Kenya

Food fortification

Mandatory fortification was introduced in Kenya first through salt iodisation in the early 1970's.[79] We learned through interview and survey responses that fortification regulations were subsequently expanded following a nationwide nutrition survey in 2000 showed that vitamin A and iron deficiencies were a major issue which prompted a Ministry of Health-led consultative process with industry and regulators and resulted in the updated regulations.

The Ministry of Public Health and Sanitation mandates food fortification in line with Kenyan standards and specifications (or where there are no Kenyan specifications, the specifications of the Codex Alimentarius Commission) in the ***Food, Drugs and Chemical Substances (Food Labelling, Additives and Standards) Regulations, 1978***. Kenya mandates that wheat flour and dry-milled maize products are fortified with vitamins A, B1, B2, B3, B6, B12, folic acid, iron and zinc; salt with iodine; and edible fats and oils with vitamin A.[80, 81]

Further, the ***Kenya National Food Fortification Strategic Plan 2018-2022***[82]seeks to improve LSFF in Kenya to address nutrient deficiencies, with a specific objective to increase the general population's awareness of fortified foods. ***The Kenya Nutrition Action Plan (KNAP) 2018 – 2022 Optimal Nutrition For All***[83] also notes that the fortification of wheat flour, maize flour, and edible oil and fats with essential micronutrients is important to address population deficiencies and references trends showing that the number of industries taking part in mandatory fortification has increased consistently during the last decade, but challenges remain in LSFF (such as the slow adoption of fortification by small and medium scale millers, poor standards compliance, inadequate human capital and infrastructure, and limited enforcement of the regulatory framework). The KNAP outlines a range of strategies and actions to improve LSFF, including strengthening regulatory monitoring and the evaluation of fortified foods to increase compliance with fortification standards, strengthening governance and coordination mechanisms for micronutrient programmes, and developing guidelines, training packages, and communication strategies.

As a member of the East African Community (EAC), the ***Sixth EAC Development Strategy (2021/22 – 2025/26)***[84] applies to Kenya, along with other EAC references below. This Strategy outlines broad strategic development objectives and priority areas for the EAC over a five-year period, including promoting the production of diversified foods and bio-fortification to improve food security and sustainability.

Kenya is also a Member State of the ***East, Central and Southern Africa Health Community*** which fosters regional cooperation for health. The Community's Strategy for Adolescent Nutrition Advocacy includes the fortification of staples as one intervention area and offers technical support to industry on food labelling as another.[85] No further links to the interaction of the Community with regulations in Kenya were identified.

Responsibilities and regulatory governance for nutrition labelling

Kenya's food labelling regulatory framework is largely set out in Kenyan Standards, is adopted by Kenya's National Standards Council, and is administered by the Kenya Bureau of Standards (KEBS), which is responsible for ensuring that levels of standards and regulations do not conflict. These standards are either developed in Kenya or through the EAC. Standards development in Kenya is a six-stage process that takes between six months and 18 months and involves a multisectoral Technical Committee that examines evidence, global shifts in standards and relevant national data (e.g., Demographic Health Surveys) and undertakes a thorough public consultation process before approval. A respondent described these standards as simplified versions of labelling requirements in legislation, with some minor exceptions (e.g., on-date marking) that industry is made aware of. Alternatively, a Kenyan Standard may be developed by Kenya or another EAC Partner State before moving through approval and declaration, before mandatory national-level adoption by all Partner States without deviation within six months of the declaration under the ***East African Community Standardisation, Quality Assurance, Metrology and Testing Act, 2006.***[86] Such standards borrow heavily from Codex guidelines, and in Kenya, most of such standards are prepared in accordance with KEBS procedures by the Labelling of Pre-packaged Foods Technical Committee. This committee includes representatives from KEBS, MOH, Kenya Industrial Research and Development Institute and other government departments, industry, and academia. We heard that as a result of the Constitution and other overarching laws mandating stakeholder engagement, regulatory development is "fairly transparent…open" and engages all stakeholders, including industry, which is viewed as positive and results in low levels of litigation. [KEN002-I]

In addition, KEBS is instrumental and active in the national Food Fortification Programme via its Project Implementation Unit and helps to develop the legal notice for mandatory food fortification that refers to Kenyan standards. [KEN002-I]

