ANNEXURES

ANNEX I

KENYA NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT

(THIRD SESSION-2015)

REPORT OF THE

DEPARTMENTAL COMMITTEE ON AGRICULTURE,

LIVESTOCK AND CO-OPERATIVES

ON THE

THE CRISIS FACING THE SUGAR INDUSTRY IN KENYA

CLERKS CHAMBERS

PARLIAMENT BUILDINGS,

NAIROBI

MARCH, 2015

CONTENTS

ACRONYMS

WEDIA	-	Western Development Initiative Association
DCALC	-	Departmental Committee on Agriculture, Livestock and Co-operatives
MSC	-	Mumias Sugar Company
NSC	-	Nzoia Sugar Company
BSC	-	Busia Sugar Company
BSM	-	Butali Sugar Mills
WKSF	-	West Kenya Sugar Factory
KRA	-	Kenya Revenue Authority
NIS	-	National Intelligence Service
IG	-	Inspector-General
DG	-	Director-General
CG	-	Commissioner-General
CS	-	Cabinet Secretary
NEMA	-	National Environment Management Authority
EMCA	-	Environmental Management and Coordination Act
KPA	-	Kenya Ports Authority
KSB	-	Kenya Sugar Board
KEBS	-	Kenya Bureau of Standards
COMESA	-	Common Market for Eastern and Southern Africa
KeRRA	-	Kenya Rural Roads Authority
IDB	-	Industrial Development Bank
RSCL	-	Rising Star Commodities Limited

DRC	-	Democratic Republic of Congo
EU	-	European Union
UK	-	United Kingdom
DPL	-	Dantes Peak Limited
GK	-	Government of Kenya
AFFA	-	Agriculture Fisheries and Food Authority
EACCMA	-	East African Community Customs Management Act
SDF	-	Sugar Development Fund
LATF	-	Local Authorities Trust Fund
CDF	-	Constituencies Development Fund
VAT	-	Value added Tax
NSE	-	Nairobi Stock Exchange
MT	-	Metric Tones
TCD	-	Tones Crushed Daily;
FCB	-	Fives Call Babcock
SCT	-	Single Customs Territory
KPMG	-	A merger leading audit firm between *Klynveld Main Goerdeler* And*Peat Marwick*
MW	-	Mega Watts
MSS	-	Mauritius Sugar Syndicate

PREFACE

Mr. Speaker Sir,

01. Arising from a petition by Western Development Initiative Association on the imminent collapse of sugar industry in Western Kenya, the Committee while investigating into the issues raised in the petition, undertook to sample investigations into the status of sugar industry in Kenya with a view to finding a lasting solution and making recommendations to salvage the industry and save the loss to be incurred by over six million sugarcane farmers across the country if the industry was to collapse.

02. Terms of Reference for the Committee

(i) Investigate and inquire into the current state of the sugar industry in the country;
(ii) Investigate and inquire into the issue of cheap sugar imports and smuggling;
(iii) Investigate and inquire into the alleged exports by Mumias Sugar Company between 2006 and 2012;
(iv) Look into the glut in the sugar market, which has, among other causes, contributed to the current crisis in the industry; and
(v) Report on the findings of the Committee's inquiry.

INTRODUCTION

03. The Departmental Committee on Agriculture, Livestock and Co operatives is established pursuant to provisions of Standing Order 216 (5). Under the provisions of Standing Order 216 (5) the Committee is mandated to:-

(a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
(b) study the Programme and policy objectives of the Ministries and departments and the effectiveness of the implementation;
(c) study and review all legislation referred to it;

(iv) Fisheries development,
(v) Co-operatives development, and
(vi) Production and marketing.

07. Under the above Ministries, the Committee covers the following subjects;

(i) Agriculture policy;
(ii) Veterinary policy
(iii) Fisheries policy
(iv) Cooperative societies

Membership

08. The Committee comprises the following Members:-

1. The Hon. Adan Mohamed Nooru, M.P. - Chairman
2. The Hon. Japhet M. Kareke Mbiuki, M.P. - Vice Chairman
3. The Hon. Kabando Wa Kabando, M.P.
4. The Hon. Raphael Letimalo, M.P.
5. The Hon. Patrick Wangamati, M.P.
6. The Hon. Francis Munyua Waititu, M.P.
7. The Hon. Mary Wambui Munene, M. P.
8. The Hon. Peter Njuguna Gitau, M.P.
9. The Hon. Maison Leshoomo, M.P.
10. The Hon. Anthony Kimani Ichung'wah, M.P.
11. The Hon. Alfred Kiptoo Keter, M.P.
12. The Hon. Ayub Savula Angatia, M.P.
13. The Hon. Justice Kemei, M.P.
14. The Hon. Philip L. R. Rotino, M.P.
15. The Hon. Korei Ole Lemein, M.P.
16. The Hon. Silas Tiren, M.P.
17. The Hon. Benjamin Jomo Washiali, M.P.
18. The Hon. (Dr.) Victor Kioko Munyaka, M.P.

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20. The Hon. Millie Odhiambo, M.P.
21. The Hon. Fredrick Outa, M.P.
22. The Hon. Maanzo, Daniel Kitonga, M.P.
23. The Hon. James Opiyo Wandayi, M.P.
24. The Hon. Ferdinand Kevin Wanyonyi, M.P.
25. The Hon. Paul Simba Arati, M.P.
26. The Hon. Florence Mwikali Mutua, M.P.
27. The Hon. Hezron Bollo Awiti, M.P.
28. The Hon. John Owour Kobado, M.P.
29. The Hon. Zuleikha Hassan Juma, M.P.

Mr. Speaker,

0.9 This Report was considered at length by the Committee in a retreat at Windsor Golf and Country Club in Nairobi in 6th and 7th March , 2015 and the resolution to adopt this Report was reached unanimously in a meeting attended by a majority of the Members of the Committee Members. It is our hope that this Report will guide and inform the House on the status of sugar industry.

The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the support and services extended to the Members to enable the Committee complete this report smoothly.

I am grateful for the Members of the Committee whose support enabled the Committee to accomplish this task. Special thanks to the secretariat for their support at all times.

On behalf of the Committee, I now have the honour and pleasure to present this Report to House for consideration and adoption.

Thank You

We the undersigned

1. The Hon. Adan Mohamed Nooru, MBS, M.P.- Chairman__________
2. The Hon. Japhet M. Kareke Mbiuki, M.P. -Vice Chairman__________
3. The Hon. Kabando Wa Kabando, M.P.__________
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CHAPTER 1

1.0 OVERVIEW OF THE SUGAR INDUSTRY IN KENYA

Historical Perspective

10. Sugar cane was first introduced in Kenya in 1902 with the first sugar factory being set up at Miwani near Kisumu in 1922. Later in 1927, another sugar factory was set up at Ramisi in the coast province, the area where the current Kwale International Sugar is located.

11. After independence, the Government of Kenya moved to expand sugar through investments in sugar cane growing schemes and establishment of more new sugar factories. These include Muhoroni Sugar Factory (MSF) in 1966, Chemelil Sugar Factory (CSF) in 1968, Mumias Sugar Company (MSC) in 1973, Nzoia Sugar Company (NSC) in 1978 and South Nyanza Sugar Company (SONY)-Awendo in 1979.

Cane Production, Quality and Supply

12. The total area under cane in the country presently is 203,730 Ha, comprising 189,390 Ha belonging to out-growers and 14,340 Ha Nucleus Estates (land owned/leased by mills to grow cane). There are 300,000 cane farmers, 4,500 of which are large scale.

13. The quality of cane as measured by pol % cane averages 12 compared 13.5% in the region. Pol % of cane dropped from a weighted average of 11.16 in 2012 to 11.08 in 2013, due to cane harvested below 13 months. However, there was an improvement in fibre % cane, from 17.18 to 17.01 during the period.

14 The average yield per Ha in Kenya is 60.5MT compared to the global average of 63MT. Columbia produces 115 MT per Ha. Total cane supplied for processing by mills in 2013 was 6,764,200 MT compared to 5,842,830 MT in 2012, representing a 15.77% increase.

Mills Performance and Contribution to GDP

15. Today, Kenya has eleven (11) operational sugar mills in the country, 1 to be commissioned in Kwale (Kwale International Sugar Company) while 2 mills (Muhoroni and Miwani) are under receivership. The 11 sugar factories have an annual production capacity of about 600,000MT of sugar against the annual domestic requirements of 800,000MT, running a deficit of 200,000MT.

16. The estimated 200,000 metric tons shortfall is offset by sugar imports which has created a lot of instability in the local domestic market. Kenya has only managed to achieve significant production of the commodity in 1980 and 1981 to meet domestic demand.

18. The combined installed current crushing capacity of operational mills is about 29,990 MT of cane per day. The current capacity is sufficient to produce about 1 million tons of sugar per annum. This is not sufficient to meet the domestic consumption capacity of sugar. The target is to expand the daily capacity to approximately 50,000 MT per day in order to produce 1,350,000 MT to make Kenya a sugar surplus producer.

19 The sugar industry in Kenya supports directly or indirectly six million Kenyans, which represents about 16% of the entire national population. The sugar industry contributes about 7.5% of the country's Gross Domestic Product (GDP) and has a major impact on the economies of Western Kenya and Nyanza regions and, to a lesser extent, Rift Valley. The sugar sub-sector is expected to equally have a major impact on the economy of Coast region once the mill being built in Kwale becomes operational.

20. Sugar production increased from 503,210 MT in 2012 to 599,070 MT in 2013 as a result of increased cane supply and better recoveries. Recoveries improved from Tonnes Cane/Tonnes Sugar (TC/TS) of 11.61 in 2012 to 11.29 in 2013. The Factory Time Efficiency (FTE) improved from 76.65% in 2012 to 79.98% in 2013. The Overall Time Efficiency (OTE) also rose from 60.27% to 64.13%. *(Annex VI)*

Sugarcane and Sugar Prices

21. Sugarcane prices dropped from an average of Ksh 3,755/MTat the beginning of 2013 to Ksh 3,476/MT at the end of the year. In 2013, ex-mill

sugar prices averaged Ksh 4,499 compared to Ksh 4,911 in 2012. Wholesale sugar prices ranged from Ksh 4,100 to Ksh 5,800 (mean Ksh 4,754) per 50-kg bag in 2013 compared to Ksh 4,200 to Ksh 7,800 (mean Ksh 5160) per 50-kg bag in 2012.

Cost of Production

22. The average cost of producing one ton of cane in Kenya is USD 22.5 while that of the regions is as low as USD 13 per ton. The average cost of producing a ton of sugar in Kenya is USD 870 (or USD 700 exclusive of finance charges) compared to USD 350 in Malawi and USD 400 in Zambia, Swaziland and Egypt and in USD 450 in Sudan. The cost of production in Brazil is USD 300, up from USD 270 three years ago.

National Sugar Consumption

23. The average annual consumption of sugar in Kenya, in the last six years (between 2008 and 2013), is approximately 787,320 metric tons. During that period local sugar production amounted to 3,173,850 MT while imports amounted to 1,277,020 MT. Kenya exported a total of 63,585MT during the period.

Sugar Imports and exports

24. In 2013, a total of 237,640 metric tons of sugar were imported into the country, which compares closely with 238,590 MT imported in 2012. Out of the total imports, 44% constituted Brown/Mill White for direct consumption while the balance was refined white sugar meant for manufacturing. Imports from the COMESA region were 106,810 MT, which represents 45% of total imports. The EAC supplied only 4,820 MT, which represents 2% of total imports. The Average CIF Mombasa landed price for sugar in 2013 was Ksh. 63,675/MT, which is about Ksh 3,950 per 50-kg bag.

25. Between the years 2006 and 2012, Mumias Sugar Company is said to have exported unknown quantity of sugar to a number of countries in Africa among them Democratic Republic of Congo, Ethiopia, Rwanda, Southern Sudan, Uganda and in Europe exports were made to Italy and the UK. The

amount of sugar is unknown due to the fact that records availed to the Committee by MSC and KRA vary in Tonnage. (Annex II & III)

COMESA Safeguards

26. Kenya has since 2002 been on COMESA safeguards to enable it take measures to improve competitiveness of its sugar industry. The initial safeguard period of one year was extended by another year before a four-year extension was granted in 2004. This was followed by another three years extension in 2008 and two years in 2012. The latest extension of one year ends in February 2015. During this period, the allowable quota of sugar to be imported into Kenya has been raised from 340,000MT to 350,000MT and any additional imports above the quota will be subject to a 5% tariff.

Privatization

27. All the 5 Government owned sugar factories are earmarked for privatization program. The Program received Cabinet approval in 2008 and debt writes offs has been approved by parliament as a precursor to Government divesture. This aims at transforming the industry towards commercial orientation and injection of the required fresh capital from the private sector. However, the Parliamentary Departmental Committee on Finance, Planning and Trade passed a resolution on 9th January, 2013 "that the privatization of the public Sector Sugar Companies should be postponed until such a time when all legislation affecting the Agriculture Sector (sugar) and the County Governments have been put in place". In order to kick start the privatization process, the approvalof the Parliamentary Committee on Finance, Planning and Trade is required.

Divesture

28. The Kenya Sugar Industry has the potential to generate up to 120 MW of electricity for export to the National grid without major investments. However, it is only Mumias Sugar Company that has divested into energy production and is currently generating 38MW out of which 26 MW is exported to the national grid. The rest of the factories generate electricity for their own use but do not export to the national grid.

Farmers Problems

29. The problems facing cane farmers are acute and need a multitude of mitigation measures to institute a radical shift in respect of industry policy and legislative action to tame the trend of farming cane from collapse.

30. The scenario is two-pronged with the cane farmer, on one hand producing the raw material and on the other hand, the sugar millers who have tended to hold the view that sugar farming is a business on their part and not to the farmers. At the same time reforms in the sugar sub-sector have been very slow. This has given room for scrupulous businessmen/women engaging into imports and exports that ruin the local farmer at the end.

31. The problems of sugar sector reflect serious policy flaws and inadequacies in the relevant legislations governing the sugar sub-sector. It is a pointer of a selective implementation and lack of enforcement of the existing legislation, that is, the Sugar Act (2001).

Mr. Speaker, Sir,

32. Between the months of September 2013 and August 2014, the Committee collected and collated views from the Sugarcane Millers and other stakeholders deliberating on the issues raisedin committee sittings both within and outside Parliament. The Committee also received memoranda from associations of Sugarcane farmers. Some of the Millers, interest parties and other stakeholders the Committee met include the industry regulator - Kenya Sugar Board (KSB), Mumias Sugar Company (MSC), Nzoia Sugar Company (NSC), West Kenya Sugar Factory (WKSF), Butali Sugar Mills (BSM), National Environment Management Authority (NEMA), the Inspector- General of Police, (IG) the Kenya Ports Authority (KPA), the Commissioner-General (CG) of the Kenya Revenue Authority (KRA), Kenya Bureau of Standards (KEBS), the Director General (DG) of the National Intelligence Service (NIS), former Managing Director (MD)Mumias Sugar Company, the Cabinet Secretary National Treasury, Cabinet Secretary for Agriculture, Livestock and Fisheries, and, Western Development Initiative Association (WEDIA).

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CHAPTER 2

2.0 EVIDENCE AND SUBMISSIONS FROM SUGAR COMPANIES AND OTHER WITNESSES

2.1 Submissions by Western Development Initiative Association (WEDIA)

33. Appearing before the Committee on 16th October, 2013, WEDIA made the following submissions: -

(a) WEDIA was registered as an association in 2010 and that it represents development interests of sugarcane farmers and other sectors in Western Kenya;

(b) It was among the first entities to raise the issue of cane poaching and was also at the fore-front in stopping the attempted disposal of land belonging to defunct Busia Sugar Company (BSC);

(c) Sugarcane poaching started about the year 2000 after the establishment of Butali Sugar Mills in Kakamega County.

(d) Sugar factories in Western Kenya, including Mumias Sugar Company, Nzoia Sugar Company and Butali Sugar Mills, have signed contracts with their cane farmers except West Kenya Sugar Factory;

(e) To-date, West Kenya Sugar Factory does not have any single contracted sugarcane farmer but has since inception been buying cane from farmers contracted by other millers, hence promoting poaching;

(f) West Kenya Sugar Factory does not have cane development programmes for farmers but harvests cane from farmers in Western Kenya. The factory has continued to buy cane from Busia Sugar Zone (*contracted by Mumias Sugar Company*), Nzoia Sugar Zone and Butali Sugar Mills farmers even when they (West Kenya) have no contracted farmers in those zones;

(g) West Kenya has gone ahead to construct a weighbridge at Tangakona area in Busia County where all the poached cane is collected for transportation to the factory in Kakamega County;

(h) The presence of the weighbridge has led to disputes and conflicts among the surrounding local communities/millers and at one point a tractor transporting sugarcane for Nzoia Sugar Company was burnt and six tractors belonging to West Kenya impounded by Nzoia Sugar Company;

(i) Kenya Sugar Board has allowed West Kenya to operate in Western Kenya despite the company failing to honour the licence issued to it to construct a factory in Kimilili area of Bungoma County way back in 2008;

(j) Kenya Sugar Board gave West Kenya a two-year reprieve under questionable circumstances even after failing to construct a factory in Kimilili and continued harvesting cane from farmers contracted by other factories;

(k) In some cases, cane is harvested by agents of West Kenya Sugar Factory without the consent of the owners.

2.2 Submissions by Management of Mumias Sugar Company (MSC)

34. Appearing before the Committee on 29th October, 2013 the then Managing Director of Mumias Sugar Company, Mr. Peter Kebati, submitted as follows;

(a) MSC was established 40 years ago and is the largest sugar producer in Kenya and is currently an integrated factory with installed capacity of 270,000 MT sugar plant, 38MW Co-generation Plant, 22 million - litre Ethanol Distillery and 15 million - litre Water Bottling Plant;

(b) The Company is listed on the Nairobi Stock Exchange and there are over 145,000 shareholders including Kenyan investors and the Government of Kenya which holds a 20% stake in the Company, pays approximately Kshs. 2.5 billion in taxes and remits Kshs. 500,000 million to the Sugar Development Fund (SDF) annually;

(c) MSC supports a population of 2 million people directly and over 5 million indirectly and the Company has a workforce of 1,896 permanent employees and 40,000 seasonal and contracted workers;

(d) The Company operates an Outgrowers Cane Development Scheme within Kakamega, Bungoma, Busia and Siaya counties and spends over Kshs 2.8 billion to provide services for land preparation, fertilizer/input supply, extension support, harvesting and transport to over 110,000 farmers;

(e) MSC signs cane farming contracts with the farmers committing them to supply their cane to MSC to enable recovery of what the Company has invested in cane development expenses to contracted farmers;

(f) MSC appreciates fair competition in the sector and wants emerging issues to be addressed as a policy intervention to restore sanity and fair practices in the industry;

(g) There is no fair competition in the sugar sector and unless the emerging issues are addressed from both policy and legislative fronts, then the industry is headed for collapse as rightfully observed by the Petitioners. There is urgent need to restore sanity and the rule of law in the industry.

2.3 Submissions by Nzoia Sugar Company (NSC)

35. Appearing before the Committee on 5th November 2013, the Managing Director for Nzoia Sugar Company made the following submissions;

(a) NSC was established in 1975 under the Company's Act Cap 486 of the Laws of Kenya with the Government as the majority shareholder owning 98% shares while Fives Call Babcock (FCB) and Industrial Development Bank owning the remaining;

(b) NSC serves over 67,000 farmers in the larger Bungoma, Kakamega, Lugari, and Malava Districts;

(c) NSC produces sugar and supports cane production through the provision of extension services to farmers through extensive Company Nucleus Estate covering 3600ha;

(d) NSC provides cane development services including supply of fertilizers and provision of extension services to out-grower cane farmers contracted by it;

(e) West Kenya was poaching cane from farmers contracted by Nzoia Sugar, Mumias Sugar and Butali Sugar factories;

(f) There were individuals acting as cane poaching brokers based at various points within Bungoma and Busia Counties;

(g) NSC sensitizes farmers on obligations of signed contracts with them and other millers and campaigns against cane poaching;

(h) In 2008, NSC set an anti-poaching unit comprising of NSC and the Kenya Police Officers that used to monitor cane poaching and later in 2010 an *ad hoc* committee of the Board was set up to help manage cane poaching which was at an all time high;

(i) NSC had instituted Court proceedings against West Kenya Sugar Factories (WKSF) in 2012 on the matter of cane poaching; and

(j) NSC has not been able to pay farmers in good time due to low sales as a result of a depressed sugar market;

(k) NSC has lobbied the government not to allow cheap sugar into the Country as it negatively affects sales, payment to farmers and other obligations.

2.4 Submissions from Butali Sugar Mills (BSM)

36. Appearing before the Committee on 5th November 2013, the Managing Director for BSM submitted as follows:-

(a) BSM was founded in 2010 by Sugarpower Consulting which is a consultancy firm in engineering after securing a license to build a sugar mill from Kenya Sugar Board (KSB). The firm has branches in India, Syria, Mauritius, Kenya, Tanzania and Uganda was not aware of any poaching of cane and no legal action had been instituted against it in regard to cane poaching;

(b) Kenya Sugar Board should come up with regulations in respect contractual obligations on the parts of contracted farmers and respective millers;

(c) The creation of too many weighbridges had contributed to cane poaching;

(d) West Kenya Sugar Company pays farmers after seven days.

(e) BSC received funding from Kenya Sugar Board for construction of weigh bridges and cane development.

(f) 2.5 Submissions by Kenya Sugar Board (KSB)

(g) Appearing before the Committee on 7th November, 2013 and 28th March 2014, the Kenya Sugar Board made the following submissions:

(h) KSB was established by an Act of Parliament, the Sugar Act of 2001, with the main function of regulating and facilitating growth of the sugar industry in the country. The Sugar Act 2001 is subject for repeal with the commencement of the Crops Act, 2013 and the implementation of the AFFA Act, 2013;

(i) KSB is charged with the role of developing regulations to guide the sugar sub-sector and the issuance of licences to import or export sugar and sugar by-products and manages jointly with the KRA any restrictions on imports and exports of sugar and sugar by-products;

(j) KSB also licences the establishment of sugar mills and defines zones with which they operate:

(k) KSB identified West Kenya Sugar Factory as the main sugarcane poacher in Western Kenya and had received complaints from neighbouring millers;

(l) KSB identified Kenafric Industries as one of the manufacturers that repackage imported industrial sugar in locally manufactured branded sugar packages for sale as table sugar;

(m) KSB issues licenses for importation and the role of verifying quality, quantities and values as specified in the KSB permit rests with KEBs and KRA before the consignments are released into the market;

(n) That KSB issued the licence to import 10,000 MTs of sugar in 2012 to MSC and it was unprocedural for the Permit to have been used by a Third Party, Dantes Peak Ltd since the permit was non transferable; (Annex II)

(o) While it was the resolution of the Ministries of Agriculture and Finance to allow millers to import sugar, there were no justifiable reasons for Mumias Sugar Company to import the 10,000 MTs from Kenana Sugar Company from Sudan in 2012;

(p) KSB was tracking some 14 containers of imported sugar that had been traced to Nairobi, a consignment of sugar where no documents for its release could be traced in KRA and KPA yet KSB had not licenced its importations. Each container carries 21-25 tones totalling to 301,000 metric tons for the 14 containers which translates into 6020 (50kg) bags worth of Kshs. 24 million;

(q) That KSB needs to be empowered with investigatory and prosecutorial powers independent of Kenya Police and KRA in terms of sugar imports and transit sugar;

(r) If there was sugar from India being traded in the Kenyan market, KSB submitted that it had not licenced the importation of table sugar from India in the last five years; and

(s) KSB has weak surveillance capacity and therefore it cannot effectively handle the issue of sugar smuggling through our porous borders; and KSB had been informed that Rising Star Commodities Ltd was repackaging imported sugar in its go-downs in Mombasa in Mumias Sugar Company branded bags and selling it as locally manufactured sugar.

2.6 Submission by West Kenya Sugar Factory (WKSF)

36. Appearing before the Committee on 5th November 2013, the Managing Director for West Kenya Sugar Factory submitted as follows:-

(a) West Kenya Sugar Factory was the second largest Miller in Kenya and had grown from 500 Tons Crushed Daily (TCD) in 1979 to its current crushing capacity of 5000 TCD and employs 2000 workers apart from indirect employment to harvesters, loaders and transporters;

(b) Until 2005 when the Kenya Sugar Board licensed Butali Sugar Mill Limited in controversial circumstances, the then existing millers sourced cane from their clearly demarcated zones and each miller was able to invest in cane development within their respective zones;

(c) When Kenya Sugar Board licensed Butali Sugar Mill Limited and supported its commissioning in the name of free competition in a liberalized market, cane zones were hitherto respected;

(d) A miller who buys cane from a farmer in an area presumed to belong to another miller cannot be deemed as either stealing or poaching cane;

(e) The Cane farmer has the right to sell his or her cane to a miller of his or her choice as guaranteed by article 40 of the Constitution and the Sugar Act 2001, which specifies that the farmer is the owner of the cane on his farm;

(f) West Kenya Sugar denied it was engaged in cane poaching activities and had taken legal action against the Ministry of Agriculture and the Kenya Sugar Board and Butali Sugar Mills Limited on the licensing of the mill against existing laws and regulations;

(g) The sugarcane crisis in western Kenya was occasioned by the licensing of Butali Sugar Mills Limited and the commencement of its operation in 2011, which has increased the number of millers competing for decreasing cane;

(h) West Kenya Sugar Company pays farmers after seven days with competitive prices and it chargers them a flat rate of Kshs.390 per ton irrespective of the distance with the option of the farmer using own transport; and

(i) West Kenya Sugar Company operated with the involvement of local communities, the provincial and County administration and champions the rights of farmers as regards correct tonnage, better prices, prompt payments and efficient extension services.

