

Guide to Export Trade

1. FORMING AN EXPORT COMPANY

(a) Types of companies

- Sole proprietorship
- Partnership
- Limited company

A sole proprietorship can trade either in the name of the owner, or a legally registered business name. Formation of partnership or limited company may require services of a lawyer to prepare the Partnership Deed, and Memorandum and Articles of Association.

(b) Registration of companies

Sole Proprietorship

- Come up with a business name, for example, Expo International
- Submit the suggested name to the Attorney General's Chambers for search
- If no company is registered under the name, it may be available for registration after payment of a fee
- Once the name is registered, it becomes a legal business name and cannot be used by another company.

Partnership

Follow the same steps as for the **sole proprietorship** after finalisation of the partnership deed.

Limited company

This is incorporated under the Company's Act.

Memorandum and Articles of Association prepared by a lawyer are registered under the Act cited and Certificate of Incorporation issued by Registrar General of Companies.

2. EXPORTER'S CODE NUMBER

All companies involved in import and/export business are required to have a code number issued by the Department of Customs and Excise, Forodha House, Nairobi. A code number can be processed as you wait, on presentation of one of the following documents.

- Copy of Certificate of Incorporation
- Copy of Certificate of Registration of Business Name
- Copy of Trade Licence.

No fee is charged for the Exporter's Code Number.

3. EXPORT LICENCE

(Under Imports, Exports and Essential Supplies Act. CAP 502)

Only 10 products are still subject to export licences due to reasons touching on both public and food security; conservation of wildlife and natural resources; and preservation of national heritage.

These products are: -

- Military equipment and munitions of war
- Engines, vessels, aviation and transportation equipment and automotive vehicles possessed or built to current specifications differing materially from normal specifications and components or parts thereof
- Antiquities and works of art
- Bullions and coins
- Live animals other than livestock and domestic pets
- Archives
- Wood-charcoal and timber
- Shells, cowries and corals
- Ivory, rhino horns and other products related to endangered species
- Human bones.

Export licences for these products are issued by the Department of Internal Trade, Ministry of Trade and Industry, on production of authority or permit from relevant Government agencies. It should be noted, however, that majority of exportable products do not require export licences.

4. OTHER PERMITS AND CERTIFICATION

A number of products require special permits from relevant agencies before they can be exported. For instance, the following documents are required for fish, horticulture and mineral based products:

- a) **Fish**
- Processing Licence;
 - Fish Movement Permit;
 - Certificate of Compliance with the Kenya Standards for Fish Handling and Processing;
 - Approval Number;
 - Export Permit;
 - Health Certificate;
 - The Fisheries (fish quality assurance) regulations 2000 prescribed in the revised Fisheries Act 378.

All these documents are obtained from the Department of Fisheries

- b) **Horticulture**
- Export Permit from the Horticultural Crops Development Authority (HCDA)
 - Compliance to Traceability of Produce, Hygiene, Maximum Residue Level (MRL), Good agricultural practices and proper Post harvest handling procedures.
 - Phytosanitary Certificate from the Kenya Plant Health Inspectorate Services (KEPHIS).
- c) **Mineral based products**
Permit from the Commissioner of Mines and Geology.

5. CERTIFICATES OF ORIGIN

These are issued by the Customs Department, Kenya Revenue Authority depending on the export destination. They can also be obtained from Nakuru, Eldoret, Mombasa and Kisumu Customs Offices. The purpose of the Certificate of Origin is to indicate the origin of exports so that they can enjoy preferential duty entry into the export market depending on the trade arrangement between Kenya and an importing country i.e.

	<u>Region/Countries</u>	<u>Type of Certificate</u>
a)	COMESA Countries	COMESA Certificate of Origin
b)	European Union	EUR-1 Form
c)	USA, Japan, Australia Canada, etc.	GSP Form
*d)	Middle East, India, Russia ,Eastern and Central Europe	Ordinary Certificate of Origin
e)	AGOA	Textile Certificate of origin

**Issued by the Kenya National Chamber of Commerce & Industry (KNCC&I)*

All certificates except the ordinary certificate of origin are issued free of charge and can be processed while you wait.

6. MODE OF PAYMENT FOR EXPORTS

Payments are normally through Letters of Credit (L/C), Bank Drafts, Telegraphic Transfers, etc., through the banking system. However, to minimise risks associated with payment defaults, an exporter should ensure that the following clauses are included in the sale agreement: -

- Confirmed irrevocable L/C
- Free on Board (FOB). This term means that the seller fulfils his obligation deliver when goods have been loaded on to the vessel at the specified port of shipment. The seller bears all the resultant costs and risks up to this point only. This means that the buyer has to bear all the costs and risks of loss or damage to the goods from that point.

7. DOCUMENTATION AT THE PORTS

The following documents must be completed before the goods leave the country; necessary permits, Certificate of Origin, Commercial Invoice, Bill of Lading/Airway Bill, Packing List, Customs Export Entry Form C. 63. The documentation can be entrusted to a Clearing and Forwarding firm.

8. EXPORT CONTACTS & EVALUATION

a) Sources of contacts

The following are the main sources of information on export contacts;

- Department of External Trade
- The Centre for Business Information in Kenya (CBIK)
- Trade Associations and public institutions including the Kenya National Chamber of Commerce & Industry (KNCC&I), Kenya Association of Manufacturers (KAM), Fresh Produce Exporters Association of Kenya (FPEAK), Horticultural Crops Development Authority (HCDA), Coffee Board of Kenya, Kenya Fish Processors and Exporters Association (AFIPEK) Kenya Flower Council, Kenya Plant Health Inspectorate Services (KEPHIS), Tea Board of Kenya, Kenya's Missions abroad.
- Local Foreign Embassies and International bodies e.g. International Trade Centre (ITC), CBI (Holland), COLEACP (France), NORIMPOD (Norway), etc.

b) Evaluation of contacts

It is recommended that the exporter ascertain creditworthiness and credibility of the importer through their bankers, Chambers of Commerce, Kenya's Missions abroad, Dun & Bradstreet, etc. before commencing any business transactions.