Administration, monitoring and enforcement of labelling is conducted predominantly by KEBS through ***pre- and post-market surveillance*** via its Quality Assurance and Market Surveillance Units and inspectors at ports of entry. For example, KEBS requires all manufacturers and businesses to register and obtain a Standardization Mark before they

place any food product on the market. The Standardization Mark requires a food product to be fully compliant with relevant specifications and labelling standards and must be renewed and audited for compliance every two years. The Fortification Mark of Quality (or fortification logo) is also administered by KEBS under a Memorandum of Understanding with the Ministry of Health. Like the Standardization Mark, to obtain the fortification logo, a business must apply to KEBS (usually via a concurrent application for both marks) to obtain a two-year approval to use the logo, which is only granted after KEBS samples the product and examines its labelling, and process and quality controls to ensure the product fully complies with applicable standards.

In addition, KEBS works with Kenya's Competition Authority to conduct market surveillance and enforce standards and with municipal councils that have enforcement powers under the Food, Drugs and Chemical Substances Act. While we heard from interviews and surveys that resources for local-level enforcement of standards could be improved, we also heard that KEBS is a well-resourced agency that tries to work with industry to ensure the correct interpretation of standards. KEBS has clearly prescribed penalty regimes ranging from licence withdrawal to fines and taking manufacturers to court (the latter is understood to be within the Competition Authority's purview, but no evidence of this occurring was identified in the review).

KEBS reviews its standards every four years to ensure they are up to date with new information and/or evidence. The East African Standards Committee is similarly required by law to review standardisation at national and EAC levels.

Structure of nutrition labelling laws

Kenya's nutrition labelling regulatory regime is structured as follows:

- *Food, Drugs and Chemical Substances Act (FDCSA) 1965*[87] sets out offences for false and misleading labelling and establishes the Minister for Health's powers to make regulations relating to food and other related powers and functions.
  - *Food, Drugs and Chemical Substances (General) Regulations, 1978*[88] set out general labelling requirements (e.g., they must be in English in addition to any other language), alongside other requirements for foods to be exported out of Kenya.
  - *Food, Drugs and Chemical Substances (Food Labelling, Additives and Standards) Regulations*[89] and amendments[81, 80] set out requirements for general food labelling (e.g., brand/trade name, expiry date) and mandatory food fortification, along with standards for various foods (e.g., cheese, milk).
  - *Food, Drugs and Chemical Substances (Food Hygiene) Regulations, 1978*[90] sets out requirements to obtain a licence to sell, prepare, package, store, or display food that will be sold.
- *Standards Act, 1973*[91] establishes KEBS and the National Standards Council and mandates the KEBS Mark of Quality.
  - *KS EAS 38: 2014 Labelling of pre-packaged foods – General requirements*[92] adopts East African Standard (EAS) 38 as a Kenya Standard. It sets out general labelling requirements (e.g., labels must be clear, prominently displayed and must include elements such as ingredients and net contents), offences for false and misleading labelling, and establishes KEBS' certification marks (Standardization Mark, Diamond Mark of Quality and Import Standardization Mark) that indicate products comply with Kenya's standards.
  - *KS EAS 803: 2014 Nutrition labelling – Requirements*[93] adopts East African Standard 803 as a Kenya Standard and sets out requirements for nutrient declarations and other SNI.
  - *KS EAS 804: 2014 Claims – General requirements*[94] adopts East African Standard 804 as a Kenya Standard and sets out general requirements for nutrition and health claims.
  - *KS EAS 805: 2014 Use of nutrition and health claims – Requirements*[95] adopts East African Standard 805 as a Kenya Standard and sets out additional requirements for nutrition and health claims, including a pre-approved list of claims.
  - *Draft Kenya Standard 2955:2022 Front of pack nutrition labelling – Requirements*[96] sets out voluntary FOPNL for most pre-packaged foods with some exceptions such as foods for infants and young children.