2.7 Submission by the Former Managing Director MSC Dr. Evans Kidero

37. Appearing before the Committee on 19th May 2014, the Former Managing Director for Mumias Sugar Company made the following submissions:-

(a) That between the years 2006 and 2012 MSC exported sugar to Ethiopia, Uganda, Sudan, Democratic Republic of Congo (DRC) and Rwanda and the EU especially Italy and United Kingdom;

(b) That he did not have any documents to corroborate his submissions but that he believed the current management should furnish the Committee with the necessary documents available on the exports;

(c) That during his tenure at MSC, the company was making good profits, paying farmers in good time and even the value of its shares at the Nairobi Stock Exchange was reasonable

2.8 Submission by the Director General – National Environment Management Authority (NEMA)

38. Appearing before the Committee on 7th November, 2013, the Director General for NEMA made the following submissions:

(a) That National Environment Management Authority (NEMA), was established under the Environmental Management and Co-ordination Act No. 8 of 1999 (EMCA) as the principal instrument of

Government for the implementation of all policies relating to environment;

(b) That the was mandated Authority to exercise general supervision and coordination over all matters relating to the environment and to be the principal instrument of the Government of Kenya in the implementation of all policies relating to the environment;

(c) That the role of NEMA in the establishment of a weighbridge at Tangakona in Busia County was to coordinate the various environmental management activities undertaken by the lead agency, West Kenya Sugar Factory (WKSF);

(d) That due diligence environmental assessment test was done on the land at Tangakona in Busia County and a report issued to West Kenya Sugar Factory to go ahead with the intended development on the said land;

(e) That NEMA is not involved in the issuance of Permits or Licences for trade;

(f) NEMA also establishes and reviews land use guidelines, examines land use patterns to determine their impact on the quality and quantity of natural resources and carries out surveys, which assist in the proper management and conservation of the environment.

2.9 Submission by Commissioner General – Kenya Revenue Authority (KRA)

38. Appearing before the Committee on 24th April, 2014, the Commissioner General of KRA made the following submissions:

(a) KRA was established by an Act of Parliament, Chapter 469 of the Laws of Kenya, which became effective on 1st July 1995. was aware of the presence of contraband sugar in the country, which had seriously affected the local industry:

(b) KRA was aware Mumias Sugar Company imported 10,000 MT of sugar in 2012 through a third party called Dantes Peak Limited and that Mumias paid all the duty for the consignment which was cleared in 2013; (Annex IV)

(c) The Commissioner-General admitted that KRA did not have the capacity to verify all containers of commodities imported but does random verification and scanning of the Cargo before release;

(d) The Commissioner-General was aware Mumias Sugar Company exported sugar to various countries between 2006 and 2012 but was not in a position to confirm if the sugar had indeed left the country as that would require confirmation from border officers and counterparts in countries of destinations;

(e) The Commissioner-General said if indeed the sugar never left the country then Mumias Sugar Company is duty bound to pay the equivalent of Value Added Tax (VAT) exempted;

(f) KRA does not have infrastructure at all borders of our country especially in Eastern and North Eastern where smuggling is rampant but they have formed a joint team with the Kenya Police Service and the Kenya Sugar Board to address the issue of illegal sugar entering the Country unregulated and untaxed;

(g) Sugar imports into Kenya is restricted under the 2nd Schedule Part B (1) of the East African Community Customs Management Act of 2004 where any import into Kenya must therefore first get approval from Kenya Sugar Board through a non-transferable Permit containing details of the importer, tonnage, origin of sugar and other relevant details, information which is used during clearance;

(h) The revenue or duty collected and paid is determined by the type of sugar whether it is industrial or table sugar and also the origin of the sugar. Sugar from COMESA region are exempted from duty while non-COMESA sugar attracts 100% duty;

(i) KRA has created special units to address non-compliance with KSB sugar import regulations and it was through such a unit that the case of non-compliance of the Mumias Sugar Company sugar import of 10,000 MT of 2012 was detected leading to a delay in clearance;

(j) In 2011 KRA noted increased importation of Industrial sugar from Egypt as a result of which joint investigations were conducted that revealed most of the said sugars were trans-shipments from Brazil. Thereafter, KRA in consultation with KSB implemented restrictions on Industrial Sugar imports from Egypt by imposing 10% duty as is the case with non-COMESA imports;

(k) KRA has made several sugar seizures leading to several court cases, one in point is that of Matt International who have since challenged KRA's decision to impose 10% duty on industrial sugar imported from Egypt *(the matter was still pending in Court)*.

2.10 Submissions by Kenya Ports Authority (KPA)

39. Appearing before the Committee on 28th March, 2014, Managing Director for Kenya Ports Authority informed the Committee that: -

(a) KPA's mandate was to handle inbound and outbound cargo once they have been cleared by relevant authorities;

(b) KPA handled 40x20ft containers of sugar belonging to Mumias Sugar Company but imported through Dantes Peak Ltd;

(c) KPA waived a total of 15 million shillings in demurrage charges that accrued following delay of clearance the cargo after anomalies were detected by KRA and the interventions of Mumias Sugar Company accepted;

(d) KPA works in collaboration with KRA and KSB in monitoring the flow of sugar through the port.

2.11 Submissions by the Inspector General of Police (IG)

40. Appearing before the Committee on 29th April 2014, the Inspector General of Police made the following submissions: -

(a) National Police Service was established by Act of Parliament and mandated to enforce the law which includes surveillance of all goods. including sugar, entering or being traded within but some borders are extensive, porous and some areas may not be manned;

(b) The Kenya Police Service, Immigration Department, Kenya Revenue Authority, Kenya Ports Authority and Kenya Airports Authority work together in manning the borders and to ensurethat the necessary taxes and duties are paid;

(c) The Kenya Police escorts all the transit goods including sugar and ensure that KRA's main interest (tax) is paid and all other laws are adhered to;

(d) The Kenya police has managed to arrest and prosecute suspects in sugar smuggling although often courts release the suspects, especially cases concerning sugar through Kismayu and Kenya's border with Somalia;

(e) Legislation regulating the sugar industry is very weak and there is need for strengthening it;

(f) The National Police Service does not protect criminals and is not aware of a ware-house in Mombasa that is protected by police where even Kenya Sugar Board personnel denied access to the premises but promised to investigate the matter following complaints from the Principal Secretary Department of Agriculture and report to this Committee;

(g) The IG acknowledged that some police Officers had lost their lives while tackling contraband sugar which somehow abets insecurity terrorism in the country since all entries are not ascertained that it is Sugar;

(h) The IG acknowledged that the capacity in terms of resources is lacking at our borders and that there is need to develop a policy where a particular Officer can serve at a station for only three years per station;

(i) Officers are regularly appraised on the required documentation for importation of any goods in to the country, however the Service was dealing with isolated cases of integrity among the Officers as and when they arise;

(j) The Kenya Police Service had signed agreement memorandum with Kenya Sugar Board and Kenya Revenue Authority to establish anti-smuggling unit to deal with cases of smuggling;

(k) The Kenya Police Service has been underfunded for a long time but there is noted improvement in the allocation of resources to the Police Service;

(l) Police Officers are routinely seconded to the Kenya Revenue Authority to oversee operational matters including revenue collection and compliance to statutory requirements; and

(m) The various government agencies at the border points need to appreciate security as a cross-cutting issues and an important aspect of our national development.

2.12 Submissions by Kenya Bureau of Standards (KEBS)

41. Appearing before the Committee on 14th May, 2014 the Managing Director for Kenya Bureau of Standards submitted as follow: -

(a) Kenya Bureau of Standards (KEBS) was established in July 1974 under CAP 496 of the laws of Kenya. It offers several services including Standards development and harmonization, Testing, Measurement (Calibration), Enforcement of standards, Product inspection, Education and training in Standardization, Metrology and Conformity Assessment, Management Systems Certification and Product Certification;

(b) KEBS analyses sugar imports coming into the country on request and notification of arrival of the same by Kenya Ports Authority and Kenya Revenue Authority;

(c) Since 2012, seven consignments of sugar had been recommended for destruction by KEBS and other government agencies for non-conformance to quality specifications and KEBs is among the state agencies charged with destruction of goods that do not conform to the standard s;

(d) KEBS was aware of the impounding of a consignment of sugar that had been imported by Mumias Sugar Company although the IDF was reading Dantes Peak Limited;

(e) KEBS was facing the challenge of determining the importers of industrial sugar meant for manufacturing but which was being repacked for domestic consumption against the regulations;

(f) KEBS does not have up-to-date equipments and infrastructure for analysis of various commodities imported and exported.KEBS also lacks capacity for enforcement of standards and market surveillance and therefore cannot cope with demands like single window and 24 hour operations at the port of clearance or entry/exit.

2.13 Submissions by Management and Board of Directors for Mumias Sugar Company

42. Appearing before the Committee on 27th May, 12th June, 10th July and 17th July, 2014, the Board of Directors of Mumias Sugar Company submitted as follows:

(a) The Board and management were aware that the Company exported sugar to several European and African countries between 2006 and 2012 and concerns that the sugar may not have left the country and that revenue in the form of VAT payable could have been lost;

(b) The Board and management were also aware that certain information regarding the exports was missing from the Company's records and promised to institute forensic audit of all MSC exports in view of the fact that some of the key managers had since left the Company and would report the findings to this Committee;

(c) The Company was in a crisis as a result of serious management short fallings and the company was unable to meet its obligations including payment to farmers;

(d) The Company was on a restructuring process to address serious management bottlenecks and disciplinary measures had been taken against some managers following the findings of the forensic audit on sugar imports and other management shortfalls;

(e) The Board and management were not involved in the decision to import the consignment of the 10,000 MT of sugar in 2012 and there was an on-going Board investigation on the same and undertook to submit the outcome of the investigations to the Committee within two months. The Board had asked KPMG to investigate into whose accounts money from the imports went. The final KPMG report would also shed light on exactly how much monetary loss MSC incurred through fraudulent activities.

(f) The preliminary report of the Forensic Audit by KPMG on sugar imports by the Company could not be released to the Committee at that stage because there were certain transaction details that had not been captured in the report and the Board undertook to submit the report in two months when those aspects had been addressed;

(g) The Board admitted that it was having challenges from neighbouring Companies that had taken advantage of delay in payments for sugarcane by MSC to poach cane from its contracted farmers.

(h) The Board admitted that there was massive corruption and lack of clear management direction in MSC in the past, to this effect some officers had been sent home pending investigation; and

(i) The Board also affirmed that there were reforms going on at MSC to clean the mess and also to recover the money lost. The company did not have an Internal Audit Department and the Chairman promised to have a new department reconstituted:

2.14 Submissions by the Director General of the National Intelligence Services (NIS)

43. Appearing before the Committee on 10th July, 2014, the Director General of NIS made the following submissions: -

(a) That the function of NIS was to gather intelligence and compile reports on the same for action by the relevant authorities;

(b) That NIS has no prosecutorial powers;

(c) The sugar industry was crippled by among other issues, high cost of production and obsolete technology hence Kenya was a very lucrative market for the commodity and that has been a catalyst for sugar smuggling in the Country.

44. *The Committee expressed disappointment over the information presented by the Director General and informed him that Kenyans had very high expectations of his office. The DG expressed his appreciation of the Committee's need to deal with the sugar issue and requested that the Committee details out the information they required from him and he would respond within two weeks.*

45. *The Committee acceded to his request and outlined the required information as follows:-*

(a) Provide information on illegal sugar importation, exportation and smuggling;

(b) Provide the name of the illegal importers and smugglers and their local partners within and outside government Institutions;

(c) Provide information in the custody of National Intelligence Service if any concerning smuggling of sugar into the Country through Kismayu and along Kenya's border with Somalia;

(d) The names of companies, traders, dealers, transporters and any other persons involved in the alleged sugar exports by Mumias Sugar Company to regional countries and in particular owners of

the trucks that ferried the sugar for export from Mumias Sugar Warehouses; and

(e) The circumstances under which sugar meant for industrial use ended up being used as table sugar and the persons involved in the repackaging of the sugar for domestic consumption.

A letter detailing the above was sent for action however this has not been done to date

2.15 Submissions by the Cabinet Secretary, National Treasury.

46. Appearing before the Committee on Friday 29th August, 2014, accompanied by a KRA official, the Cabinet Secretary made the following submissions regarding sugar Imports by Mumias Sugar Company;

a) The CS confirmed that the import of sugar by MSC was done by a third party.

b) In 2013, 10,000 metric tonnes of sugar was imported on behalf of MSC by a third party. The consignment took 46 days to be cleared by KPA due to clarification issues and attracted a penalty of 8.8 million payable to KRA and undisclosed amount of millions to KPA.

c) The Committee finally concluded that the permit transfer to a third party was done unprocedurally.

d) The KRA official clarified to the members that the import license issued to MSC cannot be used more than once as it shuts down when the system captures the consignment name and code.

e) The CS confirmed that Mumias Sugar exports were done from 2006 to 2012 and that there were no exports done in the year 2013.

f) The CS assured the members of his commitment to brief them on the privatization of sugar sector and proposed for a joint meeting for the Committee on Agriculture and Finance.

2.16 Submissions by the Cabinet Secretary Ministry of Agriculture, Livestock and Fisheries

47. Appearing before the Committee on Tuesday 9th September, 2014, the Cabinet Secretary made the following submissions on the status of the sugar sector in the country and other matters affecting the industry:

48. On the Status of the Sugar Sector in Kenya the Cabinet Secretary informed that: -

(a) The sugar subsector plays a major role in the Kenyan economy and was a source of income for millions of citizens. The Country was producing about 600,000 MT of sugar against the annual domestic requirements of 800,000 MT, running a deficit of about 200,000 MT.

(b) There were 11 operational sugar mills in the country, 1 additional new mill was to be commissioned in Kwale while 2 other mills (Muhoroni/Miwani) were under receivership.

(c) The combined installed crushing capacity of operational mills was about 29,990 MT of cane per day. The current capacity was sufficient to produce about 1 million tonnesof sugar per annum. The target was to expand this capacity to approximately 50,000 MT in order to produce 1,350,000 MT to make Kenya a sugar surplus producer.

(d) The sugar closing stocks held by the factories at the start of the year 2013/14 was at 27,392 MT up from 19,205 MT at the end of 2012/13. The stock level increased to a high of 42,845 MT in February, 2014 against optimal level of 9,000 MT.

(e) The Ministry embarked on a strategy to decrease the sugar stock to an acceptable level of 8,478 MT, which was achieved by 20th August 2014.

(f) The increased sugar stock was attributed to;

(g) Sustained high sugar production;

(h) Carrying forward huge stocks from the previous year;

(i) Surplus balances in the world market and depressed prices; and

(j) Increased presence of uncustomed sugar in the country attracted by our high cost of production.

(k) The Kenya Sugar Industry has the potential to generate up to 120 MW of electricity for export to the National grid without major investments. However, it is only Mumias Sugar Company that is currently generating 38MW out of which 26 MW is exported to the National grid. The rest of the factories generate electricity for their own use but do not export to the national grid.

(l) All 5 Government owned sugar factories are earmarked for privatization program. The Program received Cabinet approval in 2008 and debt writes off has been approved by parliament as a precursor to Government divestiture. This aims at;

(m) Transforming the industry towards commercial orientation; and

(n) Injection of the required fresh capital.

(o) The Parliamentary Departmental Committee on Finance, Planning and Trade passed a resolution on 9th January, 2013 "that the privatization of the public Sector Sugar Companies should be postponed until such a time when all legislation affecting the Agriculture Sector (sugar) and the County Governments have been put in place". In order to kick start the privatization process, the Parliamentary Committee on Finance, Planning and Trade approval is required.

49. On the Challenges faced in the Industry the CS submitted as follows: -

(a) Low productivity and high cost of sugar production

These had been caused by a number of factors that include the following among others;

- Deteriorating soil fertility;
- Low adoption of high yielding sugar cane varieties;
- Poor agronomic practices;
- Land subdivision into uneconomic sizes;
- Intermittent moisture stresses due to drought spells;

- Low quality seed cane materials;
- Insufficient and unsustainable technical support to out-growers;
- Frequent cane shortages which lead to immature cane;
- The high and rising cost of inputs such as diesel, imported fertilizers and machinery;
- High harvesting and transport costs;
- Sugarcane is grown by small holder farmers under rain-fed conditions;
- Poor roads within the cane catchment areas;
- Lack of sufficient finance for Government owned sugar factories to rehabilitate the machineries;
- Length of cane harvesting and milling time; and
- Lack of capacity to utilize the by-products for ethanol and power generation.

(b) Illegal sugar imports

That the high presence of illegal imports earlier in the year saw the industry continue to experience stock piles and declining ex-factory prices of sugar. The Un-customed sugar imports were re-packaged into local bags to conceal identity and evade the surveillance network. In the period January to July 2014 the market had experienced declining sugar prices to a low of Kshs.3, 200 for a 50 kg bag against an average industry break-even of Kshs.3, 800 pushing down cane prices to lows of Kshs.3,000 per ton.

(c) Intra Regional Trade

That this was especially for net deficit sugar countries that exported substantial amounts of sugar to partner states with disregard and /or compromise or laxity in the enforcement of the Rules of Origin. Egypt for example, despite being a net importer, is a significant supplier of sugar to Kenya.

2.16.3The CS gave the following recommendations on how to streamline the Sugar Industry

50. The Cabinet Secretary told the Committee that to mitigate these challenges, the following strategies were recommended and the Ministry had initiated a number of them with a view to streamlining the Kenyan sugar sector as follows:

(a) Cost Reduction and Increased Productivity Measures

Diversified product base

51. All new investments for setting up sugar factories must demonstrate a revenue stream beyond sugar when applying for registration. The existing mills will be required to provide a road map towards expanding their product base beyond sugar within the next 5 years. This will provide a transition from the single revenue stream which contributes heavily to the industries un-competitiveness.

Bulk procurement of inputs and machinery

52. The cost of inputs will be reduced through bulk procurement of high spend items such as fertilizer and farm machinery (tractors); a process that has already been put in motion. This will be implemented within the next 2 months.

Modernization of factory technology

53. Fresh injection of capital for the poorly performing Government owned mills was urgent hence the recommendation for speedy exploitation of viable options that can see Ministry fast track the stalled Privatization of the 5 Public Sector owned sugar mills. This will contribute quite significantly to the long term revitalization of the industry by way of injection of much needed capital estimated at Kshs 58billion to address the industry productivity challenge which may include Public Private Partnerships, auctions or private treaties with willing investors. This should be done by March, 2015.

Diminishing Land sizes

54. There is need to roll out of a land policy that introduces mandatory block farming to preserve economical land sizes that will enable the industry

benefit from economies of scale, planned cane development/harvesting and mechanization in the future. This should be done by December 2016

Payment System

55. The industry must shift from the payment system based on weight to one based on quality. Remuneration that rewards efficiency and penalizes inefficiency to be adopted by the entire industry by December 2016.The system will improve efficiency as it will remunerate based on quality

Development of a seed cane policy

56. This will guide the industry in the development and adoption of high yielding, early maturing and disease resistant certified seed cane of relevant varieties. This policy is targeted to be in place by June 2015.

Sugar production and consumption

57. In order to validate our statistics on the national sugar demand and supply, an independent study will be undertaken by 30th December 2014 to confirm the updated status based on changed fundamentals such as population and production growth.

Improvement/ Management of roads infrastructure

58. This will be done to encourage collaborative management of infrastructure in the sugar belt that will enhance the impact of the available pool of funds to the sugar value chain within the various agencies in the sugar belt.

(b) Intra Regional Trade and Rules of Origin

59. There is an urgent need for verification missions to deficit countries which have high export history to satisfy authenticity and the harmonization of regulatory/administrative processes within the trading blocks. A case should be put forward for the establishment of competent authorities in respective partner states for purposes of liaison on sugar matters. This specifically applies to Uganda and Rwanda who do not have regulatory bodies' specific to the sugar sector. Kenya and Tanzania have in place such authorities making collaboration and administration smoother. This should be done by 30th October 2014.

(c) Single Customs Territory

60. On the impact of the Single Customs Territory (SCT), a position paper seeking an amendment to exclude sugar based on its unique challenges will be submitted immediately.

61. In the meantime Agriculture, Fisheries and Food Authority (AFFA) will in collaboration with Kenya Revenue Authority station officers within the partner states and in Mombasa to ensure the sectors' interests are protected.

(d) Un-customed Sugar Imports

Ban on Sugar Auctions

62. It is recommended that instead of auctioning impounded un-customed sugar imports, it should be destroyed publicly and, to avoid conflict of interest, Sugar Millers/Manufacturers should not be allowed to import sugar from now on given the Mumias and Chemelil experience. This should be implemented immediately.

Single Desk Marketing and Distribution of Sugar

63. Replacement of dedicated factory distribution networks with a Single Desk Marketing arrangement that will minimize costs of marketing and unfair trade practices particularly among the poorly performing state owned mills should be done. This will mitigate the duplication on high individual publicity and marketing budgets and also allow the Companies to focus on milling of sugar and related activities such as ethanol production and manufacturing of specialty value added products. This should be done with immediate effect.

Establishment of permanent inter-agency surveillance and enforcement unit.

64. The Gazettement of a permanent inter-agency surveillance and enforcement unit on sugar trade that reports directly to the Director General of AFFA made up of the Sugar Directorate, KEBS, Public Health, Kenya Revenue Authority and the Police. This should be done immediately.

3.0 FINDINGS OF THE COMMITTEE

Mr. Speaker,

65. The committee investigations which, included site visits to the various areas of interest to the Sub-Committee terms of reference came up with the following findings.

3.1 Presence of Cheap and Unregulated Sugar in the Local Market

66. The Committee's investigations established that a huge quantity of sugar enters the Kenya market unregulated and untaxed. In the last six years, the country has consumed approximately 335,000 MT (*KSB statistics*) of sugar, either illegal or meant for industrial manufacturing. The sugar is re-packaged by unscrupulous business people in packages similar to those used by local millers which, is against regulations governing food products. Apart from such sugar not meeting the Kenya Bureau of Standards (KEBS) specifications for domestic consumption, the government loses in terms of taxes.

67. The illegal importation of sugar has led to the flooding of sugar in the local market which has caused market distortions resulting in unfair price competition to the disadvantage of local sugar millers and cane farmers. The unfair competition has led to low sales by the millers hence farmers cannot promptly be paid for their cane deliveries.

68. It is good to note that, despite Parliament in 2001 passing the Sugar Act number 10 of 2001 which outlined well the requirements for licensing of sugar millers and the functions of the Kenya Sugar Board, illegal and unregulated sugar imports still poses a major threat to the Sugar sector.

3.2 INDUSTRY CHALLENGES

69. Mr. Speaker, the Sugar Sector in Kenya is faced with many challenges namely:

(a) Poaching of sugarcane among sugar millers;

(b) High cost of production;

(c) Field and factory inefficiencies,

(d) Corruption and impunity;

(e) Lack of capital to modernise and automate the mills;

(f) Fast decreasing land sizes and loss of soil fertilities; and

(g) Failure by the regulator to properly manage and regulate the sector.

Cane Poaching

70. Traditionally, the Kenyan cane growing model has operated on an out-growers model whereby farmers are supported to grow cane on their farms and in turn they are expected to supply the cane to the millers who have provided cane development which include land preparation, supply of seed cane, supply of fertilizer, farmer extension services, harvesting and transport of the cane to the millers where the cost will be recovered.

71. In practice, development of own cane by millers, commonly known as Nucleus Estate as well as contracted farmers was a precondition for licensing of cane millers. This precondition is no longer adhered to, thereby creating the current wrangles in the cane zones as the new millers who have been licensed do not have enough cane to run their factory capacities. Further, these millers have encroached on contracted cane already established by existing millers.

72. Cane poaching has led to conflicts among surrounding local communities/millers, a case in point is the incident in Tangakona weighbridge where tractors transporting cane to Nzoia Sugar Company were burnt down.

73. The genesis of cane poaching is attributed to weak regulations regarding licensing of new factories and failure to honour contractual agreements by both the millers and farmers.

