

EGYPT-KENYA DISPUTE OVER TOILET PAPER STANDARDS

In December 2000 the Kenya Bureau of standards (KEBS) refused to release a consignment of Egyptian toilet paper on the grounds that the internal tube on which the toilet papers are rolled were smaller than that required by a Kenyan regulation. The regulation stated that the tube must be of certain diameter. As a consequent the toilet paper could not be imported into Kenya .

Background:

The free trade area (FTA) for the Common Market for Eastern and Southern Africa was launched on 31st October 2000 . Nine (9) countries are participating in the FTA. These are Djibouti , Egypt , Kenya , Madagascar , Malawi , Mauritius , Sudan , Zambia and Zimbabwe . Effective 31st October 2000, the 9 countries started trading on duty and quota free terms for all goods originating from within their territories. The agreement provides for duty-free treatment for a large number of products that satisfied the COMESA rules of origin requirements.

The Egyptian Trade Representative's Office (ETRO) in Nairobi expected that the agreement would provide a certain group of commodities a significant competitive advantage and identified toilet paper as one of these products. The ETRO office undertook market surveys, which showed that all consumers' categories were willing to buy the Egyptian toilet paper rather than the Kenyan product. The Office also found that Egyptian exporters by reducing their price marginally could win a reasonable market share. Working with the Egyptian exporters, the ETRO office convinced a large Kenyan distributor of toilet to bear the cost of advertising Egyptian toilet paper on television and in newspapers. In exchange, the Kenyan exporter offered the distributor credit facilities.

Egyptian toilet paper exporters considered the Kenyan market to be for them one of the most important in East Africa . The Egyptian exporters estimated that size of the Kenyan toilet paper market to be nearly USD \$10 million a year, and they felt that they could easily capture 40% of it because of the competitive advantages provided them by the COMESA FTA.

The Kenya Bureau of Standards (KEBS) is the national standards organization of the Republic of Kenya . The KEBS's website states that:

The technical standards work of the KEBS is carried out by technical committees grouped under technical departments. The results of the KEBS technical standards work are published as Kenya national standards. It is the policy of the KEBS to adopt other national, regional and international standards when these are found to be applicable to the Kenyan situation. (<http://www.kebs.org/>)

The KEBS's website also contains the following statement regarding inspection of imports:

Quality Inspection of imports is carried out at the ports of entry to create a level playing ground for the imported and locally manufactured goods according to TBT agreement of WTO for imported products. Imported commodities are allowed into the country upon issuance of a certificate of release by the Bureau.

Quality inspection fees for imported commodities is 0.2 per cent of the C and F value and is payable before issuance of the certificate of release. Imports that are tested by Kenya Bureau of Standards and found not to comply with the requirements of the relevant Kenya Standard(s) are not allowed to be sold in the Kenyan market. The importer has to return them to the country of origin at his own cost. (<http://www.kebs.org/>)

The standard applicable to toilet paper is [KS 03-24:1996 -- SPECIFICATION FOR TOILET PAPER IN ROLLS AND REELS \(FIRST REVISION\)](#). This 18 page standard specifies the requirements, sampling and test methods for toilet paper supplied in rolls and reels.

Kenya has only one large domestic producer of toilet paper and this producer has had a monopoly position in the domestic market. The producer is reported to have political influence and close connections to many high-ranked Kenyan government officials. The Kenyan producer started a press campaign against the Egyptian toilet paper. The campaign claimed that the Egyptian paper was not recyclable and was therefore not environmentally friendly. The ETRO office in Nairobi has sought to refute that claim on the grounds that the Egyptian product has an internationally approved certificate. The ETRO office and the Egyptian exporters are concerned that time is not on their side since the rejection of their shipments and the press campaign threaten to wipe out their competitive advantage.

The Egyptian exporters complained that they did not see a need for the standard. As the tube in an Egyptian roll of toilet paper is slightly bigger (i.e., a larger diameter) than the size mandated by the Kenya standard, it still fits in the same tissue holder as the Kenyan one. They were not sure if the Kenyan standard was based on an international standard. Further, they noted that both the Kenyan roll of toilet paper and the Egyptian roll are labeled with the number of sheets, so consumers will know what they are getting. The Egyptian manufacturers were not willing to modify the size of their tubes since they felt this would be too costly and time consuming.

Following the rejection of the shipment by the KEBS, the ETRO office in Nairobi held several meetings with relevant Kenyan authorities, but the meetings have not resulted in any change in the position of the Kenyan side. The ETRO office met mainly with officials from the Ministry of Trade & Industry (MITI) and KEBS. According to reports, the MITI officials showed more understanding and flexibility than the KEBS officials who contended that the Kenyan standard should be respected. The ETRO office also met with the Kenyan Ministry of Finance, but reportedly found that the ministry was primarily concerned about the revenue implications of the lower duty on toilet paper mandated by the COMESA agreement.

Both Kenya and Egypt are WTO members and are members of the African Regional Organization for Standardization (ARSO) (<http://www.arso-aran.org/>). ARSO is an African inter-governmental Organization established in 1977. ARSO's mandate is to promote standardization activities in Africa. To facilitate African economic integration, ARSO's program is designed to promote the removal of technical barriers that hinder intra-Africa trade and integration. Both KEBS and the Egyptian Organization for Standardization and Quality Control (EOS) are member bodies of the International Organization for Standardization (ISO).

Assignment:

Assume that you are to represent Egypt at the next meeting of the WTO Committee on Technical Barriers to Trade and that you have been asked to discuss the toilet paper standards issue you're your Kenyan counterpart. In order to prepare a position paper for the meeting, what additional information will you need or should you have? What information will you try to obtain or confirm during the meeting? What points will you make at the meeting? What concerns will you have? What will be your objectives at the meeting and what options will you have after the meeting?

Assume that you are the Kenyan representative to the next meeting of the WTO Committee on Technical Barriers to Trade and you have received the request from your Egyptian counterpart for a meeting regarding the toilet paper issue. In order to prepare a position paper, what additional information do you need or should you have to prepare for the meeting? What points would you like to make during the meeting and what concerns will have? What options will you have?