In addition to the above East African Standards that have been adopted by Kenya, as an ***EAC*** Partner State, Kenya is bound by the first-listed Act below. Various regional strategies to be implemented by Partner States and that are relevant to Kenya's labelling laws and/or fortification are:

- *East African Community Standardisation, Quality Assurance, Metrology and Testing Act, 2006*[86] establishes the EAS Committee and its representation from Partner States, including from national quality system institutions, and national manufacturing, trading and consumer organisations. The Committee is tasked with harmonising national and EAC standards with international standards to reduce costs, enhance compliance, develop trade opportunities, and protect and improve the health and safety of consumers. Within six months of the declaration of an EAS, Partner States must adopt the standard as a national standard without deviation.
- *The East African Community Food and Nutrition Security Action Plan (2019-2023)*[97] while not specifically addressing labelling, includes actions to harmonise the EAC standard for food fortification and complete an EAC food fortification manual, which may impact labelling. The Action Plan provides guidance and a framework for implementing nutrition policy in member states. Actions include developing and enforcing policies, regulations, and laws on food safety and standards for the region, noting that Partner States have existing fortification legislation that requires harmonising.
- *Draft (for public review) East African Standard 803: 2022 Nutrition labelling – Requirements*[98] is a proposed update to the current standard and is based on Codex Guidelines on Nutrition labelling (CAC/GL 2-1985 as amended in 2013). It includes more detail on SNI, including that SNI on labels may include front-of-pack warning labelling information represented by colour codes.

These East African Standards and related strategies also apply to other East African Community Partner States – the Democratic Republic of the Congo, the Republic of Burundi, the Republic of Rwanda, the Republic of South Sudan, the Republic of Uganda, and the United Republic of Tanzania.

We also heard from a respondent that *African Regional Standards* exist to facilitate trade in the African Economic Community (including on labelling of pre-packaged foods), and while there is no mandatory obligation to adopt such standards, it is encouraged and Kenya is moving towards adopting the standards. Given the status of these standards (i.e., their voluntary nature and that Kenya is yet to adopt them) they are out of scope for this review.

As a Member State of the *Common Market for Eastern and Southern Africa (COMESA),* the following treaty and regional plans are also applicable to Kenya's labelling laws and/or fortification as indicated:

- *Treaty Establishing the COMESA adopted 1993*[22] requires that Member States adopt a harmonised system and create national legal frameworks for the standardised labelling of goods that are traded in the Common Market and free trade area, although no such standardised COMESA-level labelling regulations were identified in the review.
- *COMESA Medium Term Strategic Plan 2021-2025*[23] has broad applicability to nutrition labelling and fortification as it mandates that Member States develop a common agriculture policy and promote the strengthening of food safety and technical standards and the coordination of nutrition promotion to access regional markets.
- *Regional Agricultural investment plan 2018-2022*[24] refers to supporting Member States to improve food literacy and implement nutrition interventions and details COMESA's intention to develop guidelines and products on high-impact nutrition interventions with references to biofortification.

Policy context and objectives

There is policy coherence both in the development of standards and the integration with East African Standards (via examining national data), the objectives of regulations (one objective is to provide consumers with information on nutrition content to benefit public health) and specific standards (such as the Kenyan Standard for Nutrition and Health Claims, which states that health claims should be consistent with and support national health and nutrition policy.[95]

Kenya's *Nutrition Action Plan (KNAP) 2018 – 2022 Optimal Nutrition For All*[83] *and the Kenya National Food Fortification Strategic Plan 2018-2022*[82] include actions to increase the population's level of awareness of fortified foods, improve large-scale food fortification, and develop legislation on the labelling and marketing of foods. In the introduction to the draft FOPNL standard, reference is made to Kenya experiencing a triple burden of malnutrition, with undernutrition, overnutrition, and micronutrient deficiencies across the population. It is establishing the FOPNL standard to help consumers make informed healthy choices on pre-packaged products. The consumption of unhealthy foods has continued due to consumers' "inadequate capacity" to interpret current nutrition labels, among other things. The FOPNL standard would also prohibit other endorsements on the label beyond marks for safety and quality if the product exceeds thresholds for fat, sugar, saturated fats, and/or sodium.[96]

We also heard from a respondent that discussions across government occur about the intersection of food fortification and policies to address over-nutrition, however improving consumer awareness of fortified foods is the current focus and addressing the "healthiness" of fortification vehicles is a future challenge.

Nutrition labelling is also integrated into KEBS' broader food safety and quality control regulation through its standardisation marks which take into consideration compliance with food labelling.

