses. The growers and exporters are committed to implement additional measures as necessary.

Once implemented properly, the pest management systems and own controls applied by the stakeholders can ensure an enhanced level of compliance of the exported product with EU import rules, in particular concerning the FCM-free place of production for chillies. However, for roses, the measures do not prevent the prevalence of FCM in the crops and do not ensure with an appropriate level of confidence that the consignments are free from the pest.

KEPHIS applies a risk-based approach for the EU export inspections, the elements of which have been improved since the 2017 audit. The system takes into considerations the harmful organism, the susceptibility of the product and the performance of the grower/packing house. The official procedures for the inspections at the places of production and at the point of export are generally in line with the EU requirements. The implementation of controls appears satisfactory for a range of areas, including the controls for plants for planting and the issuance of the PCs. In contrast, consignment inspections for a range of products and in particular for roses do not ensure entirely the compliance with EU import rules. In addition, the official controls for chillies do not sufficiently verify the FCM free status of the places of production.

Therefore, despite the recent positive developments, exports from Kenya, in particular of roses and chillies still pose a certain phytosanitary risk for the EU.

## 7 CLOSING MEETING

A closing meeting was held on 28 September 2020 by video conference, during which the main findings and preliminary conclusions of the audit team were presented. The NPPO offered initial comments on the findings and conclusions presented.

## 8 RECOMMENDATIONS

The NPPO is invited to provide details of any actions taken or planned, including deadlines for their completion, aimed at addressing the recommendation set out below, within 25 working days of receipt of this report.

No.	Recommendation
1.	<p>To ensure that, in the case Kenya continues to use the option provided by point 62(c) of Annex VII to Regulation (EU) 2019/2072 for exporting fruits of <i>Capsicum</i> sp. to the EU, the places of production are established and maintained as being free from <i>Thaumatotibia leucotreta</i> in accordance with provisions of the International Standard for Phytosanitary Measures No 10.</p> <p><i>Conclusion upon which this recommendation is based: No 68.</i> <i>Associated findings upon which this recommendation is based: Nos 59 and 60.</i></p>
2.	<p>To ensure that consignments of plants and products are inspected according to appropriate official procedures and are considered to be free from EU quarantine pests, as required by the phytosanitary certificate in Part A of Annex V to Regulation (EU) 2016/2031 and conditions set out in Article 76 of the same Regulation. This recommendation relates in particular to the inspection practice of cut roses in relation to <i>Thaumatotibia leucotreta</i>.</p> <p><i>Conclusions upon which this recommendation is based: Nos 56 and 69.</i> <i>Associated findings upon which this recommendation is based: Nos 47 to 50 and 63 to 66.</i></p>

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

[http://ec.europa.eu/food/audits-analysis/rep\\_details\\_en.cfm?rep\\_inspection\\_ref=2020-7089](http://ec.europa.eu/food/audits-analysis/rep_details_en.cfm?rep_inspection_ref=2020-7089)

## ANNEX 1 – LEGAL REFERENCES

Legal Reference	Official Journal	Title
Reg. 2017/625	OJ L 95, 7.4.2017, p. 1–142	Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation)Text with EEA relevance.
Reg. 2016/2031	OJ L 317, 23.11.2016, p. 4–104	Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC
Reg. 2019/2072	OJ L 319, 10.12.2019	Commission Implementing Regulation (EU) 2019/2072 of 28 November 2019 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants, and repealing Commission Regulation (EC) No 690/2008 and amending Commission Implementing Regulation (EU) 2018/2019

Dec. 2018/638	OJ L 105, 25.4.2018, p. 31–34	Commission Implementing Decision (EU) 2018/638 of 23 April 2018 establishing emergency measures to prevent the introduction into and the spread within the Union of the harmful organism <i>Spodoptera frugiperda</i> (Smith)
Reg. 2020/1191	OJ L 262, 12.8.2020, p. 6–13	Commission Implementing Regulation (EU) 2020/1191 of 11 August 2020 establishing measures to prevent the introduction into and the spread within the Union of Tomato brown rugose fruit virus (ToBRFV) and repealing Implementing Decision (EU) 2019/1615