High Cost of Production

74. Kenya is ranked among the countries with the highest cost of Sugar production in the world, which makes it an attractive destination for both legal and illegal imports. While the cost of production in the region is about USD 415 per metric tonne of sugar, the cost of production in Kenya is well in excess of USD 550 per MT. This high cost of production is attributed to the following;

   (a) Poor agronomic practices in the sugar growing zones;
   (b) High cost of inputs and old machinery at farm and factory levels;
   (c) Deteriorating soil fertility;
   (d) Use low-yielding sugarcane varieties;
   (e) Reliance on rain-fed farming;
   (f) Small and uneconomic land sizes;
   (g) Unsustainable technical support to out-growers;
   (h) Poor road infrastructure and high transport costs; and
   (i) Low by-product utilization.

Heavy Indebtedness

75. All public-owned mills are heavily indebted and lack the capital required to expand, modernise and automate the factories for the required efficiencies and economies of scale. At the moment, five public-owned mills are indebted to the tune of over Shs 100 billion with Nzoia Sugar Company

having a debt of Shs 37 billion, Miwani Sugar Company (in receivership) Ksh 28 billion, Muhoroni Sugar Company (in receivership) Ksh 27 billion, Chemelil Sugar Company Ksh 5 billion and South Nyanza Sugar Company Ksh 3 billion. The money is owed to the Government of Kenya, suppliers, banks, Kenya Sugar Board and farmers for cane deliveries.

Imprudent business decision, Corruption, Impunity and Fraud

76. The mills have engaged in a number of projects and programmes that have turned out be either misadventures or ones with low rates of returns. Mumias Sugar Company's investment in ethanol and co-generation plants and Nzoia Sugar Company's purchase of trailers that could not be used on Kenyan roads are cases in point in which huge sums of money have been lost in the process.

77. Sugar sales and exports and imports in particular have turned out to be avenues through-which monies are siphoned out of the companies. While the concept of distributorship in sugar sales has become a major case of corruption and impunity, the engagement of mills in regional sugar exports between 2006 and 2012 is suspect.

For instance examining the KRA Report (Annex V) on the sugar exports by MSC, there is glaring discrepancies on the volumes on actual exported sugar as provided in the Simba System entries and the summary of exports entries submitted to the Committee by MSC in the detailed submissions on company (Exporter) basis (Annex II & III).

Another case in point is where one Nesredin Mohamed (an Ethiopian importer) wrote to MSC requesting to be allowed export of 5,000MT of sugar to Ethiopia. Information received from MSC *indicates that 5,882MT were exported by Nesredin Mohamed. There are no clear records to ascertain this. (Annex II& III)*

78. That notwithstanding, a total summary all exports by MSC for the period 2006 to 2012 are given as 52,284MT while the detailed itemised list to individual companies total to 30,204.37 MT. However figures from KRA indicated that MSC had export entries amounting 71,272.58MT (Annex V), Further, KRA confirmed that only 8,133 MT were exported as per entries in Simba System and therefore there is no evidence of exports of the reminder sugar volumes estimated at 63,139.58 MT which translates to Kshs. 2,886, 681,516.70 (Annex V),

79. Further, the registration certificates provided by MSC have varied information. For instance, Mid Africa Commodities and, Mega Laser are importer from South Sudan when the certificates indicate the firms are registered to operate in Kakamega and Malaba Border respectively (Annex II)

80. The Board of Directors of MSC instituted a forensic audit on the sugar exports and imports. This audit was undertaken by KPMG audit firm and the Committee received the "Draft Factual Finding Report" from KPMG on 19th December, 2014 (Annex VI).

Low Productivity

81. The total area under cane in the country presently is 203,730 Ha, comprising 189,390 Ha belonging to out-growers and 14,340 Ha Nucleus Estates (land owned/leased by mills to grow cane). There are 300,000 cane farmers, 4,500 of which are large scale.

82. The average yield per Ha in Kenya is 60.5MT compared to the global average of 63MT. For instance Columbia produces 115 MT per Ha. Total cane supplied for processing by mills in 2013 was 6,764,200 MT compared

Illegal points of entry

96. The Committee's investigations also found out that there is an illegal point of entry in Shimoni area, which is being used to facilitate illegal entry of sugar with the knowledge of Customs officers and police.

97. The then KSB had issued MSC licence to import sugar even at a time when there was a lot of un-harvested sugar cane in the local farms and plenty of sugar stocks in the local market.

98. The then KSB had been disbursing Sugar Development Levy Funds for cane development to Millers with no cane development schemes

99. That, as at the time of compiling this report, NIS had not provided any documents and/or reports despite several requests by the Committee in relation to all exports and imports of sugar between 2006-2012.

100. That, the Committee also observed that MSC exports and business dealings with the following companies were controversial:-

1) Czarnikow Sugar EA Limited.
2) E D & F Man Sugar Ltd.
3) Rising Star Commodities Ltd,
4) Kambale Nzagale of (DRC),
5) Osman Adan and Nesredin Mohamed of (Ethiopia),
6) S&G General Suppliers,
7) Star General Suppliers and Mugabe Thomas of Rwanda,
8) Mega Laser International,
9) Manyuon Samuel Deng,
10) Mid Africa,
11) Southern Sudan Mudland Co. Ltd,
12) Kapoeta Trading Co. Ltd,
13) International Relief Services of Southern Sudan,
14) Arua Mercantile Co. Ltd.
15) Quick Sellers Uganda,
16) Muru Enterprises,
17) Kasave Trading Co. Ltd,
18) Trident Investment Ltd,

19) Uchumi Commodities (Uganda) Ltd of Uganda. (Annex II a-h& VII)

101. In view of the fact that MSC made exports to the regional markets to the companies mentioned in 102 above, there is glaring disparities between records from MSC and the respective importing companies. For example, Nesredin Mohamed of Addis Ababa wrote to MSC to purchase 5000MT for export and the records from MSC indicate a summary total of 5,882MT which still has a bigger variation from the detailed records submitted by MSC indicating a total of 117, 641MT having been traded by Nesredin Mohamed as exports to Ethiopia between 2006 and 2009. Records at MSC indicate a total summary of all exports by MSC for the period 2006 to 2012 as 52,284MT while the detailed itemised list to individual exporting companies total to 30,204.37MT which is a big variation from records held at the KRA indicating 70,431MT as exports of brown sugar by MSC the same period. *(Annex II (a) – (h),IV (a) & V (a))*

102. The Committee observed that despite there being questionable dealings of MSC between 2006-2012, the then MSC Auditors Ms Delloite and Touché gave MSC a clean bill of health.

103. The Committee observed that, with regard to importation of 10000MT of sugar from Sudan by MSC, the Import Permit from KSB issued to MSC was unprocedurally transferred to a third party (Dantes Peak Ltd). Further, KRA admitted having noted the anomaly but still went ahead to release the consignment

104. That, KPMG has provided a disclaimer to its "Draft Factual Finding Report" as to the accuracy and completeness of the report, noting that any subsequent information may require the findings to be adjusted and qualified accordingly. However the Committee took cognizance of the report, which largely reflects the committee's findings.

CHAPTER 4

4.0 RECOMMENDATIONS OF THE COMMITTEE

The Committee therefore recommends:

105. THAT, the government establishes a permanent inter-agency enforcement unit on sugar trade which should enhance capacity to verify, scrutinise and monitor cross-border trade and step up border patrols to eradicate sugar smuggling. The unit should draw membership from KPA, Public Health, AFFA, KEBS, the Kenya Police, KRA and any other relevant government agencies.

106. THAT, KRA officer(s) should be investigated and appropriate action taken for clearing sugar without permit from the sugar regulator. Equally any company that imported sugar without a permit from the regulator should be banned from import and export bussines.

107. THAT, the reinforcement of re-packaging regulations to ensure consumer safety and that KEBS be held responsible for failure to prevent abuse of its seal which is supposed to be a standard measure for safety of goods in the country but has consistently been abused.

108. THAT, relevant laws and regulations governing sugar imports and exports should be amended to provide for higher accountability and public health standards for re-packaged sugar and for stiffer penalties for offenders. The Government should cancel import licences for the following companies: - Kenafric Industries, Czarnikow E. A. Ltd, Stuntwave Ltd, Mshale Commodities and Rising Star Commodities Ltd.

109. THAT, the government implements the sugar industry strategic agenda for increased competitiveness and reduction in consumer prices. There is need to lower production cost. improve extension services among others to reduce and eventually eliminate the incentive to smuggle sugar into the country

110. THAT, the National Government in collaboration with county governments should provide mechanism for coordinated infrastructure development to avoid duplication of responsibilities by different bodies mandated to maintain roads.

111. THAT, the National Government should implement the National Land Policy to mitigate further land sub-division for improved productivity.

112. THAT, the fertilizer subsidy should be complemented by bulk procurement of other farm inputs and capacity utilization which should be done by the Sugar Directorate.

113. THAT, Investigations should be carried out on MSC and/or its agents, KRA and all importers and/or their agents who imported sugar from MSC in the period between 2006 - 2012 and appropriate action taken.

114. THAT, the KRA should be held responsible for the loss of VAT taxes amounting to Kshs 577 million for fictitious exports of sugar by MSC.

115. THAT, any officer from the Board and Management of MSC and KRA responsible for the fictitious exports of sugar between 2006-2012 be held responsible for abuse of procedures and abuse of office.

116. THAT, the National Government introduces landing certificates for all transit sugar as a confirmation of physical exit to stop any dumping into the local market;

117. THAT, the Government should consider offering tax breaks to encourage new investors into the sugar industry. Additionally, duty waiver for sugar industry farm inputs and farm machinery will go a long way towards reducing the high cost of sugar production.

118. THAT, KPMG having provided a disclaimer as to the accuracy of the Draft Factual Finding Report, Mumias Sugar Company avails with immediate effect the final KPMG report to the National Assembly.

119. THAT , officers from MSC/KRA who abused import procedures with regard to Import Permit requirements in the importation of 10,000MT of sugar in 2012 from Sudan be held to account for their misdeeds.

120. THAT, Deloitte and Touché be held responsible for misleading the government, other shareholders and public on the state of affairs in MSC during the period of their engagement as auditors.

ANNEX 1

MINISTRY OF AGRICULTURE, LIVESTOCK, FISHERIES AND IRRIGATION

STATE DEPARTMENT FOR CROPS DEVELOPMENT

Office of the Principal Secretary

Telephone: 2718870/9
Fax:2718318
E-mail: psaqgriculture@kilimo.go.ke
When replying please quote

KILIMO HOUSE
CATHEDRAL ROAD
P.O. Box 30028 (00100)
NAIROBI

Ref: MOALF/SDA/ADM/31A

30th July, 2018

Dr. (Eng) Karanja Kibicho, CBS
Principal Secretary
State Department for interior
NAIROBI

Dear Daktari,

GAZZETEMENT OF PERMANENT INTERAGENCY ENFORCEMENT UNIT ON SUGAR TRADE

Reference is made to recommendations made by the Departmental Committee on Agriculture of Parliament vide a report on crisis facing the sugar industry in Kenya as adopted on 26th February, 2016.

The Committee recommended that the government establishes a permanent interagency enforcement unit on sugar trade which should enhance capacity to verify, scrutinize and monitor cross border trade and step up border patrols to eradicate sugar smuggling. The unit should draw membership from Kenya Ports Authority, Public Health, Agriculture and Food Authority, Kenya Bureau of Standards, Kenya Police, Kenya Revenue Authority and other relevant government agencies.

The purpose of this letter therefore is to request that the unit is gazzeted to meet the threshold set by Parliament for the unit's formation.

Your feedback on this matter will be appreciated.

Yours sincerely,

Dr. Richard L. Lesiyampe, PhD, CBS
PRINCIPAL SECRETARY

ANNEX 3

② D/committees
30/11

① SISC procedure
pls deal
29/11

NATIONAL POLICE SERVICE

Telegrams: "CRIMINAL" Nairobi
Email: director @cid.go.ke
Tel: 020343312, 0202603724.

MAZINGIRA HOUSE
KIAMBU ROAD
P.O. Box 30036
NAIROBI.

DIRECTORATE OF CRIMINAL INVESTIGATIONS

CID/SEC/OPS/2/6/13/8/196

28th November, 2018

The Clerk
National Assembly
Clerk's Chambers
Parliament Buildings
P. O. Box 41842-00100
NAIROBI

② ROSE
pls deal
03/12

RECEIVED
29 NOV 2018
CLERK'S OFFICE

(ATT: MS. ROSE M. WANJOHI, COMMITTEE CLERK)

RE: REQUEST BY THE SELECT COMMITTEE ON IMPLEMENTATION FOR AN IMPLEMENTATION STATUS ON THE REPORT BY DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES ON THE CRISIS FACING THE SUGAR INDUSTRY IN KENYA

Reference is made to your letter Ref:NA/DCS/CO1/2018/136 dated the 2nd October, 2018 and NA/DCS/COI/2018/(170) dated 21st November, 2018 on the above subject matter.

The Directorate of Criminal Investigations commenced investigations following your directive contained in the Parliamentary Select Committee on Agriculture, Livestock and Cooperatives report on the crisis facing the Sugar Industry in Kenya vide your letter ref:KNA/L&P/CORP/2018/(62) dated 30th July, 2018.

The investigations are on course and a substantive ground has been covered in terms of trailing of cash in different banks within and without.

During investigations, it came to light that some substantial amount of money were transferred to foreign accounts which are not within our Jurisdiction and we were required to bring in Interpol to assist us get information. It is this aspect which has delayed us from completing the investigations in time as earlier envisaged. Also as you are aware, the origin of the sugar was from outside the country which also requires Interpol Protocol to accomplish these investigations.

It is on this basis that we are requesting your office to give us time at least one month to enable us complete the investigations and forward the report to you.

We highly apologize for the delay occasioned by the two aspects mentioned above.

(SAMUEL O. NYABENGI) MBS
FOR: DIRECTOR OF CRIMINAL INVESTIGATIONS

6'28

ANNEX 4

(2) Rose pls deal FA 04/12

(1) D/Cmtts 4/12/18

ETHICS AND ANTI-CORRUPTION COMMISSION

INTEGRITY CENTRE (Valley Rd. /Jakaya Kikwete Rd. Junction) P.O. Box 61130 -00200, NAIROBI, Kenya
TEL.: 254 (020) 2717318/ 310722, MOBILE: 0729 888881/2/3
Fax: 254 (020) 2719757 Email: eacc@integrity.go.ke Website: www.eacc.go.ke

When replying please quote:

EACC.6/4/1 Vol. IV (21)

29th November 2018

The Clerk of the National Assembly
Parliament Building
P. O. Box 41842-00100
NAIROBI

RECEIVED
29 NOV 2018
CLERK'S OFFICE

Dear Sir,

RE: REQUEST BY THE SELECT COMMITTEE ON IMPLEMENTATION FOR AN IMPLEMENTATION STATUS ON THE REPORT BY DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES ON THE CRISIS FACING THE SUGAR INDUSTRY IN KENYA

Reference is made to your letter ref: NA/DCS/COI/2018/(171) dated 21st November 2018.

The Commission analysed the Departmental Committee's recommendations on pages 50-52 of the Committee's report and took up two matters for investigation.

The status of these investigations is as follows:

REF.	ALLEGATION/PARTICULARS	STATUS
106	That KRA officer(s) should be investigated and appropriate action taken for clearing sugar without permit from the sugar regulator. Equally any company that imported sugar without a permit from the regulator should be banned from import and export business.	Investigation was commenced and finalized on irregular issuance of sugar import permits. The inquiry file was submitted to the Director of Public Prosecution, and in July 2017 upon review, directed that the matter be closed for lack of evidence to sustain prosecution.

113	That investigations should be carried out on MSC and/or its agents, KRA and all importers and/or their agents who imported sugar from MSC in the period 2006-2012 and appropriate action taken.	Investigation commenced on the two matters. Documents were collected, analysed and statements recorded. Investigation in the matters had stalled on the basis of our mandate to investigate MSC, whether it is a private or public entity. The investigations resumed and are at advanced stage.
119	That officers from MSC/KRA who abused import procedures with regard to Import permit requirements in the importation of 10,000MT of sugar in 2012 from Sudan be held accountable for their deeds.	

Yours faithfully,

HALAKHE D WAQO, CBS, MCIArb
SECRETARY/CHIEF EXECUTIVE OFFICER

HDW/afl

ANNEX 5

KENYA REVENUE AUTHORITY

ISO 9001:2008 CERTIFIED

(59)

Ref: P0006265841

10th July, 2018.

The Managing Director,
Mumias Sugar Company Ltd,
P.O Box 57092-00200,
Nairobi

Dear Sir/madam,

RE: M/S MUMIAS SUGAR CO. LTD
NOTICE OF ASSESSMENTS FOR VAT AND SDL
YEARS 2006 TO 2012

We refer to the VAT returns submitted in respect of the above period.

A review of information in the Customs Simba System indicates that exports of sugar were declared for which VAT was charged at zero rate. However, there was no evidence to confirm that the Sugar consignments in question actually left the Country.

We have now raised additional assessments on all the Sugar Consignments for which no proof of exit through the various boarder points have been found as set out below: -

YEAR	TAXABLE VALUE	PRINCIPAL VAT 16%	PRINCIPAL SDL 4%	TOTAL PRINCIPAL DUE	VAT INTEREST 1% P.M	SDL INTEREST 5% P.M	TOTAL TAX DUE
2006	476,407,046	76,225,127	19,056,282	95,281,409	76,225,127	19,056,282	190,562,818
2007	455,362,387	72,857,982	18,214,495	91,072,477	72,985,168	18,214,495	182,272,141
2008	899,346,831	143,895,493	35,973,873	179,869,366	143,895,493	35,973,873	359,738,732
2009	89,001,961	14,240,314	3,560,078	17,800,392	14,240,314	3,560,078	35,600,784
2010	37,835	6,054	1,513	7,567	5,812	1,513	14,892
2011	989,431,500	158,309,040	39,577,260	197,886,300	132,979,594	39,577,260	370,443,154
2012	85,000	13,600	3,400	17,000	9,792	3,400	30,192
	2,909,672,560	465,547,610	116,386,902	581,934,512	440,341,300	116,386,902	1,138,662,714

The assessments have been sent separately through your iTax email address with us.

Tulipe Ushuru, Tujitegemee!

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58

Annexed to this letter are copies of VAT assessments and schedules setting out the specific consignments and values for which evidence of export could not be found for ease of reference

In line with the above, please make necessary arrangements to pay the taxes due amounting to Ksh. **1,138,662,714** without further delay.

Nevertheless, you are reminded of your right of objection as provided for under section 51 of the Tax Procedures Act, 2015.

For any further clarification, please contact the undersigned or Mr. J.W.Otieno through email joseph.otieno@kra.go.ke or telephone number 0709 012 415.

Yours faithfully,

Patrick Chege
For: Deputy Commissioner of Domestic Taxes
Large Taxpayers Office

KENYA REVENUE AUTHORITY

www.kra.go.ke

Legacy Assessment Order

For General Tax Questions
Contact KRA Call Centre
Tel: +254 (020) 4999 999
Cell: +254(0711)099 999
Email: callcentre@kra.go.ke

57

Taxpayer PIN : P000626584I

Name and Address :

MUMIAS SUGAR COMPANY LTD
MUMIAS COMPLEX, MUMIAS, Mumias District,
PO Box:57092,
Postal Code:00200

Assessment Date : 10/07/2018

Assessment Number :
KRA201811683515

Assessment Details

Assessment Period	From: 01/12/2006 To: 31/12/2006
Assessment Type	ADDITONAL ASSESSMENT
Tax Obligation	Value Added Tax (VAT)

Liability Details

Tax Payable (Ksh)	190,562,818.00

Official KRA Representative

Authorized Signature	Designation of Signatory Officer
Name of Signatory JACKSON MUTISO MUMO	Contact Number

Disclaimer

Please make payment to any designated bank
Note: Cheques or electronic funds transfer should be made to Kenya Revenue Authority.

Disclaimer : This is a system generated notice and does not require signature.

KENYA REVENUE AUTHORITY

www.kra.go.ke

Legacy Assessment Order

For General Tax Questions
Contact KRA Call Centre
Tel: +254 (020) 4999 999
Cell: +254(0711)099 999
Email: callcentre@kra.go.ke

56

Taxpayer PIN : P0006265841

Name and Address :

MUMIAS SUGAR COMPANY LTD
MUMIAS COMPLEX, MUMIAS, Mumias District,
PO Box:57092,
Postal Code:00200

Assessment Date : 10/07/2018

Assessment Number :
KRA201811683885

Assessment Details

Assessment Period	From: 01/12/2007 To: 31/12/2007
Assessment Type	ADDITONAL ASSESSMENT
Tax Obligation	Value Added Tax (VAT)

Liability Details

Tax Payable (Ksh)	182,272,141.00

Official KRA Representative

Authorized Signature	Designation of Signatory Officer
Name of Signatory JACKSON MUTISO MUMO	Contact Number

Disclaimer

Please make payment to any designated bank
Note: Cheques or electronic funds transfer should be made to Kenya Revenue Authority.

Disclaimer : This is a system generated notice and does not require signature.

KENYA REVENUE AUTHORITY

www.kra.go.ke

Legacy Assessment Order

For General Tax Questions
Contact KRA Call Centre
Tel: +254 (020) 4999 999
Cell: +254(0711)099 999
Email: callcentre@kra.go.ke

55

Taxpayer PIN : P000626584I

Assessment Date : 10/07/2018

Name and Address :

MUMIAS SUGAR COMPANY LTD
MUMIAS COMPLEX, MUMIAS, Mumias District,
PO Box:57092,
Postal Code:00200

Assessment Number :
KRA201811683991

Assessment Details

Assessment Period	From: 01/12/2008 To: 31/12/2008
Assessment Type	ADDITONAL ASSESSMENT
Tax Obligation	Value Added Tax (VAT)

Liability Details

Tax Payable (Ksh)	359,738,732.00

Official KRA Representative

Authorized Signature	Designation of Signatory Officer
Name of Signatory JACKSON MUTISO MUMO	Contact Number

Disclaimer

Please make payment to any designated bank
Note: Cheques or electronic funds transfer should be made to Kenya Revenue Authority.

Disclaimer : This is a system generated notice and does not require signature

KENYA REVENUE AUTHORITY

www.kra.go.ke

Legacy Asscssment Order

For General Tax Questions
Contact KRA Call Centre
Tel: +254 (020) 4999 999
Cell: +254(0711)099 999
Email: callcentre@kra.go.ke

54

Taxpayer PIN : P000626584I

Assessment Date : 10/07/2018

Name and Address :

MUMIAS SUGAR COMPANY LTD
MUMIAS COMPLEX, MUMIAS, Mumias District,
PO Box:57092,
Postal Code:00200

Assessment Number :
KRA201811684103

Assessment Details

Assessment Period	From: 01/12/2009 To: 31/12/2009
Assessment Type	ADDITONAL ASSESSMENT
Tax Obligation	Value Added Tax (VAT)

Liability Details

Tax Payable (Ksh)	35,600,784.00

Official KRA Representative

Authorized Signature	Designation of Signatory Officer
Name of Signatory JACKSON MUTISO MUMO	Contact Number

Disclaimer

Please make payment to any designated bank
Note: Cheques or electronic funds transfer should be made to Kenya Revenue Authority.

KENYA REVENUE AUTHORITY

www.kra.go.ke

Legacy Assessment Order

For General Tax Questions
Contact KRA Call Centre
Tel: +254 (020) 4999 999
Cell: +254(071)099 999
Email: callcentre@kra.go.ke

53

Taxpayer PIN : P000626584I

Assessment Date : 10/07/2018

Name and Address :

MUMIAS SUGAR COMPANY LTD
MUMIAS COMPLEX, MUMIAS, Mumias District,
PO Box:57092,
Postal Code:00200

Assessment Number :
KRA201811684308

Assessment Details

Assessment Period	From: 01/12/2010 To: 31/12/2010
Assessment Type	ADDITONAL ASSESSMENT
Tax Obligation	Value Added Tax (VAT)

Liability Details

Tax Payable (Ksh)	14,892.00

Official KRA Representative

Authorized Signature	Designation of Signatory Officer
Name of Signatory JACKSON MUTISO MUMO	Contact Number

Disclaimer

Please make payment to any designated bank
Note: Cheques or electronic funds transfer should be made to Kenya Revenue Authority.

KENYA REVENUE AUTHORITY

www.kra.go.ke

Legacy Assessment Order

For General Tax Questions
Contact KRA Call Centre
Tel: +254 (020) 4999 999
Cell: +254(0711)099 999
Email: callcentre@kra.go.ke

52

Taxpayer PIN : P000626584I

Assessment Date : 10/07/2018

Name and Address :

MUMIAS SUGAR COMPANY LTD
MUMIAS COMPLEX, MUMIAS, Mumias District,
PO Box:57092,
Postal Code:00200

Assessment Number :
KRA201811684448

Assessment Details

Assessment Period	From: 01/12/2011 To: 31/12/2011
Assessment Type	ADDITONAL ASSESSMENT
Tax Obligation	Value Added Tax (VAT)

Liability Details

Tax Payable (Ksh)	370,443,154.00

Official KRA Representative

Authorized Signature	Designation of Signatory Officer
Name of Signatory JACKSON MUTISO MUMO	Contact Number

Disclaimer

Please make payment to any designated bank
Note: Cheques or electronic funds transfer should be made to Kenya Revenue Authority.