Nutrition labels

In general, we heard from respondents that few consumers read nutrition labels unless they want to learn about a new product as they are unaware of their usefulness. Respondents recommended greater consumer education to help consumers understand labelling. An effective consumer awareness campaign on the importance of fortification was conducted when mandatory fortification was introduced by the Ministry of Health. The campaign has not been repeated, so as with general labelling, consumers generally don't recognise the logo or understand its link with improved nutrient content.[82] We also heard that industry competition drives the use of the fortification logo so that the producers are not at a disadvantage.

Nutrient declarations are mandatory for all pre-packaged foods (aside from where national circumstances do not support declarations such as for foods of nutritional insignificance like spices or small packaging) and foods on which a health or nutrition claim is made. Vitamins and minerals can be included in a declaration if they are present in a minimum amount, and they are of nutritional importance in Kenya.

Nutrition and health claims are voluntary, but must meet conditions, including that claims a food has an increased nutritive value due to the addition of vitamins, can only be made if the addition is based on nutritional considerations according to Codex General Principles for the Addition of Essential Nutrients to Foods and it conforms with the relevant Kenyan Standard East African Standard (KS EAS). Some claims are prohibited, e.g., a claim that the food is suitable to use in the prevention or treatment of disease.

Supplementary nutrition information: A *fortification logo (Fortification Mark of Quality* or 'Kuboresha Afya') is voluntary and may be used following an application to KEBS (although one respondent indicated that it is mandatory for flour and edible oils). Three other Marks of Quality are administered by KEBS: a *Standardization Mark*, an *Import Standardization Mark of Quality* and a *Diamond Mark of Quality* (their logos are below).[99] Other SNI are also permitted but must meet conditions if they are used, and a respondent stated that a draft regulation for a voluntary traffic-light FOPNL is under review and is expected to become law, with consumer testing taking place. [KEN002-I]

Recommendations to reform nutrition labelling regulations to enable LSFF

- A *voluntary standard fortification claim* for mandatorily fortified foods could be considered to add to existing fortification logos and increase consumer understanding of the benefits of fortified foods such as indicating why the fortified food is beneficial for an individual's health.
- If *claims regulations* were updated, stipulations on health claims could be considered to improve regulations (e.g., including additional information on labels where appropriate, such as target group, how to use the food to obtain the claimed benefit and other lifestyle factors or other dietary sources where appropriate, and the importance of maintaining a healthy diet).
- *Regulatory governance* overall appears strong through KEBS' standards development process, its interaction with EAS, its authority and budget, pre- and post-market surveillance, and cooperation with the MoH in administering the Fortification Mark of Quality. Most labelling standards are based on EAC standards which are regularly reviewed by the EAS Committee, although we found no guidelines for monitoring and evaluating at the EAC level in general. However, there appears to be room for ongoing education and awareness-raising around standards for consumers, to increase uptake of fortified foods, and industry, to increase compliance with standards, both of which we understand from respondents are underway. This was highlighted as being particularly necessary for voluntarily fortified foods to increase their demand.

Fortification Mark of Quality (fortification logo)

Standardization Mark

Import Standardization Mark of Qualitye

Diamond Mark of Quality

Draft FOPNL nutrition logo (if all four nutrients are present in a product)[96]

Information sources and limitations

We undertook qualitative surveys and interviews in addition to a desktop regulatory review in Kenya. Based on these, information gaps only exist for guidelines for monitoring and evaluating and the transparency of evaluations. Such information may sit outside of the regulatory documents reviewed.

Table 6 – KENYA – Summary of nutrition labelling regulations

Excludes draft regulations unless specified.