## ANNEX 2 STANDARDS QUOTED IN THE REPORT

International Standard	Title
ISPM No. 6	International Standard on Phytosanitary Measures Publication No 6, Surveillance, Food and Agriculture Organisation, Rome; Published: May 2019, <a href="https://www.ippc.int/en/publications/615/">https://www.ippc.int/en/publications/615/</a>
ISPM No. 7	International Standard on Phytosanitary Measures Publication No 7, Phytosanitary certification system, Food and Agriculture Organisation, Rome; Published: January 2016, <a href="https://www.ippc.int/en/publications/613/">https://www.ippc.int/en/publications/613/</a>
ISPM No. 8	International Standard on Phytosanitary Measures Publication No 8, Determination of pest status in an area, Food and Agriculture Organisation, Rome; Published: May 2017, <a href="https://www.ippc.int/en/publications/612/">https://www.ippc.int/en/publications/612/</a>
ISPM No. 10	International Standard on Phytosanitary Measures Publication No 10, Requirements for the establishment of pest free places of production and pest free production sites, Food and Agriculture Organisation, Rome; Published: January 2016, <a href="https://www.ippc.int/en/publications/610/">https://www.ippc.int/en/publications/610/</a>
ISPM No. 12	International Standard on Phytosanitary Measures Publication No 12, Phytosanitary certificates, Food and Agriculture Organisation, Rome; Published: October 2017, <a href="https://www.ippc.int/en/publications/609/">https://www.ippc.int/en/publications/609/</a>
ISPM No. 13	International Standard on Phytosanitary Measures Publication No 13, Guidelines for the notification of non-compliance and emergency action, Food and Agriculture Organisation, Rome; Published: January 2016, <a href="https://www.ippc.int/en/publications/608/">https://www.ippc.int/en/publications/608/</a>
ISPM No. 14	International Standard on Phytosanitary Measures Publication No 14, The use of integrated measures in a systems approach for pest risk management, Food and Agriculture Organisation, Rome; Published: June 2019, <a href="https://www.ippc.int/en/publications/607/">https://www.ippc.int/en/publications/607/</a>
ISPM No. 15	International Standard on Phytosanitary Measures Publication No 15, Regulation of wood packaging material in international trade, Food and Agriculture Organisation, Rome; Published: May 2019, <a href="https://www.ippc.int/en/publications/640/">https://www.ippc.int/en/publications/640/</a>
ISPM No. 17	International Standard on Phytosanitary Measures Publication No 17, Pest reporting, Food and Agriculture Organisation, Rome; Published: May 2017, <a href="https://www.ippc.int/en/publications/606/">https://www.ippc.int/en/publications/606/</a>

International Standard	Title
ISPM No. 23	International Standard on Phytosanitary Measures Publication No 23, Guidelines for inspection, Food and Agriculture Organisation, Rome; Published: June 2019, <a href="https://www.ippc.int/en/publications/598/">https://www.ippc.int/en/publications/598/</a>
ISPM No. 27	International Standard on Phytosanitary Measures Publication No 27, Diagnostic protocols for regulated pests, Food and Agriculture Organisation, Rome; Published: January 2016, <a href="https://www.ippc.int/en/publications/593/">https://www.ippc.int/en/publications/593/</a>
ISPM No. 31	International Standard on Phytosanitary Measures Publication No 31, Methodologies for sampling of consignments, Food and Agriculture Organisation, Rome; Published: January 2016, <a href="https://www.ippc.int/en/publications/588/">https://www.ippc.int/en/publications/588/</a>
ISPM No. 32	International Standard on Phytosanitary Measures Publication No 32, Categorization of commodities according to their pest risk, Food and Agriculture Organisation, Rome; Published: January 2016, <a href="https://www.ippc.int/en/publications/587/">https://www.ippc.int/en/publications/587/</a>
ISPM No. 36	International Standard on Phytosanitary Measures Publication No 36, Integrated measures for plants for planting, Food and Agriculture Organisation, Rome; Published: February 2020, <a href="https://www.ippc.int/en/publications/636/">https://www.ippc.int/en/publications/636/</a>
ISPM No. 38	International Standard on Phytosanitary Measures Publication No 38, International movement of seeds, Food and Agriculture Organisation, Rome; Published: February 2020, <a href="https://www.ippc.int/en/publications/84340/">https://www.ippc.int/en/publications/84340/</a>