KENYA REVENUE AUTHORITY

www.kra.go.ke

Legacy Assessment Order

For General Tax Questions
Contact KRA Call Centre
Tel: +254 (020) 4999 999
Cell: +254(0711)099 999
Email: callcentre@kra.go.ke

51

Taxpayer PIN : P000626584I

Assessment Date : 10/07/2018

Name and Address :

MUMIAS SUGAR COMPANY LTD
MUMIAS COMPLEX, MUMIAS, Mumias District,
PO Box:57092,
Postal Code:00200

Assessment Number :
KRA201811684543

Assessment Details

Assessment Period	From: 01/12/2012 To: 31/12/2012
Assessment Type	ADDITONAL ASSESSMENT
Tax Obligation	Value Added Tax (VAT)

Liability Details

Tax Payable (Ksh)	30,192.00

Official KRA Representative

Authorized Signature	Designation of Signatory Officer
Name of Signatory JACKSON MUTISO MUMO	Contact Number

Disclaimer

Please make payment to any designated bank
Note: Cheques or electronic funds transfer should be made to Kenya Revenue Authority.

SUMMARY OF REVENUE LIKELY TO HAVE BEEN LOST FROM SUGAR EXPORT BY MUMIAS SUGAR COMPANY 2006 TO 2012

YEAR	EXPORT ENTRIES DECLARED	TOTAL QUANTITY DECLARED(KG)	QUANTITY CONFIRMED EXPORTED	QTITY NOT ACTED UPON	QTITY NOT YET CONFIRMED	TOTAL VALUE OF THE QTITY NOT YET CONFD.	VAT	SDL	REVENUE L[illegible]
2006	55	12,449,070.00	-	0	12,449,070.00	464,209,630.53	74,273,540.88	18,568,385.22	[illegible]
2007	60	16,377,990.00	3,165,000.00	1,980,000.00	11,232,990.00	444,568,759.48	71,131,001.52	17,782,750.38	[illegible]
2008	101	25,407,800.00	2,853,000.00	-	22,554,800.00	899,346,830.69	143,895,492.91	35,973,873.23	[illegible]
2009	9	1,831,120.00	-	-	1,831,120.00	89,001,961.00	14,240,313.76	3,560,078.44	[illegible]
2010	2	54,600.00	27,000.00	-	27,600.00	37,835.00	6,053.60	1,513.40	[illegible]
2011	19	15,122,000.00	108,000	-	15,014,000.00	989,431,500	158,309,040.00	39,577,260.00	[illegible]
2012	2	30,000.00	-	-	30,000.00	85,000.00	13,600.00	3,400.00	[illegible]
TOTAL	248	71,272,580.00	6,153,000.00	1,980,000.00	63,139,580.00	2,886,681,516.70	461,869,042.67	115,467,260.67	[illegible]

FOOT NOTES:

i) In 2006 there were three entries containing molasses with a quantity of 63,000 kg.
ii) In 2009 there was One entry containing molasses with a quantity of 50,000 kg.
iii) In 2010 both the entries declared were for molasses with a quantity of 54,600kg
iii) In 2011 molasses with a quantity of 122,000kg were declared out of which 108,000 kg were exported.
iv) Thebalance of 63,170,580kg which is still undergoing confirmation at the border stations to ascertain whether or not they were exported.

50

ANNEX 6

60

DESPATCH LIST

EMS 3

EMS KENYA Worldwide Courier

DUPLICATE

KRA — OFFICE OF DESTINATION

FACILITIES AND LOGISTICS — OFFICE OF ORIGIN

Despatching Office Date stamp

Despatch Number: 28th Floor Mail Registry

Bag Number

Date 11/07/2012

Time prepared..

No.	Item Track No.	No.	Item Track No.	No.	Item Track No.
1	EE 00 [illegible]	31	Deputy Commissioner LTO	61	CBC Upper Hill
2	EE 00 [illegible] 3 KE	32	[illegible]	62	CBC - Upper Hill
3	EE 00 791 375 3KE	33	Nairobi West [illegible]	63	[illegible] Nairobi
4	EE 00 791 376 7KE	34	[illegible] Hospital	64	[illegible] Avenue - Nairobi
5	EE 00 791 377 5KE	35	[illegible]	65	Nairobi
6	EE 00 791 37[illegible] KE	36	[illegible]	66	South B Nairobi
7	EE 00 791 379 8KE	37	[illegible] Sabuni	67	Nairobi
8	EE 00 791 [illegible] 1KE	38	[illegible]	68	Mombasa
9	EE 00 791 [illegible] 6KE	39	[illegible]	69	[illegible] Nairobi
10	EE 00 791 388 6KE	40	Jane Mogambi, State Corporation KICC Nairobi	70	
11	EE 00 791 387 2KE	41	Michael Stat[illegible] Parliament	71	Nairobi.
12	EE 00 791 391 2KE	42	Simon h. Kutich PSC	72	Nairobi
13	EE 00 791 370 1KE	43	National/Greater 4 Equality	73	Nairobi.
14	EE 00 791 387 0KE	44	National Council for [illegible]	74	Nairobi
15	EE 00 791 386 9KE	45	Meridian Equator	75	Nairobi
16	EE 00 791 385 5KE	46	Jocham Hospital	76	Mombasa
17	EE 00 791 384 1KE	47	St. Luke Medical Centre	77	Kisumu
18	EE 00 791 383 8KE	48	H/R "Jamestown"	78	Eldoret
19	EE 00 791 382 4KE	49	H/R "AH" Vaginal Upper	79	Embu
20	EE 00 791 381 5KE	50	Medical Diagnostic	80	Nairobi
21	EE 00 791 397 4KE	51	Nairobi West	81	Nairobi
22	EE 00 791 396 5KE	52	Nairobi Hospital	82	Nairobi
23	EE 00 791 395 7KE	53	Nairobi South	83	Nairobi.
24	EE 00 791 394 3KE	54	Nairobi Womens	84	Nairobi
25	EE 00 791 393 0KE	55	Nairobi South	85	Nairobi
26	EE 00 791 392 6KE	56	Metropolitan Hos.	86	Nairobi
27	EE 00 791 378 8KE	57	Chrysolite Mangu	87	Mombasa
28	EE 00 791 399 1KE	58	Managing Director	88	[illegible] Mombasa
29		59		89	
30		60		90	

28 Andrew

Totals in words

Figure

Officer making up despatch

Officer receiving despatch

Receiving Office Date Stamp

738

ANNEX 7 (108)

Embankment Plaza, 3rd Floor
Longonot Road, Upper Hill
P. O. Box 74800 - 00200, Nairobi, Kenya
Tel: +254 (0)20 2264900
Email: ceoffice@cma.or.ke
Web: www.cma.or.ke

(1) DI Coms
Please deal.
23/12/18

Chief Executive's Office

CAPITAL MARKETS AUTHORITY
Promoting the Integrity and Growth of the Capital Markets

(2) Rose
pls deal
FA
14/12/18

Our ref: CMA/ CMD/091

December 11th 2018

RECEIVED
13 DEC 2018
CLERK'S OFFICE

Mr. Michael Sialai, EBS
The Clerk of the National Assembly
Clerk's Chambers
National Assembly
Parliament Buildings
P. O. Box 41842 – 00100
NAIROBI.

NATIONAL ASSEMBLY
RECEIVED
13 DEC 2018
SENIOR DEPUTY CLERK
LEGISLATIVE & PROCEDURAL SERVICES
P.O. Box 41842 - 00100, NAIROBI

Dear Mr. Sialai

RE: REQUEST FOR INFORMATION BY THE SELECT COMMITTEE ON IMPLEMENTATION

We acknowledge receipt of the Request for Information dated 3rd December 2018 calling for submission of a Report produced by the Authority following an assessment and evaluation of Mumias Sugar Company including the challenges facing the organization.

In response to the request, we highlight the following issues with respect to the activities undertaken by the Authority concerning Mumias Sugar Company:

a. In 2014/5 Mumias Sugar Company procured Messrs. KPMG to carry out a comprehensive forensic audit with a wide scope covering the overall operations of the organization. The Report prepared by Messrs. KPMG covered a broad spectrum of the organizational issues facing the Company;

b. The Authority in exercise of its regulatory oversight role over listed companies commissioned an independent forensic investigation through an independent consultant with a view to assessing whether the company's operations were in compliance with the Capital Markets Legal and Regulatory framework. This Report was reviewed by the Authority and found to highlight potential contraventions by the Company and/or its officers under the capital markets legal and regulatory framework, particularly on corporate governance and financial reporting;

c. In order to inform the appropriateness and scope of potential regulatory action, the Authority undertook further investigations which informed the focus and nature of enforcement actions to be taken by the Authority. The Authority through this process re-validated some of the key findings set out in the forensic investigations report through these further investigations;

d. In line with the provisions of the Constitution, the Fair Administrative Actions Act and the Capital Markets Act, the persons who were adversely mentioned in the forensic investigation report were issued with Notices to Show Cause setting out the Authority's investigatory findings and specific legal provisions which they were alleged to have contravened;

e. In response to the Notices to Show Cause the persons of interest commenced court proceedings against the Authority's investigations and regulatory actions and interlocutory conservatory orders were subsequently issued staying the investigations and enforcement/administrative actions of the Authority as set out below.

   i. *Nairobi High Court Petition No. 372 of 2017, Hon. Dr. Evans Kidero vs. Paul Muthaura, the Capital Markets Authority, Director of Public Prosecutions, the inspector General and the Hon. Attorney General*

   The High Court issued a Conservatory Order staying, restraining and prohibiting the Authority together with the Inspector General National Police Service and Director of Public Prosecutions from conducting any investigations of the personal bank accounts of the Hon. Dr. Evans Kidero pending the hearing and determination of the petition.

   ii. *Nairobi High Court, Petition No. 467 of 2017, Peter Hongo, Paul Murgor and Pamela Lutta vs. Paul Muthaura, the Capital Markets Authority, Director of Public Prosecutions, the Inspector General and the Hon. Attorney General*

   The High Court issued a Conservatory Order staying, restraining and prohibiting the Authority together with the Inspector General and Director of Public Prosecutions from conducting any investigations of the personal bank accounts of Mr. Peter Hongo, Paul Murgor and Pamela Lutta pending the hearing and determination of the petition.

   iii. *Nairobi High Court Petition No. 518 of 2017, Hon Dr. Evans Kidero vs the Capital Markets Authority and the Hon. Attorney General*

   The High Court issued an order to the Capital Markets Authority forbidding the Authority from considering and/or determining the Notice to Show Cause issued to Hon. Dr. Evans Kidero on 26th July 2017

In view of the foregoing, the Authority accordingly submits the following for the kind consideration of the Committee pursuant to the request for information dated 3rd December 2018:

1. Annexure 1 Position Paper of the Authority's Investigation Findings
2. Annexure 2 Position Paper on the status of the enforcement proceedings initiated against the Authority
3. Annexure 3 Copies of the Court orders and correspondence for the pending court matters set out under (e) above.

We extend our appreciation to the Honorable Committee for availing the Authority an opportunity to provide our input to the ongoing scrutiny being conducted by the Implementation Committee.

Yours sincerely

Paul M. Muthaura, MBS
CHIEF EXECUTIVE

Encls.

CC: Rose M. Wanjohi
Committee Clerk

POSITION PAPER

INFORMATION PAPER ON STATUS OF MUMIAS SUGAR COMPANY LIMITED ADMINISTRATIVE ACTION

JANUARY 11, 2018

1.0 Background

The Board of the Authority in its 282nd Special Board meeting held on 13 July 2017, authorized administrative enforcement proceedings to be commenced against;

1. Dr. Evans Kidero, the former Managing Director;
2. Mr. Peter Hongo, the former Director/ Head of Sales; 3. Mr. James Chege, former Board Member and Chairman; and
4. Dr. Paul Murgor, former Commercial Director.

The following is the status of the action taken by the Authority to progress the recommended administrative enforcement proceedings.

2.0 Status Update

a) Closed Matter - James Chege

The Authority issued Mr. James Chege with a Notice to Show Cause dated 28July 2017. The main allegation against him was potential embezzlement of funds and cash misappropriation contrary to his fiduciary duty as outlined in the provisions of Article 3.1.1 of the Capital Markets Guidelines on Corporate Governance Practices by Public Listed Companies in Kenya 2002.

On 15 August 2017, Mr. Chege responded to the NTSC through his Advocates, Muchemi & Co Advocates. He claimed that the amount of KES 3 million deposited in his account by Mr. Hongo related to a land transaction Title No. KJD/OSILALEI/1668, where Mr. Hongo was the buyer and he acted as an agent of the seller. The amount transferred to him constituted a deposit of

KES2,200,000 of the purchase price of KES 8,800,000 and KES 800,000 as agency fees for his services.

Mr. Chege filed Nairobi **HCCC Petition NO 519 of 2017, James Chege Vs Paul Muthaura& 4 others** seeking orders to stop the Authority from investigating his bank accounts before the Authority had finalized reviewing his written submissions.

The Authority did a search at the Kajiado Lands registry and confirmed that the transfer of land Title No. KJD/OSILALEI/1668 between Moses Tirati Ole Kenah (seller) and Samson Peter Otieno Hongo(buyer) took place as alleged. However, it was noted that the property was further transferred from Hongo to YH Wholesalers, the suppliers who were remitting kickbacks to Mr. Hongo.

On 3 November2017, the Authority being satisfied with the explanation given by Mr. Chege, proceeded to close the inquiry file and notified him accordingly. Upon notification of close of the inquiry, Mr Chege withdrew his petition on 6th December 2017 with no orders as to costs.

b) **Open Enforcement Matters**

i. **Dr. Evans Kidero**

The Authority issued Dr. Evans Kidero with a Notice to Show Cause dated 26 July 2017. The main allegations against him were potential embezzlement of funds and cash misappropriation contrary to his fiduciary duty as outlined in the provisions of Article 3.1.1 of the Capital Markets Guidelines on Corporate Governance Practices by Public Listed Companies in Kenya 2002 and Conflicts of interest contrary to the provisions of Article 2.1.5 and Article 3.1.2 (viii) of the Capital Markets Guidelines on Corporate Governance Practices by Public Listed Companies in Kenya. It is alleged that Dr. Kidero held close business and personal relationships with several contractors hired by MSC but failed to make the requisite disclosure to the Board.

On 27 July 2017, Dr. Kidero through his Advocates Prof Tom Ojienda & Associates Advocates filed **Nairobi HCCC petition No 372 of 2017 Hon Dr. Evans Kidero vs Paul Muthaura& 4 others** and got conservatory order prohibiting any purported investigation of his bank Accounts. The petition does not have a hearing date because it is awaiting consolidation with other related matters.

Dr. Kidero through TripleOK Law Advocates requested by letters dated 31 July 2017, 2 August 2017 and 16th August 2017 for various documents and more time to respond to the NTSC. The Authority responded in letters dated 3 August 2017 and 15 September 2017. By the letter dated 15 September 2017, the Authority granted Dr. Kidero 30 days to respond to the NTSC ending on 17 October 2017. Dr. Kidero's advocates wrote to the Authority on 20 September 2017 insisting on the provision of the requested documents, in response to which the Authority responded on 29 September 2017 reiterating that they had provided all the requisite documents and maintained that he was to respond by 17 October 2017 in default of which the Authority would proceed to consider the matter and make a determination on appropriate action with no further reference to him. Dr. Kidero through TripleOK Law Advocates wrote on 16th October 2017 indicating that they would go to court instead of responding to the NTSC.

On 18th October 2017, Dr. Kidero filed another petition, **Nairobi HCCC petition No 518 of 2017 Hon Dr. Evans Kidero vs the Capital Markets Authority and Hon AG** through Triple OK Advocates and an application seeking conservatory orders restraining the Authority from proceeding with the Notice to show cause dated 26 July 2017 and our letter of 29 September 2017 (which gave Kidero an ultimatum to respond by 17th October 2017). The court directed CMA not to consider and determine the NTSC that had been issued to Dr. Kidero. The effect of this direction by the court had the same effect as grant of conservatory orders. The main petition will be heard on 29 January 2018.

ii. Dr. Paul Kimutai Murgor and Mr. Peter Hongo

The Authority issued Dr. Paul Kimutai Murgor and Mr. Peter Hongo with Notices to Show Cause dated 31 July 2017. The main allegation against them was potential embezzlement of funds and cash misappropriation contrary investors interests protected under section 11(1) (d) of the Act.

On 23 August 2017, Dr. Murgor and Mr. Hongo through their advocates Apollo & Co Advocates requested for various documents and more time in order to respond to the NTSC. On 15September 2017, the Authority responded to all queries and gave them a further 30 days from the date of the letter to respond to NTSC ending on 17 October 2017.

On 21 September 2017, Dr. Murgor & Mr. Hongo filed **Nairobi HCCC Petition No 467 of 2017 Peter Hongo & 2 others vs Paul Muthaura& 4 Others.** They were granted conservatory orders on 26September 2017 stopping the ongoing bank account investigations being undertaken by the Authority.

On 10 October 2017, Mr. Hongo and Dr. Murgor responded to the Authority's letter dated 15 September 2017 indicating that they cannot respond to the NTSC since doing so would be in contempt of the court orders issued in **Nairobi HCCC Petition No 467 of 2017 Peter Hongo & 2 others vs Paul Muthaura & 4 Others,** which stated that "*A conservatory order be and is hereby issued staying & restraining and/or prohibiting the CMA, whether by themselves, agents, servants, proxies and or any other person acting under the authority or direction* ***from conducting any purported investigations of the applicants' personal bank accounts*** *in various banks within Kenya pending the hearing and determination of the application and Petition.*"

The Authority's response by letter dated 11 October 2017 was that the said court order only stopped further investigation into the respective bank accounts for the purposes of quantum but existing allegations of embezzlement in the NTSC proceedings could be pursued by the Authority. Dr. Murgor & Mr. Hongo's lawyer wrote on 16October 2017 informing the Authority that they were notifying the court that the Authority was in breach of the court orders.

Thereafter, Dr. Murgor & Mr. Hongo, made an application in court that the Authority was in breach of the order by proceeding with the NTSC enforcement proceedings, but the court declined to grant the orders sought and instead advised them to file contempt proceedings. To date no such proceedings have been filed.

4.0 Effect of Court Orders on Investigations of Bank Accounts Held by Former MSC Employees

The Authority obtained warrants from the magistrate's court to investigate various bank accounts belonging to ten former senior managers and board members of MSC. The court orders were served on the respective banks for purposes of obtaining bank statements. Subsequently, Dr. Kidero, Dr. Murgor, Mr. Hongo and Pamela Lutta obtained conservatory orders stopping the ongoing investigations of their bank accounts until their petitions questioning the legality of the warrants were heard and determined.

By the time the Authority was served with the court orders stopping inquiry into bank accounts, it had received bank statements for only four (4) bank accounts out of the eighty-five (85) bank accounts it was investigating. One of the bank account statement received belonged to Jonah Omuyoma who was the Head of Factory at MSC. His bank accounts show that he received Kshs. 421,000/- from Avant Garde Consultants, who was one of the biggest and questionable consultants at MSC. The other statements related to three (3) Bank accounts belonging to Mr. Hongo.

The conservatory orders issued against the Authority have hampered investigations by stopping inquiries in Fifty-six (56) out of eighty-five (85) bank accounts under investigation.

The Authority through CMFIU is following up with various banks in order to receive bank statements of Twenty-nine (29) accounts that are not subject to any court order. There has been an inordinate delay from the banks to furnish the bank statements due to sensitivity of the issue.

5.0 Effect of Court Matters on The Administrative Process.

The conservatory orders obtained by Dr. Kidero **in Nairobi HCCC petition No 372 of 2017 Hon Dr. Evans Kidero vs Paul Muthaura & 4 Others** have stopped the Authority from investigating his bank accounts. There is no date for the hearing of this petition. The other orders obtained in

Nairobi **HCCC petition No 518 of 2017** have stopped the Authority from proceeding with the NTSC proceedings against him until the hearing date of the petition on the 29th January 2018 when further directions will be issued by the court.

Dr. Murgor and Mr. Hongo's conservatory orders in **Nairobi HCCC Petition No 467 of 2017 Peter Hongo & 2 Others vs Paul Muthaura & 4 Others** only stops the Authority from further investigations of their bank accounts but the orders do not stop the Authority from proceeding with the NTSC enforcement proceedings against them. The purpose of the bank accounts investigations was to quantify the quantum of alleged embezzlement by the NTSC recipients which was stopped by the court orders. The particulars of embezzlement had already been set out in the NTSC and evidence in support of a prima facie case of embezzlement issued to the NTSC recipients. It is noted these particulars were based on the findings in respect of a single bank account and therefore, although establishing sufficient evidence of embezzlement, may not provide the full picture of the total amounts in respect of which they should be held accountable based on analysis of the additional bank records that are the subject of the injunction proceedings.

The Authority cautioned Mr. Hongo and Dr. Murgor in a letter dated 11 October 2017 that failure to respond to the NTSC by 17 October 2017 (after the Authority extended time of response by a further 30 days), the Authority would proceed to consider the matter and make a determination with no further reference to them. They have not responded.

In order to address the challenges faced by reason of the conservatory orders which have adversely affected the investigations and/or administrative action, the following actions will be undertaken:

a) The Authority's counsels shall be instructed to intimate to the court that the pending applications be heard and determined expeditiously so that the Authority can proceed with discharging its mandate. The Advocates will also be guided to apply for short deadlines for filing of responses and early hearing dates so that the court can be inclined to disallow prayers for conservatory orders.

b) In the event that conservatory orders are issued simultaneously with directions on filing (of responses and submissions), the Authority will exploit any instances of noncompliance by petitioners with any timetables issued by the court in order to convince the court to vacate the interim orders on the basis that the non-compliance is an abuse of the court process intended to unfairly extend the period which the Petitioners may enjoy the orders without allowing for due process and final determination of the underlying matters.