	Nutrient declaration	Nutrition and health claims	SNI
Regulatory form and substance			
Regulatory framework	• Nutrient declarations are mandatory for all pre-packaged foods for which nutrition and health claims are made; and all other pre-packaged foods except where national circumstances would not support such declarations. Certain foods can be exempted, e.g., based on nutritional or dietary insignificance or small packaging.[93]	• Voluntary nutrition and health claims are permitted, with mandatory conditions if either type of claim is made.[93, 94] • Certain claims are prohibited such as claims that a food will provide an adequate source of all essential nutrients except where standards permit, or competent authorities have accepted the product to be an adequate source of all essential nutrients; and claims about the suitability of a food for use in the prevention, alleviation, treatment or cure of a disease/ disorder.[94] • Health claims are only permitted in certain circumstances, e.g., based on current relevant scientific substantiation. Claims cannot be false or misleading.[94] • Conditional claims, that a food has obtained an increased or special nutritive value via the addition of nutrients, can only be made if the addition is based on nutritional considerations according to Codex General Principles for the Addition of Essential Nutrients to Foods[94]	• The KEBS Standardization Mark is mandatory on all products manufactured in Kenya.[91] • The Import Mark of Quality is mandatory on all imported products.[91] • The Fortification Mark of Quality is voluntary. [100] • Voluntary SNI are permitted but mandatory conditions apply if SNI is used. SNI shall only be provided in addition to, and not in place of, the nutrient declaration.[93] • A draft voluntary traffic light FOPNL standard is being considered, under which a product that is carrying a front-of-pack nutrition symbol and exceeds the threshold of any of the total fat, sugar, saturated fats and/or sodium shall not carry any other form of endorsement except statutory marks/logos for safety and quality.[96]
Regulatory objective(s)	• Ensure effective nutrition labelling, that provides consumers with sufficient information on the nutrition content of the food, encourages the use of sound nutrition principles to benefit public health, and does not describe a product or present information about it that is in any way false, misleading, deceptive or insignificant in any manner.[93]	• Ensure no nutritional claims are made without nutrition labelling[93] and that no food is described in a false, misleading or deceptive manner or is likely to create an erroneous impression regarding its character.[94]	• The draft FOPNL focuses on providing consumers with a simplified version of the same information that is on a nutrition label. [96] • The content of SNI will vary from one target population group to another, according to the national health policy and guidelines, and nutrition labelling should not deliberately imply that a food that carries such labelling has any nutritional advantage over a food that is not so labelled.[93]

	Nutrient declaration	Nutrition and health claims	SNI

Operative terms and conditions	• Nutrient declarations must include [93]
	  - energy value in kJ or kcal per 100g/ml;
	  - amounts of protein, carbohydrate, fat, saturated fat, available carbohydrate (dietary carbohydrate excluding dietary fibre) in g per 100g/ml;
	  - sodium in mg;
	  - total sugars in g, written as "Carbohydrate ...g, of which sugar ...g";
	  - amount of any other nutrient for which a nutrition claim is made – in g/100g or % for carbohydrate, sugar, or starch; calories/100g for energy; mg/100g for sodium;[89]
	  - amount of any other nutrient considered to be relevant for maintaining good nutritional status as required by legislation;
	  - [where the amount and/or type of fatty acids or cholesterol is declared] a specified format is required declaring fatty acids and cholesterol.
	  This information can be per serving, as quantified on the label, per package if the package is a single portion, or per portion provided the package states the number of portions per package.[93]
	• To be included in a declaration, vitamin or mineral content must be ≥5% of the NRV per 100g/ml and should be expressed in metric units and/or as a % of NRV per 100g/ml or per package if the package is a single portion. Further, only vitamins and minerals for which recommended intakes are established and/or are of nutritional importance in the country concerned can be declared.[93]
	• Nutrients must be declared in a specific order that is consistent across food products developed by competent authorities.[93]Protein and additional nutrients can also be expressed as a % of the NRV where established.[93]
	• The declaration should be in a numerical, tabular format, or linear format where there is insufficient space.[93]
	• The font type, style font size, and contrast should allow the nutrition information to be legible.[93]
	In general, labelling must be in English in addition to any other language. The English language type size must be equal to or greater than the type size for any other language used; labelling information must be clear, prominently displayed, and readily discernible.[88] KS EAS 38 duplicates much of this, noting that labelling must be in English and/or any other official language of the importing East African Partner State and small units with a surface area <10cm^2 are exempt from some label requirements.[92]
		• Where a nutrition or health claim is made for the:
		  - amount and/or type of carbohydrate, the amount of total sugars must be listed;
		  - the dietary fibre content, the amount of dietary fibre must be listed;
		  - the amount and/or type of fatty acids or the amount of cholesterol, amounts of saturated, monounsaturated, and polyunsaturated fatty acids and cholesterol must be listed, and the amount of trans fatty acid may be required.[95]
		• The only nutrition claims permitted are those for energy, protein, carbohydrate, fat, fibre, sodium, and vitamins and minerals that have a set NRV.[95]
		• Nutrient content claims must comply with conditions established in the standard (e.g., a claim of "source" of vitamins or minerals must be ≥15% of NRV per 100g[95] and low sodium claims must be≤10mg/serve or 20mg of the reasonable daily intake) [89]
		• Comparative claims are subject to conditions in the standard (e.g., foods compared must be different versions of the same or similar food).[95]
		• Where a consumer-ready food product carries a comparative or descriptive nutrient content claim, it must be supported by a nutritional breakdown of the specific attribute being described. For example, "This product is low in saturated fat, containing only three grams of saturated fat per 100 grams of total fat."[95]
			• The KEBS Standardization Mark certifies that a product meets requirements under Kenya's Standards.[91]
			• The Import Mark of Quality certifies that an imported product meets the requirements of the relevant Kenya Standard or approved specification.[91]
			• The Fortification Mark of Quality is permitted upon application to KEBS, provided it meets all required fortification, labelling and other relevant standards [KEN002-I]] e.g., an applicant must have a valid Standardization Mark or Diamond Mark of Quality (indicating excellence in product manufacturing and quality) for the food vehicle. [100, 101]
			• Voluntary SNI if used:[93]
			  - Can only be provided in addition to a nutrient declaration.
			  - Should be accompanied by consumer education programmes to increase consumer understanding and use of information.
			  - Must be consistent with national health policy guidelines, and general and claims-related standards, and should be developed in consultation with the relevant authority.
			  - May include food group symbols and other pictorial or colour presentations for target populations with high illiteracy levels and/or little knowledge of nutrition.

Regulatory governance	
Drafting regulatory rules and scheme design	• Under the Food, Drugs and Chemical Substances Act[87] the Minister for Health may make food labelling regulations among other areas covered by the Act, following consultation with the Public Health (Standards) Board which includes representatives from the Ministry of Health, other government agencies, industry and municipal councils. • Under the Standards Act,[91] KEBS develops standards and standardisation marks. The National Standards Council (KEBS' Board of Management) can formulate policy and guide KEBS and endorse or amend standards via publication in the Gazette. The relevant Minister sets the date from which all products must comply with a standard. - To develop a standard, KEBS sets up multisectoral Technical Committees, including one for labelling [KEN001-I], which include representatives from the Ministry of Health who are subject matter experts and conduct research to identify policy gaps, the Ministry of Agriculture, research institutes, the food industry, and civil society [KEN001-I/S]. [92-96] - Standardisation is a six-stage process that takes between six months and 18 months [KEN002-1] and follows the International Organization for Standardization's good standardisation principles which cover Transparency, Impartiality, Consensus, and Effectiveness). The standardisation process involves: 1. Proposal; 2. Drafting, where a technical committee examines new evidence, national data (e.g., Demographic Health Surveys), market events and outputs, such as those from the European Food Safety Agency, to determine whether to adopt an East African Standard [KEN001-S, KEN001-I, KEN002-1] or to amend or develop a Kenyan standard and agree a draft; 3. Public review; 4. Balloting, where the WTO is notified within 60 days and the standard is circulated for public consultation via the KEBS website. The Technical Committee reviews and responds to all comments [KEN001-I] before voting on the standard, which can only be voted down on scientific grounds. [KEN002-1]; 5. Approval; and 6. Publication after Council approval. • Under the EAC Standardisation, Quality Assurance, Metrology and Testing Act,[16] the EAS Committee (with representatives from Partner States' standards bodies, the private sector, and consumer organisations [84]) undertakes, monitors and reviews standardisation at national and EAC levels, and must establish procedures to develop and approve harmonised EAS that borrow heavily from Codex guidelines [KEN001-S, KEN001-I]. Within six months of an EAS declaration, Partner States must adopt, without deviation, the EAS as a national standard and withdraw any existing national standard with a similar scope. Partner States lead EAS drafting if requested. [KEN001-I] • Under the Treaty Establishing the COMESA,[56] Member States are required to adopt a harmonised system and create national legal frameworks for the standardised pre-packing and labelling of goods traded in the common market, and cannot enact regulations that discriminate against similar products of other Member States. Member States must also: establish national standards bodies; apply uniform rules and procedures to develop national standards; adopt African Regional Standards when available, or suitable international standards; and promote and enforce standards. More broadly, COMESA is governed by the Authority comprising Member States' Heads of State or Government, whose decisions are binding on all Member States. Responsibility for monitoring, reviewing and developing regulations sits with the Council of Ministers, which can make binding regulations and recommendations to the Authority. Technical committees, composed of Member State representatives, are responsible for implementing regulations (including monitoring and review) and conducting research and can consult with external stakeholders, including industry.