6.0 Proposed way forward

a) All the pending investigations of bank accounts of former senior managers and board members of MSC ,which are not subject to conservatory orders are being fast tracked and the respective banks are being issued with notices that further unreasonable delay and/or refusal to comply with the warrants to provide the bank records will result in the Authority instituting contempt proceeding against them.

b) **Petition No 372 of 2017 and Hongo** and **Murgor's Petition No 467 of 2017**, were scheduled for mention on 25 October 2017, which was declared a public holiday. The matters are being scheduled for a mention date, when the issue of consolidation will be determined by the Court.

c) Kidero's other matter, touching on the NTSC, **Petition 518 of 2017** will be heard on 29 January 2017. The Authority will await further directions from the court on the orders stopping CMA from proceeding with administrative proceedings against Kidero.

d) Mr. Hongo and Mr. Murgor failed to respond to the NTSC within the timelines and there being no order stopping the Authority from proceeding with the administrative proceedings it is at the discretion of the Board to proceed to the next stage to review the available evidence against the two individuals and determine if the allegations of violations of the Capital markets legal and regulatory framework set out in the NTSC have been established. Management however suggests that the Board should take cognizance of the pending investigations on quantum of alleged funds received by the company officers and await conclusion of the investigations to ensure any action proposed to be taken is fully informed by the full scope and extent of embezzlement uncovered beyond the single instance on record thus far.

e) The Authority will continue to assess evidence gathered during investigation against other officials of MSC in order to determine if such evidence is sufficient to issue NTSC against them in phase two of the enforcement proceedings. This phase may for example cover findings made against Jonah Omuyoma who was the Head of Factory at MSC, who was found to have received money (Kshs. 421,000/=) from one of MSC Ltd consultant firms, Avant Garde Consultants. In the alternative, the Board may resolve to have this information brought to the attention of MSC for them to pursue at a corporate level

ANNEX 8

COMESA CERTIFICATE OF ORIGIN

شهادة منشأ السوق المشتركة لدول شرق وجنوب أفريقيا

Appendix 1 ملحق ١
2013

Exporter (Name & Office address) ١. المصدر (الإسم وعنوان المكتب) KENANA SUGAR COMPANY LIMITED P.O.BOX 2632, KHARTOUM SUDAN	Ref. No. 5/185 الرقم Sudan Chamber of Commerce Khartoum
Consignee (Name & Office address) ٢. المستورد (الإسم والعنوان) TO ORDER OF DUBAI BANK KENYA LIMITED MUMIAS SUGAR COMPANY LIMITED NOTIFY PARTY: DANTE PEAK LIMITED P.O.BOX 66521-00800 LAVINGTON, HATHERU RD NAIROBI, KENYA, Ref LC NUMBER DBK/LC/FEB07/001 IDE NO: E1303037216	COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA CERTIFICATE OF ORIGIN السوق المشتركة لدول شرق وجنوب أفريقيا شهادة منشأ
٣. دولة المنشأ ؛ مجموعة الدول التي تعتبر منشأ البضاعة Country Group of Countries in which the products are considered as originating from SUDAN	
Particulars of Transport ٤. بيانات الناقل MSC TASMANIA OR309R	For official use ٥. للاستخدام الرسمي

٦. العلامات والترقيم: عدد ونوع الطرود ووصف البضاعة Marks and Numbers; number and kind of package, description of goods	٧. رقم التعريفة الجمركية Customs Tariff No.	٨. مواصفات المنشأ انظر خلف الصفحة Origin Criterion (see overleaf)	٩. الوزن الصافي او الكمية Gross weight or other quantity	١٠. رقم الفاتورة Invoice No.
10,000 MT CANE SUGAR BRAND NAME KENANA GREEN CANE SUGAR SPECIAL IN 50 KGS POLYPROPYLENE BAGS AS PER SPECIFICATIONS: POLARISATION: MINIMUM 99.8 PERCENT MOISTURE: MAXIMUM 0.06 DEGREES COLOUR: 150 ICUMSA UNITS MAX		P	10,000 MT	SA1-100677

١١. اقرار المصدر/ المنتج/ الممول DECLARATION BY EXPORTER/ PRODUCER/ SUPPLIER* اقر أنا الموقع ادناه بأن تفاصيل البيانات الواردة أعلاه صحيحة وان كل البضائع قد تم انتاجها في SUDAN I, the undersigned, hereby declare that the above details and statements are correct, that all goods are produced in SUDAN Kenana Sugar Company Ltd. Export Sales DEPT. KSC	شهادة منشأ CERTIFICATE OF ORIGIN Sudan Chamber of Commerce 5928 Nasiv نشهد بأن البضائع المشار اليها أعلاه هي SUDAN المنشأ It is hereby certified that the above-mentioned goods are of SUDAN origin. شهادة ادارة الجمارك او اي جهة مخولة Certificate of Customs or other Designated authority The Republic of Sudan Ministry of Foreign Trade Common Market For Eastern & Southern Africa STAMP الختم

* Please delete the description not applicable

ANNEX 8

Appendix (١) ملحق
Page (2) صفحة

توجيه لإكمال نموذج شهادة المنشأ

١/ يجوز ان تكمل بأي طريقة على ان تكون البيانات مقروؤة وغير قابلة للمحو.
٢/ لا يسمح بالمحو او اي إضافة على الشهادة . أي تغيير يتم بشطب القيد الخاطئ وعمل الإضافة المطلوبة.
٣/ شطب اي فراغات غير مستخدمة لمنع اي إضافة لاحقا.
٤/ إذا دعت متطلبات تجارة الصادر يمكن أن تحرر صورة أو أكثر بالإضافة إلى الأصل.
٥/ يجب إستخدام الحروف الآتية في المكان الملائم عند إكمال الشهادة .
"P" للبضاعة المستوفية لمعيار المصنوعة كليا (القاعدة ١٠٢ (أ)).
"M" للبضاعة المستوفية لمعيار المحتوى المادي للتحويل الجوهري (القاعدة ١٠٢ (ب) أولا).
"V" للبضاعة المستوفية لمحتوى القيمة المضافة لمعيار التحويل الجوهري (القاعدة ١٠٢ (ب) ثانيا).
"X" للبضاعة المستوفية للتغيير في فئة التعريفة الجمركية (القاعدة ١٠٢ (ب) ثالثا) .
"Y" للبضاعة المستوفية لمعيار الأهمية الإقتصادية الخاصة بالدولة العضو (القاعدة ١٠٢ (ج)).

ملحوظة :

أي شخص يمد وهو يعلم أو يتسبب في المد بمستندات غير صحيحة أو في تضليل جوهري بغرض الحصول على شهادة المنشأ أو اثناء إجراء اي تحقيق لاحق لتلك الشهادة يكون مذنبا لإرتكابه جريمة وعرضة للعقوبات.

INSTRUCTION FOR COMPLETING THE CERTIFICATE OF ORIGIN FORM

i) The forms may be completed by any process provided that the entities are legible and indelible.
ii) Erasures and super-impositions are not allowed on the certificate. Any alterations should be made by striking out the erroneous entry(ies) and making any additions required.
iii) Any unused spaces should be crossed out to prevent any subsequent addition.
iv) If warranted by export trade requirements, one or more copies may be drawn up in addition to the original.
v) The following letters should be used when completing a certificate in appropriate place:
"P" for goods satisfying the wholly produced criterion (Rule 2.1 (a).).
"M" for goods satisfying the material content of the substantial transformation criterion (Rule 2.1 (b)(i).
"V" for goods satisfying the value-added content of the substantial transformation criterion (Rule 2.1 (b)(ii).
"X" for goods satisfying the change of tariff heading of the substantial transformation criterion (Rule 2.1 (b)(iii).
"Y" for goods satisfying the criterion of particular economic importance to the member State (Rule 2.1 (c)).

N.B. Any person who knowingly furnishes or causes to be furnished a document, which is untrue in any material particular for the purpose of obtaining a Certificate of Origin or during the course of any subsequent verification of such certificate, will be guilty of an offence and be liable to penalties.

See website for large version of the reverse | Ver página Web para términos y condiciones | Смотрите веб-сайт для ознакомления с условиями и положениями | 提单背面条款... | www.mscmedshipco.com

ANNEX 9

MEDITERRANEAN SHIPPING COMPANY S.A.

Website : www.mscmedshipco.com

SCAC Code: MSCU

BILL OF LADING No. MSCUPS239775

ORIGINAL

"Port-to-Port" or "Combined Transport" (see Clause 1)

NO. & SEQUENCE OF ORIGINAL B/L's	NO. OF RIDER PAGES
3/THREE	12

SHIPPER:

KENANA SUGAR COMPANY LIMITED
P.O. BOX 2632, KHARTOUM -SUDAN

CONSIGNEE: This B/L is not negotiable unless marked "To Order" or "To Order of..." here.

TO THE ORDER OF DUBAI BANK KENYA LIMITED/
MUMIAS SUGAR COMPANY LTD

NOTIFY PARTIES: (No responsibility shall attach to the Carrier or to his Agent for failure to notify - see Clause 20)

1/ EMICA LOGISTICS LIMITED P.O. BOX 48289- 00100, NAIROBI, KENYA
2/ DANTE PEAK LIMITED P.O. BOX 66521-00800 LAVINGTON, HATHERU RD NAIROBI, KENYA, REF LC NUMBER DBK/LC/FEB07/001

CARRIER'S AGENTS ENDORSEMENTS: (include Agent(s) at POD)

Lloyds/Imo number = 9008574
DESTINATION AGENT ADDRESS:MSC MOMBASA REP
CAPT. T. CASTELLANO C/O
OCEANFREIGHT (EA) LTD.
MSC PLAZA, 3rd+4th floor, Moi Avenue
P.O. BOX 80637
MOMBASA
Phone: +254 41 2311 192, Fax: +254 41 2312 626

TOTAL 15 DAYS FREE OF DEMURRAGE AT POD

VESSEL & VOYAGE NO. (see Clauses 8 & 9)	PORT OF LOADING	PLACE OF RECEIPT: (Combined Transport ONLY - see Clauses 1 & 5.2)
MSC TASMANIA OR309R	PORT SUDAN	XXXXXXXXXXXXXXXXXXXXX
BOOKING REF. (or) SHIPPER'S REF.	PORT OF DISCHARGE	PLACE OF DELIVERY: (Combined Transport ONLY - see Clauses 1 & 5.2)
400MXA22084	MOMBASA	XXXXXXXXXXXXXXXXXXXXX

PARTICULARS FURNISHED BY THE SHIPPER - NOT CHECKED BY CARRIER - CARRIER NOT RESPONSIBLE (see Clause 14)

Container Numbers, Seal Numbers and Marks	Description of Packages and Goods (Continued on attached Bill of Lading Rider page(s), if applicable)	Gross Cargo Weight	Measurement
	400x 20' CNTR(S) S.T.C. CONTAINER DETAILS AS PER ATTACHED LIST 200000 BAGS 10,000 MT CANE SUGAR BRAND NAME KENANA GREEN CANE SUGAR SPECIAL IN 50 KGS POLYPROPYLENE BAGS AS PER SPECIFICATIONS: - POL 99.8 PERCENT - MOISTURE 0.06 DEGREES MAX. - COLOUR, 150 ICUMSA UNITS MAXIMUM FOCUS CFS LIMITED FCL/FCL SHIPPER'S LOAD, STOW AND COUNT SHIPPED ON BOARD		
TOTAL TARE: 894,703KGS	TOTALS:	G. 10,060,000KGS N. 10,000,000KGS	

DUBAI BANK (K) LTD. P.O. Box 11129 00400 NAIROBI

FREIGHT & CHARGES — Cargo shall not be delivered unless Freight & Charges are paid (see Clause 16).

FREIGHT PREPAID

RECEIVED by the Carrier in apparent good order and condition (unless otherwise stated herein) the total number or quantity of Containers or other packages or units indicated in the box entitled Carrier's Receipt for carriage subject to all the terms and conditions hereof from the Place of Receipt or Port of Loading to the Port of Discharge or Place of Delivery, whichever is applicable. IN ACCEPTING THIS BILL OF LADING THE MERCHANT EXPRESSLY ACCEPTS AND AGREES TO ALL THE TERMS AND CONDITIONS, WHETHER PRINTED, STAMPED OR OTHERWISE INCORPORATED ON THIS SIDE AND ON THE REVERSE SIDE OF THIS BILL OF LADING AND THE TERMS AND CONDITIONS OF THE CARRIER'S APPLICABLE TARIFF AS IF THEY WERE ALL SIGNED BY THE MERCHANT.

If this is a negotiable (To Order / of) Bill of Lading, one original Bill of Lading, duly endorsed must be surrendered by the Merchant to the Carrier (together with outstanding Freight and charges) in exchange for the Goods or a Delivery Order. If this is a non-negotiable (straight) Bill of Lading, the Carrier shall deliver the Goods or issue a Delivery Order (after payment of outstanding Freight and charges) against the surrender of one original Bill of Lading or in accordance with the national law at the Port of Discharge or Place of Delivery whichever is applicable.

IN WITNESS WHEREOF the Carrier or their Agent has signed the number of Bills of Lading stated at the top, all of this tenor and date, and wherever one original Bill of Lading has been surrendered all other Bills of Lading shall be void.

DECLARED VALUE (only applicable if Ad Valorem Charges paid - see Clause 7.3)	CARRIER'S RECEIPT (No. of Cntrs or Pkgs rcvd by Carrier - see Clause 14.1)
	400
PLACE AND DATE OF ISSUE	SHIPPED ON BOARD DATE
PORT SUDAN, 11/03/2013	11/03/2013

SIGNED on behalf of the Carrier MSC Mediterranean Shipping Company S.A.

MSC SHIPPING CO. LTD. AS AGENT FOR THE CARRIER MSC

400

Standard Edition - 08/2009

TERMS CONTINUED ON REVERSE

A 1519607?

AMFU3000245/20'DV/2200 Seal:EU0001641408	500 BAGS	25150
AMFU3210283/20'DV/2200 Seal:EU0001641476	500 BAGS	25150
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CAIU3191598/20'DV/2200 Seal:EU0001642559	500 BAGS	25150
CARU2208671/20'DV/2290 Seal:EU0001643853	500 BAGS	25150
CARU2211274/20'DV/2290 Seal:EU0001643942	500 BAGS	25150
CARU3726459/20'DV/280 Seal:EU0001643828	500 BAGS	25150
CATU2872570/20'DV/2300 Seal:EU0001643952	500 BAGS	25150
CAXU2052820/20'DV/2150 Seal:EU0001643861	500 BAGS	25150
CAXU6248087/20'DV/2250 Seal:EU0001643966	500 BAGS	25150
CAXU6334708/20'DV/2240 Seal:EU0001643900	500 BAGS	25150
CAXU6593988/20'DV/2185 Seal:EU0001643627	500 BAGS	25150
CLHU2427204/20'DV/2250 Seal:EU0001641481	500 BAGS	25150
CLHU3073867/20'DV/2300 Seal:EU0001642560	500 BAGS	25150
CLHU3376652/20'DV/2230 Seal:EU0001641483	500 BAGS	25150
CLHU3552643/20'DV/2185 Seal:EU0001641410	500 BAGS	25150
CLHU3602641/20'DV/2220 Seal:EU0001643633	500 BAGS	25150
CLHU3834518/20'DV/2220 Seal:EU0001642407	500 BAGS	25150
CRXU3151020/20'DV/2250	500 BAGS	25150

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Seal:EU0001641485
CXDU1395971/20'DV/2200 500 BAGS
Seal:EU0001643757 25150
CXDU1416380/20'DV/2250 500 BAGS
Seal:EU0001641498 25150
CXDU1457899/20'DV/2200 500 BAGS
Seal:EU0001641469 25150
CZZU3643872/20'DV/2180 500 BAGS
Seal:EU0001642544 25150
DFSU2704810/20'DV/2150 500 BAGS
Seal:EU0001643744 25150
DFSU2751431/20'DV/2185 500 BAGS
Seal:EU0001643747 25150
DFSU2828847/20'DV/2160 500 BAGS
Seal:EU0001643845 25150
DFSU2829376/20'DV/2160 500 BAGS
Seal:EU0001642520 25150
DFSU2846650/20'DV/2160 500 BAGS
Seal:EU0001642464 25150
DFSU2886674/20'DV/2160 500 BAGS
Seal:EU0001643960 25150
DRYU2021807/20'DV/2200 500 BAGS
Seal:EU0001641415 25150
RYU2526980/20'DV/2200 500 BAGS
eal:EU0001641500 25150
FCIU2077104/20'DV/2220 500 BAGS
Seal:EU0001642515 25150
FCIU2296592/20'DV/2220 500 BAGS
Seal:EU0001641464 25150
FCIU2689326/20'DV/2220 500 BAGS
Seal:EU0001642507 25150
FCIU3941664/20'DV/2200 500 BAGS
Seal:EU0001641511 25150
FCIU3997869/20'DV/2220 500 BAGS
Seal:EU0001643667 25150
FCIU4639026/20'DV/2180 500 BAGS
Seal:EU0001643953 25150
FSCU3119899/20'DV/2200 500 BAGS
Seal:EU0001643677 25150
FSCU3253629/20'DV/2290 500 BAGS
Seal:EU0001641487 25150
FSCU3274621/20'DV/2290 500 BAGS
Seal:EU0001642414 25150
FSCU3347116/20'DV/2220 500 BAGS
Seal:EU0001641434 25150
SCU3946557/20'DV/2220 500 BAGS
Seal:EU0001643860 25150
SCU7727217/20'DV/2220 500 BAGS
al:EU0001641480 25150
SCU7862963/20'DV/2220 500 BAGS
eal:EU0001641440 25150
GATU0401065/20'DV/2200 500 BAGS
Seal:EU0001643625 25150
ATU0414247/20'DV/2140 500 BAGS
eal:EU0001641474 25150
GATU0822486/20'DV/2140 500 BAGS
Seal:EU0001641411 25150
ATU1043789/20'DV/2100 500 BAGS
al:EU0001643639 25150
ATU1259891/20'DV/2230 500 BAGS
Seal:EU0001643662 25150
GATU1336600/20'DV/2280 500 BAGS
al:EU0001643821 25150
SU2105849/20'DV/2180 500 BAGS
Seal:EU0001641478 25150
GLDU2093955/20'DV/2280 500 BAGS
al:EU0001641499 25150
DU2107010/20'DV/2280 500 BAGS 25150

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Seal:EU0001643945		
GLDU2220710/20'DV/2280	500 BAGS	25150
Seal:EU0001641439		
GLDU2283636/20'DV/2230	500 BAGS	25150
Seal:EU0001643646		
GLDU3223420/20'DV/2230	500 BAGS	25150
Seal:EU0001641418		
GLDU3235400/20'DV/2200	500 BAGS	25150
Seal:EU0001642511		
GLDU3482714/20'DV/2160	500 BAGS	25150
Seal:EU0001642446		
GLDU3486263/20'DV/2160	500 BAGS	25150
Seal:EU0001642508		
GLDU3494680/20'DV/2160	500 BAGS	25150
Seal:EU0001642410		
GLDU3496338/20'DV/2160	500 BAGS	25150.
Seal:EU0001641489		
GLDU3529766/20'DV/2200	500 BAGS	25150
Seal:EU0001643663		
GLDU3534166/20'DV/2280	500 BAGS	25150
Seal:EU0001643829		
GLDU3580808/20'DV/2230	500 BAGS	25150
Seal:EU0001642465		
GLDU3651563/20'DV/2160	500 BAGS	25150
Seal:EU0001642415		
GLDU3983275/20'DV/2160	500 BAGS	25150
Seal:EU0001643655		
GLDU5037683/20'DV/2160	500 BAGS	25150
Seal:EU0001643946		
GLDU5047043/20'DV/2160	500 BAGS	25150
Seal:EU0001643978		
GLDU5055115/20'DV/2160	500 BAGS	25150
Seal:EU0001643605		
GLDU5089326/20'DV/2160	500 BAGS	25150
Seal:EU0001643857		
GLDU5405810/20'DV/2230	500 BAGS	25150
Seal:EU0001643602		
GLDU5505470/20'DV/2230	500 BAGS	25150
Seal:EU0001641421		
GLDU5538746/20'DV/2185	500 BAGS	25150
Seal:EU0001643673		
GLDU5570265/20'DV/2230	500 BAGS	25150
Seal:EU0001643645		
GLDU9439320/20'DV/2180	500 BAGS	25150
Seal:EU0001641433		
GLDU9471002/20'DV/2185	500 BAGS	25150
Seal:EU0001642548		
IPXU3144510/20'DV/2200	500 BAGS	25150
Seal:EU0001642401		
IPXU3175851/20'DV/2250	500 BAGS	25150
Seal:EU0001643723		
IPXU3837578/20'DV/2185	500 BAGS	25150
Seal:EU0001641482		
IPXU3973173/20'DV/2185	500 BAGS	25150
Seal:EU0001643955		
LCRU0146657/20'DV/2200	500 BAGS	25150
Seal:EU0001642550		
MEDU1066279/20'DV/2280	500 BAGS	25150
Seal:EU0001641429		
MEDU1066941/20'DV/2280	500 BAGS	25150
Seal:EU0001643737		
MEDU1091590/20'DV/2280	500 BAGS	25150
Seal:EU0001641486		
MEDU1101425/20'DV/2280	500 BAGS	25150
Seal:EU0001641506		
MEDU1106406/20'DV/2280	500 BAGS	25150
Seal:EU0001642451		
MEDU1116092/20'DV/2280	500 BAGS	25150

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Seal:EU0001643882		
MEDU1986678/20'DV/2280	500 BAGS	
Seal:EU0001643896		25150
MEDU2016375/20'DV/2280	500 BAGS	
Seal:EU0001642448		25150
MEDU2031180/20'DV/2200	500 BAGS	
Seal:EU0001642513		25150
MEDU2065507/20'DV/2280	500 BAGS	
Seal:EU0001643816		25150
MEDU2120836/20'DV/2280	500 BAGS	
Seal:EU0001643680		25150
MEDU2189447/20'DV/2280	500 BAGS	
Seal:EU0001641422		25150
MEDU2237490/20'DV/2280	500 BAGS	
Seal:EU0001642587		25150
MEDU2255560/20'DV/2280	500 BAGS	
Seal:EU0001643968		25150
MEDU2275334/20'DV/2280	500 BAGS	
Seal:EU0001643604		25150
MEDU2299254/20'DV/2280	500 BAGS	
Seal:EU0001642509		25150
MEDU2312510/20'DV/2280	500 BAGS	
Seal:EU0001643894		25150
EDU2318987/20'DV/2280	500 BAGS	
al:EU0001642450		25150
MEDU2373536/20'DV/2280	500 BAGS	
Seal:EU0001642447		25150
MEDU2378707/20'DV/2280	500 BAGS	
Seal:EU0001643735		25150
MEDU2425898/20'DV/2280	500 BAGS	
Seal:EU0001641471		25150
MEDU2587369/20'DV/2280	500 BAGS	
Seal:EU0001643967		25150
MEDU2597942/20'DV/2280	500 BAGS	
Seal:EU0001643969		25150
MEDU2617036/20'DV/2280	500 BAGS	
Seal:EU0001643970		25150
MEDU2661574/20'DV/2200	500 BAGS	
Seal:EU0001641426		25150
MEDU2666175/20'DV/2280	500 BAGS	
Seal:EU0001642462		25150
MEDU2683341/20'DV/2280	500 BAGS	
Seal:EU0001643812		25150
MEDU2696863/20'DV/2280	500 BAGS	
Seal:EU0001643879		25150
MEDU2718010/20'DV/2280	500 BAGS	
eal:EU0001642479		25150
MEDU2736190/20'DV/2280	500 BAGS	
l:EU0001643864		25150
EDU2737474/20'DV/2280	500 BAGS	
eal:EU0001643825		25150
MEDU2744909/20'DV/2280	500 BAGS	
Seal:EU0001642589		25150
IEDU2801655/20'DV/2280	500 BAGS	
al:EU0001643835		25150
MEDU2845592/20'DV/2280	500 BAGS	
Seal:EU0001642543		25150
EDU2863106/20'DV/2280	500 BAGS	
al:EU0001642463		25150
EDU2863981/20'DV/2280	500 BAGS	
Seal:EU0001643739		25150
MEDU2875133/20'DV/2280	500 BAGS	
al:EU0001642480		25150
EDU2886729/20'DV/2280	500 BAGS	
Seal:EU0001641425		25150
MEDU2901103/20'DV/2280	500 BAGS	
l:EU0001641419		25150
DU2912561/20'DV/2280	500 BAGS	25150

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Seal:EU0001643661		
MEDU1168481/20'DV/2280	500 BAGS	25150
Seal:EU0001643881		
MEDU1215618/20'DV/2280	500 BAGS	25150
Seal:EU0001643653		
MEDU1246352/20'DV/2280	500 BAGS	25150
Seal:EU0001643626		
MEDU1260279/20'DV/2280	500 BAGS	25150
Seal:EU0001642586		
MEDU1272840/20'DV/2280	500 BAGS	25150
Seal:EU0001641416		
MEDU1285370/20'DV/2280	500 BAGS	25150
Seal:EU0001643893		
MEDU1321585/20'DV/2280	500 BAGS	25150
Seal:EU0001642545		
MEDU1377563/20'DV/2280	500 BAGS	25150
Seal:EU0001643958		
MEDU1394452/20'DV/2280	500 BAGS	25150
Seal:EU0001643977		
MEDU1419458/20'DV/2280	500 BAGS	25150
Seal:EU0001643897		
MEDU1434616/20'DV/2280	500 BAGS	25150
Seal:EU0001643657		
MEDU1439650/20'DV/2280	500 BAGS	25150
Seal:EU0001642502		
MEDU1479138/20'DV/2280	500 BAGS	25150
Seal:EU0001643748		
MEDU1509736/20'DV/2280	500 BAGS	25150
Seal:EU0001641437		
MEDU1547736/20'DV/2280	500 BAGS	25150
Seal:EU0001642412		
MEDU1560086/20'DV/2280	500 BAGS	25150
Seal:EU0001642552		
MEDU1560640/20'DV/2280	500 BAGS	25150
Seal:EU0001643740		
MEDU1579688/20'DV/2280	500 BAGS	25150
Seal:EU0001641406		
MEDU1652942/20'DV/2280	500 BAGS	25150
Seal:EU0001641404		
MEDU1660980/20'DV/2280	500 BAGS	25150
Seal:EU0001641409		
MEDU1708240/20'DV/2280	500 BAGS	25150
Seal:EU0001642475		
MEDU1743575/20'DV/2280	500 BAGS	25150
Seal:EU0001643843		
MEDU1743641/20'DV/2280	500 BAGS	25150
Seal:EU0001642441		
MEDU1761429/20'DV/2280	500 BAGS	25150
Seal:EU0001643856		
MEDU1821030/20'DV/2280	500 BAGS	25150
Seal:EU0001642403		
MEDU1847353/20'DV/2200	500 BAGS	25150
Seal:EU0001643745		
MEDU1857135/20'DV/2280	500 BAGS	25150
Seal:EU0001642452		
MEDU1879366/20'DV/2280	500 BAGS	25150
Seal:EU0001641507		
MEDU1904279/20'DV/2280	500 BAGS	25150
Seal:EU0001643728		
MEDU1915144/20'DV/2280	500 BAGS	25150
Seal:EU0001643866		
MEDU1920135/20'DV/2280	500 BAGS	25150
Seal:EU0001643973		
MEDU1948322/20'DV/2280	500 BAGS	25150
Seal:EU0001641517		
MEDU1957350/20'DV/2280	500 BAGS	25150
Seal:EU0001641401		
MEDU1986600/20'DV/2280	500 BAGS	25150

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Seal:EU0001641466		
MEDU2932655/20'DV/2280	500 BAGS	25150
Seal:EU0001642404		
MEDU2934088/20'DV/2200	500 BAGS	25150
Seal:EU0001643841		
MEDU3006622/20'DV/2280	500 BAGS	25150
Seal:EU0001643951		
MEDU3053650/20'DV/2280	500 BAGS	25150
Seal:EU0001643976		
MEDU3059854/20'DV/2280	500 BAGS	25150
Seal:EU0001641417		
MEDU3113750/20'DV/2280	500 BAGS	25150
Seal:EU0001643630		
MEDU3152925/20'DV/2200	500 BAGS	25150
Seal:EU0001643844		
MEDU3179401/20'DV/2280	500 BAGS	25150
Seal:EU0001642456		
MEDU3226782/20'DV/2280	500 BAGS	25150
Seal:EU0001642519		
MEDU3235402/20'DV/2280	500 BAGS	25150
Seal:EU0001642409		
MEDU3327896/20'DV/2280	500 BAGS	25150
Seal:EU0001643651		
MEDU3332790/20'DV/2280	500 BAGS	25150
Seal:EU0001641488		
MEDU3367883/20'DV/2280	500 BAGS	25150
Seal:EU0001642471		
MEDU3383014/20'DV/2200	500 BAGS	25150
Seal:EU0001643834		
MEDU3394451/20'DV/2280	500 BAGS	25150
Seal:EU0001643722		
MEDU3457360/20'DV/2280	500 BAGS	25150
Seal:EU0001643869		
MEDU3463830/20'DV/2280	500 BAGS	25150
Seal:EU0001643979		
MEDU3472148/20'DV/2280	500 BAGS	25150
Seal:EU0001642517		
MEDU3597504/20'DV/2280	500 BAGS	25150
Seal:EU0001643726		
MEDU3613396/20'DV/2280	500 BAGS	25150
Seal:EU0001643975		
MEDU3616749/20'DV/2280	500 BAGS	25150
Seal:EU0001642445		
MEDU3702699/20'DV/2280	500 BAGS	25150
Seal:EU0001641402		
MEDU3711561/20'DV/2100	500 BAGS	25150
Seal:EU0001643873		
MEDU3715438/20'DV/2280	500 BAGS	25150
Seal:EU0001642461		
MEDU3729555/20'DV/2280	500 BAGS	25150
Seal:EU0001642518		
MEDU3731486/20'DV/2280	500 BAGS	25150
Seal:EU0001642477		
MEDU3760782/20'DV/2280	500 BAGS	25150
Seal:EU0001641490		
MEDU3765260/20'DV/2280	500 BAGS	25150
Seal:EU0001642420		
MEDU3840342/20'DV/2280	500 BAGS	25150
Seal:EU0001643751		
MEDU3854562/20'DV/2280	500 BAGS	25150
Seal:EU0001642476		
MEDU3867852/20'DV/2280	500 BAGS	25150
Seal:EU0001642478		
MEDU3927118/20'DV/2280	500 BAGS	25150
Seal:EU0001641465		
MEDU3930533/20'DV/2280	500 BAGS	25150
Seal:EU0001643949		
MEDU3931397/20'DV/2280	500 BAGS	25150

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Seal:EU0001642541
MEDU3951048/20'DV/2280 500 BAGS 25150
Seal:EU0001641493
MEDU3987605/20'DV/2280 500 BAGS 25150
Seal:EU0001643944
MEDU3994332/20'DV/2280 500 BAGS 25150
Seal:EU0001643752
MEDU3994610/20'DV/2280 500 BAGS 25150
Seal:EU0001642458
MEDU6021410/20'DV/2280 500 BAGS 25150
Seal:EU0001643676
MEDU6061120/20'DV/2200 500 BAGS 25150
Seal:EU0001643734
MEDU6077907/20'DV/2280 500 BAGS 25150
Seal:EU0001642554
MEDU6181758/20'DV/2280 500 BAGS 25150
Seal:EU0001642406
MEDU6266243/20'DV/2220 500 BAGS 25150
Seal:EU0001642505
MEDU6284165/20'DV/2280 500 BAGS 25150
Seal:EU0001643641
MEDU6290635/20'DV/2280 500 BAGS 25150
Seal:EU0001642555
MEDU6300585/20'DV/2280 500 BAGS 25150
Seal:EU0001643950
MEDU6323997/20'DV/2280 500 BAGS 25150
Seal:EU0001643665
MEDU6364403/20'DV/2200 500 BAGS 25150
Seal:EU0001643629
MEDU6374757/20'DV/2280 500 BAGS 25150
Seal:EU0001641423
MEDU6439098/20'DV/2220 500 BAGS 25150
Seal:EU0001641501
MEDU6460080/20'DV/2220 500 BAGS 25150
Seal:EU0001643666
MEDU6487352/20'DV/2220 500 BAGS 25150
Seal:EU0001642547
MEDU6498526/20'DV/2280 500 BAGS 25150
Seal:EU0001641470
MEDU6516893/20'DV/2280 500 BAGS 25150
Seal:EU0001642411
MEDU6529632/20'DV/2280 500 BAGS 25150
Seal:EU0001643669
MEDU6538151/20'DV/2280 500 BAGS 25150
Seal:EU0001643741
MEDU6541767/20'DV/2280 500 BAGS 25150
Seal:EU0001643628
MEDU6679885/20'DV/2220 500 BAGS 25150
Seal:EU0001641467
MEDU6714986/20'DV/2220 500 BAGS 25150
Seal:EU0001643634
MEDU6727094/20'DV/2220 500 BAGS 25150
Seal:EU0001643827
MEDU6791215/20'DV/2200 500 BAGS 25150
Seal:EU0001643818
MEDU6805617/20'DV/2215 500 BAGS 25150
Seal:EU0001642551
MEDU6837810/20'DV/2215 500 BAGS 25150
Seal:EU0001643851
MEDU6857734/20'DV/2215 500 BAGS 25150
Seal:EU0001643895
MSCU0146223/20'DV/2280 500 BAGS 25150
Seal:EU0001642454
MSCU0146389/20'DV/2280 500 BAGS 25150
Seal:EU0001642590
MSCU0182339/20'DV/2200 500 BAGS 25150
Seal:EU0001641516
MSCU0199964/20'DV/2280 500 BAGS 25150

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Seal:EU0001642472
MSCU1182122/20'DV/2200 500 BAGS
Seal:EU0001643732 25150
MSCU1183290/20'DV/2200 500 BAGS
Seal:EU0001643754 25150
MSCU1206409/20'DV/2229 500 BAGS
Seal:EU0001643679 25150
MSCU1350205/20'DV/2200 500 BAGS
Seal:EU0001643823 25150
MSCU1363753/20'DV/2200 500 BAGS
Seal:EU0001642473 25150
MSCU1387930/20'DV/2200 500 BAGS
Seal:EU0001641508 25150
MSCU1406644/20'DV/2280 500 BAGS
Seal:EU0001642466 25150
MSCU1411830/20'DV/2280 500 BAGS
Seal:EU0001643654 25150
MSCU1420513/20'DV/2280 500 BAGS
Seal:EU0001641468 25150
MSCU1443709/20'DV/2280 500 BAGS
Seal:EU0001643656 25150
MSCU1458376/20'DV/2280 500 BAGS
Seal:EU0001643675 25150
MSCU1462993/20'DV/2280 500 BAGS
Seal:EU0001643959 25150
MSCU1464532/20'DV/2000 500 BAGS
Seal:EU0001643871 25150
MSCU1511188/20'DV/2280 500 BAGS
Seal:EU0001643660 25150
MSCU1528853/20'DV/2280 500 BAGS
Seal:EU0001643731 25150
MSCU1539159/20'DV/2100 500 BAGS
Seal:EU0001643502 25150
MSCU1561213/20'DV/2280 500 BAGS
Seal:EU0001641420 25150
MSCU1570555/20'DV/2200 500 BAGS
Seal:EU0001641479 25150
MSCU1587012/20'DV/2200 500 BAGS
Seal:EU0001642460 25150
MSCU1643327/20'DV/2200 500 BAGS
Seal:EU0001643852 25150
MSCU1658749/20'DV/2200 500 BAGS
Seal:EU0001641504 25150
MSCU1694664/20'DV/2280 500 BAGS
Seal:EU0001642501 25150
MSCU1710298/20'DV/2220 500 BAGS
Seal:EU0001643756 25150
MSCU1712325/20'DV/2220 500 BAGS
Seal:EU0001641407 25150
MSCU1742947/20'DV/2280 500 BAGS
Seal:EU0001641513 25150
MSCU1774775/20'DV/2280 500 BAGS
Seal:EU0001642413 25150
MSCU1796265/20'DV/2280 500 BAGS
Seal:EU0001641403 25150
MSCU1841934/20'DV/2280 500 BAGS
Seal:EU0001643742 25150
MSCU1853046/20'DV/2280 500 BAGS
Seal:EU0001643947 25150
MSCU1906125/20'DV/2280 500 BAGS
Seal:EU0001643981 25150
MSCU1951844/20'DV/2280 500 BAGS
Seal:EU0001643862 25150
MSCU1986440/20'DV/2280 500 BAGS
Seal:EU0001641430 25150
MSCU2421176/20'DV/2250 500 BAGS
Seal:EU0001642588 25150
MSCU2430861/20'DV/2280 500 BAGS 25150

DUBAI BANK (K) LTD.
P.O. Box 11129
00400
NAIROBI

PORT SUDAN, 11/03/2013 11/03/2013

MSC SHIPPING CO. LTD.
AS AGENT FOR THE CARRIER MSC

Seal:EU0001643972		
MSCU2466680/20'DV/2280	500 BAGS	25150
Seal:EU0001641424		
MSCU2467114/20'DV/2280	500 BAGS	25150
Seal:EU0001642453		
MSCU2481874/20'DV/2230	500 BAGS	25150
Seal:EU0001641412		
MSCU2497989/20'DV/2280	500 BAGS	25150
Seal:EU0001643664		
MSCU2659652/20'DV/2280	500 BAGS	25150
Seal:EU0001642457		
MSCU2732178/20'DV/2280	500 BAGS	25150
Seal:EU0001643659		
MSCU2933085/20'DV/2250	500 BAGS	25150
Seal:EU0001643606		
MSCU3021066/20'DV/2280	500 BAGS	25150
Seal:EU0001643892		
MSCU3092183/20'DV/2280	500 BAGS	25150
Seal:EU0001642514		
MSCU3139167/20'DV/2280	500 BAGS	25150
Seal:EU0001643635		
MSCU3142915/20'DV/2280	500 BAGS	25150
Seal:EU0001642408		
MSCU3155928/20'DV/2280	500 BAGS	25150
Seal:EU0001643658		
MSCU3178076/20'DV/2280	500 BAGS	25150
Seal:EU0001642558		
MSCU3188027/20'DV/2280	500 BAGS	25150
Seal:EU0001641491		
MSCU3222409/20'DV/2280	500 BAGS	25150
Seal:EU0001643759		
MSCU3228310/20'DV/2280	500 BAGS	25150
Seal:EU0001643743		
MSCU3270496/20'DV/2280	500 BAGS	25150
Seal:EU0001643878		
MSCU3281058/20'DV/2280	500 BAGS	25150
Seal:EU0001643838		
MSCU3322835/20'DV/2280	500 BAGS	25150
Seal:EU0001643855		
MSCU3381503/20'DV/2280	500 BAGS	25150
Seal:EU0001641431		
MSCU3388128/20'DV/2280	500 BAGS	25150
Seal:EU0001643898		
MSCU3431420/20'DV/2280	500 BAGS	25150
Seal:EU0001643624		
MSCU3512305/20'DV/2280	500 BAGS	25150
Seal:EU0001642512		
MSCU3515433/20'DV/2280	500 BAGS	25150
Seal:EU0001643868		
MSCU3540539/20'DV/2280	500 BAGS	25150
Seal:EU0001643830		
MSCU3555400/20'DV/2280	500 BAGS	25150
Seal:EU0001643980		
MSCU3556345/20'DV/2280	500 BAGS	25150
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MSCU3676633/20'DV/2200	500 BAGS	25150
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MSCU3688640/20'DV/2200	500 BAGS	25150
Seal:EU0001643874		
MSCU3707457/20'DV/2280	500 BAGS	25150
Seal:EU0001643867		
MSCU3742951/20'DV/2280	500 BAGS	25150
Seal:EU0001642418		
MSCU3775195/20'DV/2280	500 BAGS	25150

DUBAI BANK (K) LTD.
P.O. Box 11129
00400
NAIROBI

MSC SHIPPING CO. LTD.
AS AGENT FOR THE CARRIER MSC

PORT SUDAN, 11/03/2013

11/03/2013

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Seal:EU0001642402
MSCU3801653/20'DV/2280 500 BAGS
Seal:EU0001643824 25150
MSCU3802177/20'DV/2280 500 BAGS
Seal:EU0001641462 25150
MSCU3827283/20'DV/2280 500 BAGS
Seal:EU0001641514 25150
MSCU3833239/20'DV/2280 500 BAGS
Seal:EU0001643746 25150
MSCU3903001/20'DV/2280 500 BAGS
Seal:EU0001642455 25150
MSCU3927739/20'DV/2280 500 BAGS
Seal:EU0001643678 25150
MSCU3930579/20'DV/2280 500 BAGS
Seal:EU0001642553 25150
MSCU3966503/20'DV/2280 500 BAGS
Seal:EU0001642557 25150
MSCU6028681/20'DV/2280 500 BAGS
Seal:EU0001642542 25150
MSCU6097532/20'DV/2280 500 BAGS
Seal:EU0001643736 25150
MSCU6123251/20'DV/2280 500 BAGS
Seal:EU0001641494 25150
MSCU6147356/20'DV/2280 500 BAGS
al:EU0001643965 25150
ISCU6185079/20'DV/2200 500 BAGS
Seal:EU0001643842 25150
MSCU6221279/20'DV/2200 500 BAGS
Seal:EU0001643674 25150
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Seal:EU0001643865 25150
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Seal:EU0001643846 25150
MSCU6540620/20'DV/2280 500 BAGS
Seal:EU0001643644 25150
MSCU6541924/20'DV/2280 500 BAGS
Seal:EU0001643603 25150
MSCU6624905/20'DV/2280 500 BAGS
Seal:EU0001641505 25150
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Seal:EU0001643750 25150
MSCU6647080/20'DV/2280 500 BAGS
Seal:EU0001643721 25150
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Seal:EU0001643749 25150
ISCU6664425/20'DV/2280 500 BAGS
eal:EU0001643880 25150
MSCU6671759/20'DV/2280 500 BAGS
al:EU0001643753 25150
SCU6698512/20'DV/2280 500 BAGS
al:EU0001643727 25150
MSCU6710032/20'DV/2280 500 BAGS
Seal:EU0001643671 25150
SCU6741218/20'DV/2280 500 BAGS
al:EU0001641520 25150
SCU6779790/20'DV/2280 500 BAGS
Seal:EU0001641463 25150
MSCU6834244/20'DV/2280 500 BAGS
al:EU0001643941 25150
SCU6841840/20'DV/2280 500 BAGS
Seal:EU0001643948 25150
MSCU6849326/20'DV/2280 500 BAGS
al:EU0001642546 25150
SCU6871470/20'DV/2280 500 BAGS
Seal:EU0001643957 25150
MSCU6876471/20'DV/2280 500 BAGS
S l:EU0001643854 25150
CU6901996/20'DV/2280 500 BAGS 25150

DUBAI BANK (K) LTD. P.O. Box 11129 00400 NAIROBI

MSC SHIPPING CO. LTD.
AS AGENT FOR THE CARRIER MSC

ORT SUDAN, 11/03/2013 11/03/2013

Seal:EU0001642516 25150
MSCU6964206/20'DV/2280 500 BAGS
Seal:EU0001643725 25150
MSCU6980085/20'DV/2280 500 BAGS
Seal:EU0001641484 25150
TCKU1472928/20'DV/2180 500 BAGS
Seal:EU0001643974 25150
TCKU1685625/20'DV/2180 500 BAGS
Seal:EU0001641432 25150
TCKU1692521/20'DV/2180 500 BAGS
Seal:EU0001643956 25150
TCKU1786929/20'DV/2180 500 BAGS
Seal:EU0001643637 25150
TCKU2162531/20'DV/2180 500 BAGS
Seal:EU0001643636 25150
TCKU2162547/20'DV/2180 500 BAGS
Seal:EU0001643943 25150
TCKU2163435/20'DV/2180 500 BAGS
Seal:EU0001643899 25150
TCKU2333151/20'DV/2180 500 BAGS
Seal:EU0001643826 25150.
TCKU2335703/20'DV/2180 500 BAGS
Seal:EU0001643872 25150
TCKU2353420/20'DV/2180 500 BAGS
Seal:EU0001643724 25150
TCKU2371260/20'DV/2180 500 BAGS
Seal:EU0001641435 25150
TCKU2381910/20'DV/2180 500 BAGS
Seal:EU0001641436 25150
TCKU3743865/20'DV/2180 500 BAGS
Seal:EU0001641473 25150
TCKU3745019/20'DV/2180 500 BAGS
Seal:EU0001643870 25150
TCKU3833228/20'DV/2180 500 BAGS
Seal:EU0001643760 25150
TCKU3850945/20'DV/2180 500 BAGS
Seal:EU0001643815 25150
TCKU3884082/20'DV/2230 500 BAGS
Seal:EU0001641405 25150
TCKU3950820/20'DV/2180 500 BAGS
Seal:EU0001641495 25150
TCLU2091081/20'DV/2230 500 BAGS
Seal:EU0001643876 25150
TCLU2096524/20'DV/2230 500 BAGS
Seal:EU0001641427 25150
TCLU2151616/20'DV/2230 500 BAGS
Seal:EU0001641515 25150
TCLU2608467/20'DV/2200 500 BAGS
Seal:EU0001643652 25150
TCLU3037594/20'DV/2200 500 BAGS
Seal:EU0001641477 25150
TCLU3110801/20'DV/2200 500 BAGS
Seal:EU0001643819 25150
TCLU3111583/20'DV/2200 500 BAGS
Seal:EU0001643608 25150
TEMU2023952/20'DV/2180 500 BAGS
Seal:EU0001642510 25150
TGHU1814740/20'DV/2280 500 BAGS
Seal:EU0001643822 25150
TGHU1815181/20'DV/2200 500 BAGS
Seal:EU0001643738 25150
TGHU1901398/20'DV/2200 500 BAGS
Seal:EU0001642444 25150
TGHU2314116/20'DV/2230 500 BAGS
Seal:EU0001641518 25150
TGHU2425296/20'DV/2200 500 BAGS
Seal:EU0001643837 25150
TGHU2608532/20'DV/2200 500 BAGS

DUBAI BANK (K) LTD. P.O. Box 11129 00400 NAIROBI

MSC SHIPPING CO. LTD.
AS AGENT FOR THE CARRIER MSC

PORT SUDAN, 11/03/2013 11/03/2013

ANNEX10 B16

B16

بسم الله الرحمن الرحيم

P.O. BOX 48784 - 00100, GPO
TEL: 3875118, 3875225
3875159
FAX: 3875187

KABARNET ROAD,
OFF NGONG ROAD

سفارة السودان - نيروبي

NAIROBI - EMBASSY OF SUDAN

Date: 3rd October, 2013

Commissioner of investigations
Kenya Revenue Authority (KRA)
Times Towers - 26th floor
P.O. Box 48240, 00100
Nairobi.

KENYA REVENUE AUTHORITY RECEIVED 03 OCT 2013 DOMESTIC TAXES COLLECTION INVESTIGATION & ENFORCEMENT DEPARTMENT Time...... Sign

Attn: George Muia

RE: **CONFIRMATION OF SUGAR IMPORTED BY MUMIAS SUGAR COMPANY (MSC)**

We hereby confirm that the consignment of 10,000 MT imported by Mumias Sugar Company Ltd in March 2013 was manufactured and packed in Sudan, at Kenana Sugar Company Ltd.

Sudan is a member of COMESA.

Please assist where necessary.

Yours faithfully,

Kamal Ismail Saeed
Ambassador

Seal:EU0001641475		
TGHU2819005/20'DV/2200	500 BAGS	
Seal:EU0001643836		25150
TGHU3079958/20'DV/2200	500 BAGS	
Seal:EU0001641519		25150
TGHU3424967/20'DV/2250	500 BAGS	
Seal:EU0001641512		25150
TGHU3519039/20'DV/2200	500 BAGS	
Seal:EU0001641414		25150
TGHU3577930/20'DV/2200	500 BAGS	
Seal:EU0001643642		25150
TOLU2492961/20'DV/2179	500 BAGS	
Seal:EU0001643954		25150
TRHU1904640/20'DV/2180	500 BAGS	
Seal:EU0001641503		25150
TRHU1904660/20'DV/2180	500 BAGS	
Seal:EU0001641472		25150
TRHU1984373/20'DV/2180	500 BAGS	
Seal:EU0001643622		25150
TRHU2065798/20'DV/2180	500 BAGS	
Seal:EU0001641492		25150
TRHU2084020/20'DV/2180	500 BAGS	
Seal:EU0001641438		25150
TRHU2135220/20'DV/2200	500 BAGS	
Seal:EU0001641497		25150
TRHU2138467/20'DV/2180	500 BAGS	
Seal:EU0001642417		25150
TRHU2142683/20'DV/2180	500 BAGS	
Seal:EU0001642556		25150
TRHU2206129/20'DV/2180	500 BAGS	
Seal:EU0001643833		25150
TRHU2222259/20'DV/2180	500 BAGS	
Seal:EU0001643858		25150
TRHU2404090/20'DV/2100	500 BAGS	
Seal:EU0001643733		25150
TRLU3716193/20'DV/2220	500 BAGS	
Seal:EU0001643875		25150
TRLU3716980/20'DV/2230	500 BAGS	
Seal:EU0001643668		25150
TRLU8858293/20'DV/2230	500 BAGS	
Seal:EU0001643814		25150
TRLU8894069/20'DV/2230	500 BAGS	
Seal:EU0001643839		25150
TRLU8897601/20'DV/2230	500 BAGS	
Seal:EU0001641491		25150
TRLU8949639/20'DV/2230	500 BAGS	
Seal:EU0001643643		25150
XINU1074755/20'DV/2200	500 BAGS	
Seal:EU0001643859		25150
XINU1266001/20'DV/2200	500 BAGS	
Seal:EU0001643813		25150
XINU1290420/20'DV/2150	500 BAGS	
Seal:EU0001643840		25150
XINU1417427/20'DV/2200	500 BAGS	
Seal:EU0001643729		25150

Total Cntrs: 400
Total Gross: 10,060,000KGS
Total Tare: 894,703KGS

DUBAI BANK (K) LTD.
P.O. Box 11129
00400
NAIROBI

MSC SHIPPING CO. LTD.
AS AGENT FOR THE CARRIER MSC

PORT SUDAN, 11/03/2013

11/03/2013

ANNEX II B 15

EAST AFRICAN COMMUNITY ....ORIGINAL................. C.17 B CUSTOMS Regulations 39,89,104,105

SINGLE ADMINISTRATIVE DOCUMENT (SAD) - SIMBA

1 Exporter /Consignor TIN/PIN KENANA SUGAR COMPANY LIMITED PO BOX 2632 KHARTOUM SUDAN	2. Processing Office MSA	3. Frontier office	4. Regime code C4
	5. Voyage/Flight/Vehicle No. JH315A	6. Date of arrival/departure. 22/03/2013	FOR OFFICIAL USE Entry Number and Date 2013MSA 4050717 16/04/2013
	7. Manifest Number 2013MSA107554	8. AWB/BL/RCN No. MSCUPS239775	9. Country of Consignment SD
10. Importer / Consignee TIN/PIN P051196415U MUMIAS SUGAR COMPANY LTD C/O DANTES PEAK LIMITED 66521 NAIROBI	11.Ctry of last Consign / 1st Dest. BR	12.Country of final Destination	13. Port of Destination
	14. Place of discharge/Loading CNT /	15.Mode of transport Sea	16. Nationality of Transport PA
	17.Vehicle owner/Driver	18. Seal Number(s) EU0001641494 see Details Manifest	19.Country of Transit
	20.Total Number of Items 1	21.Total Packages 200000	22.Total Gross Weight 10060000
23. Declarant / Agent TIN/PIN P051353183D EMICA LOGISTICS LIMITED NAIROBI CITY WEST Declarant Ref. No. 3292	24. Location of Goods	25. Warehouse code No Description	26. Period in W/hse/Transit
	27.Valuation method ACV	28. Total F.O.B Value	29.Terms of Delivery 100
	30.Terms of Payment	31. Account Number.	32.Bank / Branch Reference
	33. Bond Security Number N/A	34. Bond/Cash Amount 0	35. Total Freight
36. Total Insurance / 37. Total Other Charges	38. Total Customs Value 613078146.925	39. Other information	

Item 01

40. (a) Shipping Marks & Nos./Container Nos. LIST ATTACHED 400X20FT CNTRS AS PER MANIFEST DETAILS CNTR		(c) Commodity code 170199 90	(d) C.P.C C400	(e) Gross Weight	(f) Net Weight 10000000
(b) Goods Description 200000 BAGS 10000 MT CANE SUGAR BRAND NAME KENANA GREEN CANE SUGAR SPECIAL POL 99.8 PERCENT MOISTURE 0.06 DEGREES MAX COLOUR 150 ICUMSA UNITS MAXIMUM IN 50 KG POLYPROPYLE		(g) 1st Supp. Qty. 10000000	(h) Units 1st Supp Qty kg	(i) 2nd Supp. Qty.	(j) Units 2nd Supp Qty
		(k) Type of packaging BG	(l) No. Packages 200000	(m) Country of Origin SD	(n) Preference code
(o) License Number E1303037216	(p) License Value / Qty	(q) Value/Qty Deducted	(r) FOB Value 4645000	(s) Freight 92243368.5	(t) Insurance 69675
(u) Other Charges 0	(v) Currency Code EUR	(w) Exchange Rate 110.471	(x) CIF Value	(y) Customs Value 613078146.925	

41. REVENUE INFORMATION

(aa) Tax Type		(bb) Tax Base. / Value	(cc) Rate	(dd) Tax Due
I	120	Custom Value / 613078146.925	100%	0
Ii	320	VAT Value / 613078146.925	16%	98092504
Iii		/		
Iv		/		
V		/		

43. Attached documents

45a. Code	45b. Number

44. Preceding Documents Ref.

(ee) Total Tax due on this item 98092504

46. SUMMARY TOTALS	i 120	ii 320	iii	iv	v
This Page	0	98092504	0	0	0
Other Pages	0	0	0	0	0
Totals	0	98092504	0	0	0

47. Other Charges

47a. Code	47b. Amount
710	13789271
732	24523126
745	92000

48. Grand Totals (Duties, Taxes and Other charges) 136496901 (Net To Pay)

FOR OFFICIAL USE

PROPER OFFICER: 00654 Passed On : 06/05/2013

CASH/CHEQUE: Amount Paid .... Receipt Number and Date .... Cashier's Signature and Stamp ....