Administration	• Under the Food, Drugs and Chemical Substances (Food Hygiene) Regulations,[90] a licence is required to sell, prepare, package, store or display food that is for sale and is valid until 31 December from the date of issue. A municipal council's health authority grants the licence upon fee payment and if it is satisfied the food complies with regulations. • Under the Standards Act[91] KEBS is responsible for implementing standards and standardisation marks (including the KEBS Mark of Quality[13]), promotion and education of standardisation, and the provision of testing facilities. All food manufacturers must apply to KEBS to receive a permit to use the standardisation mark on a food product label before any food is placed on the market. KEBS grants the permit if the product complies with all relevant standards and specifications, including for labelling (e.g., test quantities to ensure it meets the RDA (13)) [KEN002-I, KEN001-I]. The licence must be renewed and audited every two years. [KEN001-I] KEBS may cancel or suspend this permit if the manufacturer fails to comply with its conditions. Manufacturers must provide samples or information about the food to a municipal council when requested in writing. KEBS' funding is specified and includes funds received under the Act or from Parliament. - KEBS also administers the Fortification Mark of Quality under an MoU with the Ministry of Health which remains involved in application review. It is valid for two years, so KEBS encourages concurrent application for both marks. [KEN002-I] On application for the Fortification Mark of Quality, KEBS samples the product, tests fortification parameters at accredited laboratories and grants the mark if the product is fully compliant with all applicable standards, including labelling and process and quality controls. KEBS quality assurance officers also carry out an industrial inspection and discuss and agree on a scheme for supervision and control. If non-conformities are identified on inspection, manufacturers must undertake corrective action and inform KEBS.[100] • Under Standard 803: 2014 Nutrition labelling,[93] SNI should be accompanied by consumer education in addition to KEBS' promotion and education role specified under the Standards Act above. From respondents, we heard that: - While the Ministry of Health conducted an effective consumer awareness campaign on fortification when mandatory fortification was introduced, it has not been repeated, and "consumers do not generally recognise the [fortification] logo or associate it with improved nutrient content".[83] Further, for mandatorily fortified foods, consumer awareness of fortification labelling is seen as unnecessary as there is no need to separately identify fortified foods. [KEN002-I, KEN001-I] For voluntarily fortified foods, the nutrient declaration is important as it provides evidence of fortification. [KEN001-I] - In general, nutrition labelling is not well understood by consumers and industry, and industry does not always comply with regulations. For instance, some companies duplicate what others do, by using the same non-compliant label printers, or millers without realising they don't comply. KEBS works with the Ministry of Education to increase the awareness of nutrition labelling among consumers and industry and expects that understanding will increase soon via nutrition curriculum at schools. This education needs to be maintained particularly for voluntary fortification, so that consumers associate it with healthier or more nutritious food, look for the fortification logo, and increase demand. Further, KEBS trains industry on labelling requirements (leading to significant improvements in fortified and general food labelling) and allows industry to exhaust sales of non-compliant packages when they admit to errors especially as it is expensive to destroy food. [KEN002-I] • The EAC Standardisation, Quality Assurance, Metrology and Testing Act,[16] sets out the responsibility for arranging the public review of draft EAS through National Standards bodies (with comments incorporated before standards are finalised),[93] responding to EAS enquiries, identifying training needs and areas for capacity building, preparing budgets and publicising EAS. Partner States are also required to liaise with regional and international standards organisations (including the African Regional Standards Organization), promote and facilitate the use of standards, and can establish or designate test laboratories to provide scientific or technical services (such as a laboratory and the Partner State is then obliged to ensure it has adequate and competent staff). • Under the Treaty establishing COMESA,[56] documentation and related systems, quality assurance, and specifications for inspection and testing of goods must be standardised. Under its Regional Agricultural investment plan 2018-2022,[62] COMESA also conducts capacity building programmes on customs and trade harmonisation.
Monitoring	• Under the Food, Drugs and Chemical Substances Act,[87] authorised officers can enter and inspect premises, products and documentation, and sample, seize, or detain food products to assess their compliance with the Act. Municipal councils are also required to exercise powers to safeguard food including procuring samples for analysis. • Under the Standards Act[91] the relevant Minister can appoint inspectors who can enter premises, inspect, sample, require documentation, and seize and detain products for testing in relation to standardised products. More specifically, we heard from respondents that KEBS is well-budgeted with sufficient resources to enable their work (although one respondent indicated that resources for evaluation at local/village levels could be improved [KEN001-I]), including for monitoring and enforcement as follows [KEN002-I]: - Quality Assurance Unit – work with industry to ensure continuous improvement, inspect facilities, and issue corrective actions. - Market Surveillance Unit – sample foods from all retailers and open markets to assess compliance with standards, conduct analysis in government laboratories, confirm label accuracy [KEN001-I], provide market intelligence feedback (such as difficulties with compliance), and enforce the industry use of the fortification logo post-market (with Ministry of Health public health officers enforcing the fortification logo at the market level). Market surveillance and enforcement are also done in cooperation with the Competition Authority. [KEN001-I] - Quality Inspectors – operate at points of entry such as ports and airports to ensure imported products comply with standards. • Under its Regional Agricultural investment plan 2018-2022, COMESA Member States and Secretariat monitor its strategic plan, supported by monitoring and evaluation tools developed by COMESA which include promoting strengthening of regional coordination on nutrition promotion.[62] Data gaps: limited information identified on guidelines.
Evaluation	• Under the Standards Act[91] the National Standards Council must submit an annual report on its activities to the relevant Minister each year which must be tabled in parliament. • The KS EAS must be "reviewed regularly" and suggestions to improve published standards can be addressed to KEBS' Managing Director.[92]. We also heard from respondents that Kenyan Standards must be reviewed by KEBS every four years, taking into account new evidence and information. [KEN001-S, KEN001-S] • As above, under the EAC Standardisation, Quality Assurance, Metrology and Testing Act,[16], the EAS Committee reviews standardisation at national and EAC levels. Data gaps: limited information identified on transparency.