49. Declaration

I/We EMICA LOGISTICS LIMITED the undersigned of. .... (Company name)
Being the Agent/Principal of. .... (Importer/Exporter) do hereby declare that the information and particulars declared herein are true and complete.

Place .... Tel/Fax ....

B17

Kenana

Kenana Sugar Company Limited

KSC

كنانة

شركة سكر كنانة المحدودة

Renewable Green Source of Food & Energy

مصدر أخضر متجدد للغذاء والطاقة

From The Office Of Managing Director

مرمكتب العضو المنتدب

Ref.MD/L/064/2013

October 1, 2013

The Commissioner,
Investigation & Enforcement Department,
Kenya Revenue Authority,
26th Floor, Times Tower,
Haile Selassie Avenue,
Nairobi

KENYA REVENUE AUTHORITY
03 OCT 2013
INVESTIGATION & ENFORCEMENT DEPARTMENT

Through :

The Managing Director,
Dubai Bank Kenya,
ICEA Building, Kenyatta Avenue,
Nairobi

Dear Sir,

RE: KENYA REVENUE AUTHORITY NOTICE DATED 25/09/2013

We have been informed that the Stock of Sugar sold by us to Dantes Peak Ltd./Mumias Sugar Company Ltd., Kenya and kept under Collateral Management with Portside/Pwani Godown, Mombasa, Kenya have been put under your control, for further investigation. This has created a very difficult financial position for us.

In this regard, we wish to clarify that Kenana Sugar Company Limited, is a Sudanese Company operating in the Republic of Sudan, is the bonafide owner of the stock of Sugar kept under Collateral Management with Portside/Pwani Godown. We also confirm that the Sugar is of COMESA origin which has been exported to Kenya by us for Mumias Sugar Company Ltd. Due to the seizure of stock by you, the Buyers are unable to remit the Sales Proceed to us. As such, it is creating a default position for us under our Export obligation.

We therefore, request you to please release the Stock of Sugar on an urgent basis, so that the Sales Proceeds could be remitted to us.

Yours sincerely,

Mohamed ElMardi ElTegani,
Managing Director,
Kenana Sugar Company Limited

Kenana Sugar Company Limited

NBK12 B14

KENYA REVENUE AUTHORITY

Customs & Excise Department

PAYMENT AUTHORIZATION

ESLIP NUMBER : 2013MSA549274F

B14

FORM F 147

1 Name & Adress of Client DANTES PEAK LIMITED 66521	PIN NUMBER P051196415U	2 Station Code MSA	3. Payment Authorization N° 2013MSA549274 Date 20/04/2013 11 31 44
		4 Regime Code M9	5. Payment Office BANKMSA
6 Agent Reference		Prepayment A/C	

ITEMS

8 Description of Transaction		9.CPC	10. Preceding Documents Refs.		11. Revenue	
Item / Code	Description		Type	Number	DUTY/TAX	AMOUNT
001	MSS LEVY	C400	E	2013MSA4050717	745	202 991 00
002	VAT IMPORTS	C400	E	2013MSA4050717	320	6 629.260 00
003	IDF FEES (2.25%)	C400	E	2013MSA4050717	710	937.086 00
004	SUGAR DEVELOPEMENT LEVY	C400	E	2013MSA4050717	732	1 657.065 00
				TOTAL	9,425,402 00 KES	

12. Attached Documents					
Item / Code	Description	N°	DATE	PROPER OFFICER	PAYMENT OFFICE
				01246	N°....... KES 9,425,402.00 Received for payment of the declared transaction(s)* Cashier Date ......

ANNEX 12

3

MASTER AGREEMENT FOR THE SUPPLY OF SUGAR

This agreement is made and entered into on 1st February 2013 between Dantes Peak Limited Whose registered address is 66521-00800 Nairobi (hereinafter referred to as the Importer, which expression shall where the context so admits to its agents, representatives, assignees and successors in title) on the one part and Mumias Sugar Company Ltd THE BUYER whose registered address is Private Bag, Mumias (hereinafter referred to as the Buyer, which expression shall where the context so admits to its agents, representatives, assignees and successors in title) on the other part

WITNESSETH:

1. WHEREAS the Importer has experience in the sourcing, procurement and supplying of sugar in the international market, and, in general, all matters pertaining to the international sugar business.

2. Whereas the Buyer is a reputable sugar milling and marketing company in Kenya that has a licence to import quota sugar from Common Market for East & Southern Africa treaty signatory countries (with any such licence issued to the Buyer referred to in this agreement as the "**Quota**" and the sugar to be imported under the Quota as "**COMESA origin sugar**").

3. The Buyer desires to utilize the Importer's sourcing, procurement and sugar supply services to satisfy its demand for imports into Kenya of COMESA origin sugar on the terms set out below.

IT IS AGREED:

1. **Appointment**

   (a) The Buyer (on its own behalf, and to the extent that the Buyer is issued with the Quota but for whatever reason it directs that the actual Quota be issued in the name of an associated or other company, then also on behalf of such other party) hereby appoints and retains the services of the Importer as its supplier of COMESA origin sugar for importation into Kenya and the Importer hereby accepts such appointment on the terms set out below.

   (b) For the duration of this agreement, the Buyer shall not contract with any other person for the supply into Kenya Sugar (of COMESA origin) or purchase or procure the purchase of such sugar itself.

   (c) For the duration of this agreement the Importer agrees that it shall not purchase any COMESA origin sugar for supply to any other sugar miller in Kenya without the prior approval of the Buyer provided that this shall not impinge in any way on the Importer's rights to continue with their other businesses .

   (d) If the Quota is annulled at any time during the currency of this Agreement or if the terms of the Quota are modified to an extent that makes it impossible for the Importer to perform its obligations under this agreement, then it is agreed that this agreement shall have no force and effect and neither party shall be under any further obligation to the other except that the Buyer shall be bound by any order placed with the Importer for the purchase of sugar under this agreement before such withdrawal, annulment or variation.

2. **Term**

(a) This Agreement shall come into full force and effect today and shall continue (unless terminated earlier) until midnight Kenyan time on 31 December 2013 unless one party shall have given to the other notice of termination to the other on or before 01 October 2013 in which case this agreement shall expire automatically at midnight Kenyan time on 31 December 2013. If no such notice shall have been given by 01 October 2013 then the term of this agreement shall continue automatically beyond 31 December 2013 until the full quota as agreed in this agreement is fulfilled.

(b) To the extent that this Agreement shall be extended beyond 31 December 2013 the parties agree that this agreement shall apply (with due alteration of details) to the importation of the Quota.

3. **Termination**

(a) Either party shall be entitled forthwith to terminate this agreement by written notice to the other if:

(i) the other party enters into any form of liquidation, winding-up or receivership (otherwise than for a *bona fide* reconstruction), including having a petition for winding-up presented against it or having a receiver appointed in respect of its assets or any part thereof.

(ii) that other party commits any continuing or material breach of any of the provisions of this agreement and, in the case of such breach which is capable of remedy, fails to remedy the same within 30 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied;

(iii) that other party ceases, or threatens to cease, to carry on business.

(b) Any waiver by either party of a breach of any provision of this agreement shall not be considered as a waiver of any subsequent breach of the same or other provision.

(c) Upon termination of this agreement for any reason, subject as otherwise provided in this agreement and to any rights or obligations which may have accrued prior to termination (such as, without limitation, the obligation to pay for any consignment of sugar ordered), neither party shall have any further obligation to the other under this agreement.

4. **IMPORTER'S OBLIGATIONS**

(a) The Importer's obligations under this Agreement, consistent with its obligations to deliver the consignment Cost Insurance & Freight ex CFS Mombasa only, shall comprise utilising its supply relationships to source, negotiate and finance a consignment of COMESA origin sugar ordered by the Buyer in accordance with this Agreement (**"Consignment"**) together with all intermediate steps including, without limitation, arranging or procuring:

(i) the collection of a Consignment from the premise of origin;

(ii) the transportation of the Consignment to the port of despatch;

(iii) procuring that the Consignment is adequately insured in accordance with the terms set out in the Physical Supply Contract (as defined below);

(iv) arranging for the Consignment in the name of the Buyer to be inspected for the purposes of a customs clean report of findings ("**CRF**") (without giving any assurance that a CRF will infact be issued);

(v) all export clearances and other steps necessary to enable a consignment of goods to be exported from the country of origin to Kilindini Port Mombasa .

(b) The procedure that shall be followed in relation to each Consignment shall be as set out in the Physical Supply Contract (as defined below) but shall include the following:

(i) The Buyer shall inform the Importer of its total requirements for COMESA origin sugar which shall include quality and quantity requirements and such other standards as may be required to be specified in the Physical Supply Contract (as defined below);

(ii) The Buyer, in conjunction with the Importer will determine a purchasing strategy based on the Buyer's requirements;

(iii) The Importer shall be solely responsible for sourcing the agreed amount of COMESA origin sugar from appropriate suppliers and the Buyer agrees that it shall not solicit offers or otherwise approach potential suppliers unless specifically asked to do so by the Importer;

(iv) Having concluded its own enquiries the Importer shall provide the Buyer with the proposed terms of supply for a Consignment. The Buyer may accept such supply terms or ask for re-negotiation or further investigation.

(v) If such terms preferred by the Importer are accepted by the Buyer, the Buyer shall provide the with this confirmation in writing provided that the Importer shall not be obliged to take any step in purchasing a Consignment unless it has entered into a contract with the Buyer setting out the terms of purchase and supply of that specific Consignment ("**Physical Supply Contract**").

(vi) The terms of each Physical Supply Contract shall include the terms of this Agreement but also substantially the terms set out in Schedule 1 to this Agreement, with the precise details of each consignment to be agreed upon and inserted at that time.

(vii) Upon the Physical Supply Contract being entered into by both parties the Importer shall commence the process of executing the purchase and delivery of the Consignment as agreed.

(viii) Both the Buyer and the Seller shall open and operate a joint escrow account where the proceeds of the sales will be managed.

(ix) Transfers to the respective buyer and sellers account from the Escrow account will only be done after reconciliation by the two parties

(c) The Importer agrees to act diligently and to use its reasonable commercial endeavours to act at all times in good faith in the best interests of the Buyer in the procurement and purchase and supply of any Consignment.

5. **Confidentiality**

(a) This Agreement is confidential, and neither party shall without prior consent of the other, disclose any information relative to or derived as a result of this Agreement, except as may be required to ensure performance of this Agreement. Such confidentiality obligation shall continue to bind both parties to this Agreement following termination of the Agreement for whatever reasons.

6. **Nature of this Agreement**

(a) No course of dealing nor any delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under this agreement shall impair any such right, power or remedy or be construed to be a waiver thereof or acquiescence therein.

(b) Subject to the Physical Supply Contract this agreement contains the entire agreement between the parties with regard to its specific subject matter, supersedes any previous agreements and understandings between the parties on this specific subject matter, and may not be modified except by an instrument in writing signed by the duly authorised representatives of the parties.

(c) Each party acknowledges that, in entering into this agreement, it does not do so on the basis of or rely on any representation, warranty or other provision except as expressly provided in this agreement, and accordingly all conditions, warranties or other terms implied by stature or common law are hereby excluded to the fullest extent permitted by law.

(d) Nothing in this agreement shall create, or be deemed to create, a partnership between the parties.

(e) If any provision of this agreement is held by any court or other competent authority to be void or unenforceable in whole or part, the other provisions of this agreement and the remainder of the affected provisions shall continue to be valid.

7. **Governing Law**

This agreement shall be governed by and construed in all aspects in accordance with Kenyan law

Modifications

No modifications may be made to this Agreement unless agreed to by both parties and evidenced in writing and duly authorised and executed by the parties hereto.

IN WITNESS WHEREOF, the authorised representatives of the parties have executed this Agreement on the date first hereinbefore mentioned:

SCHEDULE 1

Terms of the Physical Supply Contract

BUYER: MUMIAS SUGAR COMPANY LIMITED

SELLER: DANTES PEAK

1. QUANTITY: 30,000 metric tonnes
2. QUALITY: ICUMSA 150 and above
3. PACKING: *In new sound polylined polypropylene bags of 50 kilos net weight each. Sugar to be packed into containers of 20 feet in length, containing 21.5 metric tons/sugar net weight*
4. ORIGIN: Any COMESA origin at the Seller's option.
5. PRICE: *Kshs 4,350 per 50kg bag (ex warehouse in Mombasa).*
6. SHIPMENT: To be in lots of 10,000 metric tonnes per consignment as agreed between Dantes Peak and Mumias Sugar Company on their delivery schedules
7. PAYMENT: Within 30 days from date of bill of lading.
8. WEIGHT, QUALITY, QUANTITY AND PACKING: To be final at time of loading at origin as certified by internationally recognised independent certification agents preferably SGS.
9. INSURANCE: Insurance, including marine insurance and war risk insurance, from port warehouse in country of origin to Buyers warehouse at final destination shall be affected by the seller

   TAXATION: The sugar originates from a COMESA country hence no duties. However the price quoted above includes all taxes (if any) and clearing charges.
10. LICENCES: The Buyer shall be responsible for obtaining and maintaining the necessary import licence for each contract between the parties (the Seller shall provide the necessary proforma invoice) and the Seller shall be responsible for obtaining and maintaining any necessary export licence. While the parties acknowledge that the failure to obtain an import licence shall not be sufficient ground for a claim of force majeure if the regulations in force at the time when the contract was entered into called for such licences to be obtained, in such event or in the event that there is a ban on the importation of sugar, the Seller shall resell the consignment concerned at the best price available on the international market to minimise any losses to the Buyer.
11. CUSTOMS CLEAN REPORTS OF FINDINGS: The tonnage committed to under this contract is at all times subject to the Importer obtaining an appropriate customs clean report of findings ("CRF") for entry of the contracted sugar consignment into Kenya. To the extent that the contracted sugar consignment fails to be issued with a CRF then the Importer shall cancel the consignment in question and neither the Buyer nor the Importer

shall be obliged to make any payment to the other arising from such cancellation.

12. SETTLEMENT: If for any reason the Buyer is prevented from importing sugar into Kenya and at such time there is already a contracted consignment of sugar, then subject to clause 12 above, the Importer shall endeavour to dispose of such sugar on behalf of the Buyer at the best price reasonably achievable. The Importer shall be entitled to retain the proceed of such sale on account of the amount receivable under clause 5 PRICE provided that if such sale proceeds obtained:

a. are higher than the price specified in clause 5 PRICE above then the Importer shall arrange for the surplus to be remitted to the Buyer;

b. are lower than the price specified in clause 5 PRICE above then the Buyer shall arrange for the shortfall to be remitted to the Importer;

c. are equal to the price specified in clause 5 PRICE, then no payment shall be due or made.

Any amounts payable under this clause shall be remitted promptly to the bank accounts of the relevant party.

12. FORCE MAJEURE: The performance of this contract is subject to force majeure in accordance with the Rules of The Refined Sugar Association.

13. TITLE: Title to the goods shall not pass until the Seller has received full payment of the Price in accordance with Seller's instructions.

14. EXCLUSIONS: Unless the contract contains any statement expressly to the contrary, the provisions of neither the convention relating to a Uniform Law on the International Sale of Goods, of 1964, nor the United Nations Conventions on Contracts for International Sale of Goods, of 1980, shall apply thereto. Unless the contract contains any statement expressly to the contrary, a person who is not a party to the contract has no right under the English Contract (Rights of Third Parties) Act 1999 to enforce any term of it. All express and implied conditions and warranties, statutory or otherwise, as to merchantable quality, fitness for purpose, state or condition or time for delivery of a contracted consignment of sugar are hereby and expressly excluded to the fullest extent permissible at law.

15. ARBITRATION: All disputes arising out of or in connection with this Contract shall be referred to The Refined Sugar Association for settlement in accordance with the Rules Relating to Arbitration. This Contract shall be governed by and construed in accordance with Kenyan Law.

16. RULES: This contract is subject to the rules of The Refined Sugar Association as fully as if the same had been expressly inserted herein, whether or not either or both parties hereto are members or are represented by a member of the Association. In the event of any inconsistency between the terms of this contract and such rules, the terms of this contract shall prevail.

17. STATUS AND POWERS: Buyer is fully and properly established under the laws of the jurisdiction of its incorporation. Buyer has the power (1) to

CML

execute this agreement and any other documentation relating to this agreement to which it is a party; (2) to deliver this agreement and any other documentation relating to this agreement that it is required by this agreement to deliver; and (3) to perform its obligations under this agreement. Buyer has taken all necessary action to authorise such execution, delivery and performance. Such execution, delivery and performance do not violate or conflict with (1) any law applicable to Buyer; (2) any provision of its constitutional documents; (3) any order or judgement of any court or any governmental agency or regulator applicable to Buyer or any of its assets; or (4) any contractual restriction binding on or affecting Buyer or any of its assets.

18 APPROVALS ETC: Buyer has obtained all governmental and other consents, approvals, licences and authorisations ("Consents") required in respect of this agreement, and such Consents will remain in full force and effect at all relevant times and all conditions of such Consents have been complied with. Buyer's obligations under this agreement constitute Buyer's legal, valid and binding obligations, enforceable in accordance with their respective terms.

19 MASTER AGREEMENT FOR THE SUPPLY OF SUGAR: This agreement is subject to the terms of the Master Agreement for the Supply of Sugar dated [*insert date*] and entered into between the Buyer and the Importer and in the event of any inconsistency or ambiguity between the terms of this Agreement and the terms of such Master Agreement for the Supply of Sugar, the terms of Master Agreement for the Supply of Sugar shall prevail.

Signed by Anwar Hussein director duly authorised for and on behalf of **Dantes Peak Limited** in the presence of:

Name of witness:
Signature of witness:
Address of witness:

Occupation of witness

Dantes Peak Ltd. P.O. Box 66521 - 00800, Nairobi, Kenya

Signed by P. KEBATI director duly authorised for and on behalf of **Mumias Sugar Company Limited** in the presence of:

Name of witness: E. L.
Signature of witness:
Address of witness:

Occupation of witness

MUMIAS SUGAR COMPANY LTD. PRIVATE BAG, MUMIAS Kenya, East Africa.

E K Otieno LLB (Hons) CPS (K) Advocate & Commissioner for Oaths Notary Public & Certified Public Secretary Private Bag Mumias

Kenana
Kenana Sugar Company Limited
KSC
كنانة
شركة سكر كنانه المحدودة

Renewable Green Source of Food & Energy
مصدر أخضر متجدد للغذاء والطاقة

CERTIFICATE OF PRODUCTION

10,000 METRIC TONS OF WHITE SUGAR BRAND NAME KENANA GREEN CANE SUGAR SPECIAL AS PER SPECIFICATIONS:

SHIPPER:	KENANA SUGAR COMPANY LIMITED P.O. BOX 2632, KHARTOUM, SUDAN
CONSIGNEE:	TO ORDER OF DUBAI BANK KENYA LIMITED/ MUMIAS SUGAR COMPANY LIMITED
NOTIFY:	DANTE'S PEAK LIMITED, LAVINGTON, HATHERU RD, P.O.B 66521- NAIROBI-KENYA
VESSEL NAME:	MSC TASMANIA OR309R
DESCRIPTION OF GOODS:	CANE SUGAR BRAND NAME KENANA GREEN CANE SUGAR SPECIAL IN 50 KGS POLYPROPYLENE BAGS CROP 2012-2013 POLARIZATION 99.8 PERCENT. MOISTURE 0.06 DEGREES MAX. COLOUR 150 ICUMSA UNITS MAXIMUM.
B/L DATE:	11-03-2013
PORT OF LOADING:	PORT SUDAN.
PORT OF DISCHARGE:	M0MBASA, KENYA.
TOTAL NET/GROSS WEIGHT:	10,000 MT.

THIS IS TO CERTIFY THAT THE ABOVE MENTIONED CONSIGNMENT STUFFED IN MSC TASMANIA OR309R HAS BEEN PRODUCED DURING THE CURRENT CROP OF JAN - 2013, EXPIRY DATE OF JAN-2016 AND IS THUS, FIT FOR HUMAN CONSUMPTION.

For Kenana Sugar Company Limited
08.05.2013

Kenana Sugar Company Ltd * Export Sales DEPT. * KSC

website:www.kenana.com
E-mail:info@kenana.com
PO Box 2632 Khartoum, Republic of the Sudan,Tel. :+249 183 224703 - 224704, Fax : +249 183 220563
ص.ب: ٢٦٣٢ الخرطوم .جمهورية السودان . هاتف :٢٢٤٧٠٤ - ٢٢٤٧٠٣ ١٨٣ ٢٤٩+ فاكس :٢٢٠٥٦٣ ١٨٣ ٢٤٩+

4

KENYA SUGAR BOARD

PERMIT NO.: KSB/CRI/012/12(01) (r.4(II))

FORM B

THE SUGAR ACT
(No. 10 of 2001)

IMPORT PERMIT

UNDER THE SUGAR (IMPORTS, EXPORTS AND BY-PRODUCTS) REGULATIONS 2008

THIS IS TO CERTIFY THAT: MUMIAS SUGAR COMPANY LIMITED

Consignee:

PIN No.: P000599737M

Postal Address: P.O. BOX PRIVATE BAG MUMIAS

Physical Location: MUMIAS TOWN

Telephone No.: 056-641620

Business Permit No. 2012/1412

Bill of Lading: MSCUPS239775

I.D.F. No.: E1303037216

Type of Sugar: MILL WHITE/BROWN

Quantity (MT): 10,000

Source of the Sugar: SUDAN

Destination of the Sugar: KENYA

Port of Entry: MOMBASA, KENYA

C.I.F. Value: US $ 708.98 PER MT

Vessel Name MSC TASMANI A OR309R

Shipping Agent: MEDITERRANEAN SHIPPING CO.S.A.