Enforcement	• Under the Food, Drugs and Chemical Substances Act,[87] offences include selling, advertising or packaging any food in contravention of any regulations under the Act (e.g., selling a food without a licence, or one that does not comply with labelling standards, or has misleading or deceptive labelling). Unless specific penalties are provided, on conviction, offences are subject to fines and/or imprisonment through to licence cancellation, and items related to the offence can be ordered to be forfeited. • Under the Standards Act,[91] KEBS enforces standards and can cancel or suspend a permit for use of the standardisation mark if a product is non-compliant and in some circumstances, order the destruction of goods that do not meet standards after testing. Offences under the Act, such as using a standardisation mark when a product doesn't meet relevant standards may result in a fine and/or imprisonment on conviction, and KEBS can prohibit the further sale of offending goods and confiscate them. Respondents also outlined that: - Enforcement results and challenges are shared at KEBS' and the Ministry of Health's quarterly forums with researchers to problem solve and improve compliance. [KEN002-I] - KEBS investigates and consults with manufacturers about any consumer complaint it receives, with decisions and corrective action applied on a case-by-case basis. [KEN002-I] While complaints and outcomes are not generally publicly available, a complainant may be briefed on the outcome [KEN002-I] and a press release is issued when a product is withdrawn due to food safety risks. [KEN001-I] Complaints about KEBS' standards are registered with the ombudsman (e.g., about those nutritive sweeteners approved under a Kenyan standard but not approved in the EU) and KEBS seeks scientific advice from authorities such as the WHO) on these types of complaints. [KEN002-I] - Non-compliant labelling and fortification is usually the result of misinterpretation for which KEBS takes corrective, rather than punitive action.[KEN002-I]

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