Expected Date of Arrival 25.03.2013

Issue Date: 22.03.2013

Expiry Date: 22.05.2013

KSB Official

For and on Behalf of Kenya Sugar Board

Chief Executive Officer

Kenya Sugar Board

Signature / Seal Stamp

N.B. This Permit is subject to conditions set out overleaf

ANNEXE 3

4

KENYA BUREAU OF STANDARDS

PRE-EXPORT VERIFICATION OF CONFORMITY (PVOC)	CERTIFICATE OF CONFORMITY

RFC Date: 02/03/2013

IDF No: E1303037216

Reference No.:

CoC No: KEN 2013 524341 / 0001

Issuance Date: 28/03/2013

Page 1 of 1

Importer	Exporter
Importer: M/S DANTES PEAK COMPANY LIMITED P.O. BOX. 66521 LAVINGTON, HATHERU RD NAIROBI -, Kenya Tel.: Fax: Email:	Exporter: KENANA SUGAR COMPANY LIMITED PO BOX 2632 KHARTOUM -, Sudan Tel.: +249 0183224703 Fax: +249 0183220563 Email: info@kenana.com
Date of inspection: 09/03/2013 — Place of inspection: Sudan	Port of destination: MBA-MOMBASA
Shipment Mode: Sea Container / Seal No.:	Country of Supply: Sudan Quantity Delivered (Full/Part): TOTAL
FOB value: 4,645,000.00 EUR	Invoice No.: SAI100677 Date: 11/03/2013

Declared HS Code	Quantity	Product/Description	Route Used	Standard / Normative REF	Registration / Licence Ref.
0001 17011190	10.000.00 MT	WHITE REFINED SUGAR, KENANA GREEN CANE SUGAR SPECIAL, IN 50 KG BAGS, -	A	KS 38	

Remarks :

N/A

This certificate is issued for and on behalf of the Kenya Bureau of Standards (KEBS) according to the requirements of the pVoc program of Kenya, is valid for a period of three months from its issue date, and is subject to the general terms and conditions of service of Bureau Veritas. The issuance of this certificate does not release the contractual parties from their own responsibilities and the fulfilment of their legal and contractual obligations. This document does not evidence shipment.KEBS may reject the consignment covered by this CoC if found to be non-conforming on verification at the port of entry.

Issuing Bureau Veritas GSIT Office: SATWA, DUBAI, United Arab Emirates

Name: Stephen Fernandes

Printed and signed in: Kenya

KENYA

ANNEX 13

KIBOS SUGAR REFINERY LTD.

P. O. BOX 311 5, KISUMU, KENYA
Post Code 40100,
Tel.: +254 725 652 555 / +254 736 157 777
Email: headoffice@kibossugar.com
KENYA - EAST AFRICA

Friday February 1, 2019

KSRL/012/02/2019

The Clerk of National Assembly
Parliament Buildings
P.O. Box 41842
NAIROBI

Dear Sir,

RE: WAIVER OF DUTY ON RAW SUGAR FOR INDUSTRIAL USE.

We refer to the above and to your letter of reference number NA/DCS/COI/2019/(184) dated 21st January 2019 contents of which we have noted and provide the following information as requested:-

Kibos Sugar Refinery Limited (KSRL) has been seeking a waiver to import raw sugar from the world market on zero duty for refining in our Kibos Sugar Refinery Ltd, a factory completed and commissioned in 2015 with a capacity to produce 150,000 tonnes of industrial sugar per year which is just about 40,000 tonnes less than the country's total requirement of 190,000 tonnes per year.

The grades of refined sugar earmarked for production include the following:

1. EC2 – Food grade for supply to the beverages and confectionary industries;
2. Pharmaceutical grade – For supply to the drug manufacturing industries.

Kibos Sugar Refinery Limited (KSRL) was ready to commence production since 2015

The following is a progress report on the granting of the duty waiver on raw sugar for industrial use.

31st March 2016 30th June 2016	EAC Gazette of 30th June 2016 Legal Notice No. 33 granted Kenya duty remission on raw sugar at a duty rate of 0% for one year on condition that the sugar for industrial use produced shall be sold to manufacturers in the region except for those in Tanzania.
19th August, 2016	KSRL made a request to National Treasury and to KAM to clarify the EAC Gazette Notice which had included a condition in the duty remission as follows: "In the event that the finished products are sold in the Customs territory (EAC) such goods shall attract duties; levies and other charges provided in the EAC Common External Tariff".

10th April 2017

KSRL wrote to the CS, National Treasury again requesting that the condition provided in the Gazette Notice be removed so as to allow the products made using the refined sugar from the raw sugar imported by KSRL easy access into the EAC market.

19th April, 2017

KSRL wrote to CS, Ministry of Industry, Trade and Cooperatives seeking extension of duty remission on raw sugar while also requesting for the removal of the above condition as it limited access of any product made from the refined sugar processed from the duty free raw sugar into the EAC.

12th May 2017

Kenya Gazette Notice Vol CXIX No 62 appeared as a consequence of the declaration by the President and Commander in Chief of the Kenya Defence Forces through Executive order No.1 of 2017 that the drought and famine in parts of Kenya is a national disaster, and duty shall not be payable for sugar and milk powder. The Gazette Notice allowed "sugar imported by any person, with effect from the date of the notice viz 31st August 2017;"

May 15th 2017

Kenya Sugar Manufacturers Association (KESMA) raised a protest to the CS Treasury, CS, Agriculture, and PS Agriculture seeking Government's permission to restrict the imported sugar to table sugar and that only sugar millers be allowed to import so as to control the amount of sugar that would be imported. (See attached KESMA letter).

July 14th 2017

The EAC through Legal Notice No EAC/103/2017 approved the Duty Remission on Raw Sugar imported by KSRL up to 30th June 2018. The conditions imposed on Legal Notice No 8 of 30th June were reinstated.

KSRL again requested the CS National Treasury and CS Industrialization to make clarification on the condition included in the EAC Gazette Notice of 30th June 2016 on importation of raw sugar. On 2nd November 2017 KRA, Commissioner of Customs and Border Control clarified to KSRL that the condition that finished items manufactured from such sugar when sold to other partner states shall attract duties, levies and other charges as provided in the CET. He said that this is a country specific duty remission and can only be enjoyed by manufacturers of the specified country.

October 24th 2017

KSRL wrote to the CS National Treasury requesting an extension of the gazette notice for importation of duty free sugar which had closed the importation deadline to 30th October 2017 (See attached letter)

August 14th 2018

KSRL wrote to CS, Treasury seeking waiver of duty on raw sugar for refining into sugar for industrial use. This is because KSRL request for the extension of duty remission for 2017/2018 was not renewed. (see attached letter). The same request was also sent to the PS, Industry, Trade and Cooperatives, giving reasons why KSRL has not been in a position to import duty free raw sugar.

14th August 2018 — PS, Industrialization responded to KSRL indicating that the ministry was collecting information on the sugar value chain to ensure other players in the value chain are given a level playing field.

20th September 2018 — KSRL wrote to the Sugar Directorate to assist KSRL get a waiver of duty on raw sugar for refining into sugar for industrial use.

2nd October 2018 — KSRL requested the Chairman of the Multi-agency Enforcement Unit, Mr Wanyama Musiambo to allow the company purchase condemned sugar for refining in the KSRL sugar refinery.

We made an initial request in 2016/2017 financial year for a waiver of duty under the Duty Remission Scheme for an amount of 150,000 tons of raw sugar. As you are aware, we have put up a state-of- the art sugar refinery, the only one in East and Central Africa. We intend to produce sugar for industrial use for confectioners, pharmaceuticals, and the minerals and beer industries. Kenya is a deficit producer of sugar. It produces brown sugar at a very high cost. Removing raw sugar in Kenya for processing into refined sugar would first result in a larger deficit of sugar in the domestic market forcing Kenya to import more sugar, and secondly, due to the high cost of production, the refined industrial sugar from locally produced sugarcane would not be able to compete with the cheaper world market price of refined sugar. We have attached herewith our cost calculations to support this.

Duty Remission was granted to us in 2016/2017 through KAM who supported our request. We were only able to secure approval for importing the same from KEBS a year later in September 2017. Copy of the approval letter attached. The duty free period therefore, lapsed without us importing the sugar since the above condition was not addressed

KSRL reapplied for duty remission of 100% Duty Remission in the year 2017/2018 which was granted. However, in the same period, Kenya opened its doors for duty free sugar of any kind to be imported duty free due to the serious shortage of domestic sugar at the time (This was gazette on Kenya Gazette Notice Vol CXIX No. 62). This included industrial sugar much of which was available in the local market shelves packed for domestic use. It made no business sense to bring in raw sugar since the company would have incurred massive losses so we had no option but to delay the importation of raw sugar.

The above scenario informed our decision not to import raw sugar as there was no business sense in importing raw sugar to compete with duty free industrial sugar imported into the country from the world market vide Kenya Gazette Notice Vol CXIX No. 62.

Our application was submitted to the Treasury on 6th April 2018 under the Duty Remission Scheme requesting for one more year of extension of the 0% duty. We are surprised that this was not granted reasons being that we did not utilize the facility granted to us for the preceding two years.

This has hit us hard for the following reasons:

Our Kshs 2 billion investment has been lying unused for almost 3 years now. Due to the prevailing reasons elaborated above, we feel that we are being punished twice for a mistake that is not of our own making. For the Kibos Sugar Refinery to compete favourably with imported sugar for industrial use, it will be necessary to import the raw sugar duty free.

The Kibos Sugar Refinery is a significant investment that would serve the country in a big way in the following manner:

1. Provide mass employment
2. Provide technology transfer
3. Reduce insecurity in the country
4. Reduce poverty levels and
5. Inject money into the economy.
6. Import substitution by providing high quality refined sugar for industrial use to confectioners, pharmaceuticals, mineral drinks and alcohol producers at an affordable price
7. It will save the country's foreign exchange reserves.
8. It will provide much needed sugar for industrial use which is not manufactured either in Kenya or the EAC
9. The refinery expects to supply the Kenya market and have a surplus for export within the East African Community and COMESA thereby earning the country much needed foreign exchange
10. KSRL is going green, adding value to all the waste streams to ensure zero waste through highly efficient means of production resulting in a sustainable and healthy environment.
11. This project fits into the Manufacturing pillar of the Big Four Agenda of the National Government and its success will attract further investments in this sector as the market is significant.

Other Benefits that will accrue to the East African counties include the following:

1. Many beverage, food and pharmaceutical companies import large quantities of industrial sugar into the country annually. This project will reduce their costs and time consumed in imports and make goods cheaper for the local market;
2. The Kibos Sugar Refinery Limited will create another 1000 jobs directly and more than 1000 indirectly.
3. The project will create wealth and reduce poverty;
4. Transfer of skilled knowledge to Kenyans;
5. Kibos spends enormous amounts of money on corporate social responsibility. This project will release more funds for CSR;
6. Expansion will lead to the improvement and repair of roads and infrastructure which is a boon to the farmers in Kisumu County;

7. Kibos is a green project, it is improving the environment and reduces emission of CO_2 thus reducing global warming

8. The Chatthe Group will raise additional taxes to the tune of Kshs. 1,500,000,000.00 (Kenya Shillings One Billion Five Hundred Million)

9. The project will contribute to the realization of Vision 2030 of the government of Kenya:

10. The Project supports the Government's Big Four Agenda of Industrialization

KSRL has made several appeals through the PS Industrialization, Treasury and inspection was also conducted at the Kibos Sugar Refinery Plant (copy of inspection report enclosed) but so far, we have not had any success..

We had hoped that our request for a special concession as an industry under the Big 4 Agenda could be considered for a special waiver from the Cabinet Secretary Treasury.

Enclosed also please find a copy of our annual licence for processing raw sugar for industrial use and import licences

Your assistance in resolving this matter will be very highly appreciated.

Thanking you

Yours Faithfully

R.S.Chatthe
Managing Director

APPENDIX 13

KIBOS SUGAR REFINERY LTD.

P. O. BOX 3115, KISUMU, KENYA
Post Code 40100,
Tel.: +254 725 652 555 / +254 736 157 777
Email: headoffice@kibossugar.com
KENYA - EAST AFRICA

Tuesday August 14, 2018

The Permanent Secretary
Ministry of Industry, Trade and Cooperatives
State Department of Industrialization
Social Security House, Block A
Bishops Road, Capital Hill
P O Box 30547-00100
NAIROBI.

Kind Attention Of: Ms. Betty Maina

Dear Madam PS,

RE: WAIVER OF DUTY ON RAW SUGAR FOR REFINING INTO SUGAR FOR INDUSTRIAL USE

We wish to draw your attention to our meeting in your office on Friday 3rd August 2018 at which we made an appeal for a waiver of customs duty on raw sugar for the Kibos Sugar Refinery Ltd. It is unfortunate that in the current budget period 2018/2019, Kibos Sugar Refinery was not granted waiver of Customs Duty under the Duty Remission Scheme for importation of Raw Sugar for industrial use under HS Code 1701.14.90.

As you are aware, we have put up a state-of- the art sugar refinery, the only one in East and Central Africa. We intend to produce sugar for industrial use for confectioners, pharmaceuticals, and the minerals and beer industries. Kenya is a deficit producer of sugar. It produces brown sugar at a very high cost. Utilizing brown sugar produced in Kenya for processing into refined sugar would further result in a larger deficit of sugar in the domestic market forcing Kenya to import more sugar, and secondly, due to the high cost of production, the refined industrial sugar from locally produced sugarcane would not be able to compete with the cheaper world market price of refined sugar. We have attached herewith our cost calculations to support this.

Duty Remission was granted to us in 2016/2017 through KAM who supported our request. We were only able to secure approval for importing the same from KEBS a year later in September 2017. Copy of the approval letter attached. The duty free period therefore, lapsed without us importing the sugar.

We reapplied for duty remission of 100% Duty Remission in the year 2017/2018 which we were granted. However, in the same period, Kenya opened its doors for duty free sugar of any kind to be imported duty free due to the serious shortage of domestic sugar at the time. This included industrial sugar much of which is still available in the local market shelves packed for domestic use. It made no business sense to bring in raw sugar for refining under these conditions as it would render us huge losses.

35X

Appendix 1

10. The Chatthe Group will raise taxes to the tune of KSHS. 1,500,000,000.00(Kenya Shillings One Billion Five Hundred Million)

11. This project fits into the Manufacturing pillar of the Big Four Agenda of the National Government and its success will attract further investments in this sector as the market is significant.

12. The project will contribute to the realization of Vision 2030 of the government of Kenya;

13. The Chatthe Group spends enormous amounts of money on corporate social responsibility. This project will release more funds for CSR;

Madam PS, the purpose of this communication is;-
To earnestly request your office to intercede with the Treasury and recommend to the Cabinet Secretary, Treasury to provide us with a single entry duty free window as a country so as to enable us commence operations of this large investment that is lying idle in the country for the last three years. This will boost the manufacturing sector in Kenya. We do believe this refinery will be one of the forerunners that will attract investments in the Refining, Beverage and Confectionary sectors of the economy that will support the Big 4 agenda in the manufacturing sector.

Madam PS, we recognize your assistance in ensuring that the refinery was approved to import duty free raw sugar in the past for which we are very grateful. We continue to appeal to you to actively intercede for us once more in this matter. It is our earnest appeal and request that you give this request to the Cabinet Secretary, Treasury. Our raw sugar / brown sugar is now ready to be loaded from Brazil for the refinery.

To support our request, we enclose the following documents: -

1. Letter of Credit
2. Marine Insurance Certificate
3. Import Declaration Form
4. Proforma Invoice dated July 2nd 2018 .

We look forward to your kind assistance in this matter,

Yours Faithfully,

R.S.Chatthe
Managing Director

STAR SUGAR

ANNEX 14 63

(2) ROSE pls deal FA 28/2/19

(1) DI Committees 25/2/19

THE PRESIDENCY

EXECUTIVE OFFICE OF THE PRESIDENT

HEAD OF THE PUBLIC SERVICE

Telegraphic Address
Telephone: +254-20-2227436
When replying please quote

STATE HOUSE
P.O. Box 40530-00100
Nairobi, Kenya

Ref. No. ....SH/9 Vol: IV 40 and date

RECEIVED 22 FEB 2019 CLERK'S OFFICE

......................................, 20..........
20th February, 2019

Mr. Michael Sialai, CBS
Clerk of the National Assembly
The National Assembly
Parliament Building
NAIROBI

Dear Mr Sialai,

RE: MEETING WITH THE SELECT COMMITTEE ON IMPLEMENTATION TO CONSIDER THE IMPLEMENTATION STATUS OF THE REPORT BY THE DEPARTMENTAL COMMITTEE ON AGRICULUTRE, LIVESTOCK AND COOPERATIVES ON THE CRISIS FACING THE SUGAR INDUSTRY IN KENYA

Your letter dated 7th February 2019 refers.

The Committee on Implementation has written to invite the Chairperson of the Multi-Agency taskforce for a meeting on 21st February 2019 at 12:00.

A close scrutiny has shown that the said committee is interrogating the implementation of the Parliamentary report on the Sugar Crisis that was passed by the House in 2016. The said committee report in the chapter on recommendations, recommends as follows:-

THAT, the government establishes a permanent inter-agency enforcement unit on sugar trade which should enhance the capacity to verify, scrutinise and monitor cross-border trade and step up border patrols to eradicate sugar smuggling. The unit should draw membership from KPA, Public HEALTH, AFFA, KEBS, the Kenya Police, KRA and other relevant government agencies.

ANNEX 14

The Mutli-Agency Taskforce referred to is actually a Multi-Agency Committee directed by His Excellency the President to be a coordinating unit in the fight against illicit trade which is chaired by the Deputy Head of Public Service, Wanyama Musiambo. This committee is not charged with dealing with only sugar smuggling but the larger issues relating to combating illicit trade in Kenya of which sugar is but a small portion.

This is clearly not the unit which is envisaged by the committee report

The Cabinet Secretary for Agriculture, Livestock, Fisheries and Irrigation gazetted on 9th November 2018 the ***Task Force of Sugar Industry Stakeholders to make recommendations for the Development of the Sugar Industry in Kenya*** comprising Governors, a Senator, a MP, some private millers and other government agency members. The taskforce's term of reference includes reviewing the policy and legal framework of the sugar industry; reviewing the challenges facing the sugar industry, reviewing any matter that may aid the revitalization of the sugar industry.
(attached hereto is a copy of the said gazette notice)

The taskforce was initially given 30 days to complete its work, which was extended for a further 30 days after that.

This taskforce will make recommendations that would take into consideration the matters raised and recommended by the parliamentary report.

In view of the foregoing, the right person to attend the committee on implementation would therefore be the Cabinet Secretary for Agriculture, Livestock, Fisheries and Irrigation or the members of the said taskforce, we would add no value attending the session.

Yours Sincerely

JOSEPH K. KINYUA, EGH
HEAD OF THE PUBLIC SERVICE

ANNEX 15

892

SHREE GANESHAY NAMAH

IMPORTERS,EXPORTERS
MANUFACTURERS OF DALLS,SPICES,
CURRY POWDER AND PRODUCE DEALERS.
SPECIALIST IN GRAM FLOUR

SHREE SAI INDUSTRIES LTD

P.O.BOX 49796 – 00100 CHANGAMWE ROAD, INDUSTRIAL AREA NAIROBI
TEL: 254 20 6558816/ 6555343/ 6555002/ 6555772/ 6553377
CELL: +254 722 517066 / +254 734 517066 / +254 723 115287 / +254 734 048756 / +254 722 711376
Email: shree@africaonline.co.ke

Pin: P051096118V

(2) D/cnts 13/2/19

(1) CNA to place this before the Committee on implementation. SNA 12/2/19

29th January, 2019

TO: HON. JUSTUS B.N MUTURI; EGH,MP
SPEAKER OF THE NATIONAL ASSEMBLY,
KENYA NATIONAL ASSEMBLY,
PARLIAMENT BUILDINGS, PARLIAMENT ROAD
P.O BOX 41842-00100
NAIROBI

REF: Eleventh Parliament Third Session-2015
Report of the Departmental Committee on Agriculture Livestock and Cooperatives on the Sugar Crisis facing the Sugar Industry in Kenya

Subject: Request To Expunge Shree Sai industries Ltd. from Referenced Report

Dear Mr Speaker,

We refer to the above referenced report where our Company was adversely cited in the above referenced Parliamentary report Chapter 3.3, Item 90, Page 46 and Chapter 4, Item 106, Page 50.
We were not availed an opportunity to be heard.

Please be advised that we have not Imported Sugar in the stated period 2013/2014 KRA, as per attached letter have also confirmed that there was no Sugar Imported by us in the stated period.

We request that our name be expunged from the Report and that we are issued with a clearance report to allow us to continue with our process of obtaining the Sugar Import Licence.

Await an urgent response to our request,

Yours Faithfully,
Shree Sai Industries Ltd

Bina Patel
Operations Manager
Enclosed: KRA Letter

NATIONAL ASSEMBLY
RECEIVED
30 JAN 2019
SPEAKER'S OFFICE
P. O. Box 41842, NAIROBI.

RECEIVED
12 FEB 2019
CLERK'S OFFICE

(3) Rose
Pls deal
FA 14/2/19

KENYA REVENUE AUTHORITY
ISO 9001:2015 CERTIFIED

CUS/HQ/1

21st January, 2019

Bina Patel
Operations Manager
Shree Sai Industries Ltd
P. O. Box 49796
NAIROBI

Dear Sir,

RE: SUGAR IMPORTATION INTO THE COUNTRY

This is to acknowledge receipt of your letter dated 18th December, 2018 seeking clarification of sugar importation by your company.

We have reviewed records held at KRA and hereby confirm that M/S Shree Sai Industries Ltd PIN P051096118V did not import sugar into the country in the period 2013/2014. Your company imported sugar in the year 2012 and lastly in the year 2016.

We hope that the above information clarifies your inquiry.

Yours faithfully,

Kenneth Ochola
Ag.COMMISSIONER OF CUSTOMS & BORDER CONTROL

MINISTRY OF AGRICULTURE, LIVESTOCK, FISHERIES AND IRRIGATION

RESPONSE TO THE COMMITTEE ON IMPLEMENTATION ON THE SUGAR DEVELOPMENT LEVY AND THE COMMODITIES FUND

BY

HON. MWANGI KIUNJURI, EGH, MGH

CABINET SECRETARY

February, 2019

REPORT TO THE COMMITTEE ON IMPLEMENTATION ON THE SUGAR DEVELOPMENT LEVY AND THE COMMODITIES FUND

The committee on implementation requested the Ministry to provide information on the following concerns:

1. *The rationale for scrapping the Sugar Development Levy, the effects of its removal; and*
2. *The mandate and usage of the Commodities Fund (CF), its challenges and achievements since its introduction.*

1. SUGAR DEVELOPMENT LEVY

1.1 History of Sugar Development Fund

The Sugar Development Fund (SDF) was established by the Government of Kenya in 1992 to be financed by a Sugar Development Levy (SDL) imposed on both domestic and imported sugar. The Sugar Development Levy was a consumer tax paid by consumers and importers on every purchase of sugar. The levy was not for profit and was collected by Kenya Revenue Authority on behalf of Kenya Sugar Board.

The SDF was run by a Board of Directors who formed the SDF Management Committee. The composition of the Committee was as follows:-

- Chief Executive, Kenya Sugar Board
- 2 Millers Representatives
- 3 Growers Representatives
- Permanent Secretary, Ministry of Agriculture, Livestock & Fisheries
- Permanent Secretary, National Treasury

The Sugar Development Levy was initially at 7% but was later reduced to 4%. The SDL, net of what was placed in Reserve (i.e. 15% of gross collections), was shared out as follows:

		%
a)	Factory Development/Rehabilitation	0.71%
b)	Research and Extension	0.94%
c)	Cane Development and Maintenance	0.66%
d)	Industry Infrastructure	0.29%
e)	Kenya Sugar Board (KSB) Administration	1.40%
	TOTAL	**4.00%**

The components for factory rehabilitation and cane development were given out as loans while the rest were grants.

The fund's beneficiaries included sugar industry millers, cane growers, outgrowers' institutions, small scale transporters, land preparation contractors, AFA - Sugar Directorate and its predecessors, Sugar Research Institute and other sugar industry players who were eligible for funding.

1.2 Purpose of Funds;

These were as follows:-

- Cane Development and Maintenance:
- Factory Development/Rehabilitation
- Industry Infrastructure:
- Kenya Sugar Board Administration
- Research and Extension:
- Reserves

a) Cane Development and Maintenance:

- ➢ Procurement of Farm Machinery by efficient small scale transporters and land preparation contractors
- ➢ Special circumstances as determined from time to time by the Board.
- ➢ Procurement of Agrochemicals
- ➢ Land Preparation
- ➢ Weed Control
- ➢ Development and Procurement of Seed Cane

- Development of Irrigation Projects Land Forms for cane

b) Factory Development/Rehabilitation

- Factory maintenance.
- Rehabilitation of Factory Related Machinery leading to expansion and higher levels of efficiency
- Refurbishing of Equipment
- Procurement of spare parts for factory
- Procurement of Agricultural Engineering Services
- Product diversification

c) Industry Infrastructure:

Industry infrastructure or projects consisting of any initiative that has an industry wide effect and benefit and cannot under normal conditions be undertaken by one individual stakeholder given the risk or cost involved and the dispersed nature of the benefits. This included:

- Acquisition of new equipment
- Construction of bridges
- Replacement of unserviceable equipment
- Maintenance of existing roads networks & machinery

d) Kenya Sugar Board Administration:

In carrying out its mandate the former Kenya Sugar Board received grants from the Fund which were utilized towards financing its operations to enable it meet the object and purpose for which it is established.

e) Research and Extension:

In carrying out its mandate the former Sugar Research Institute (SRI) received grants from the Fund which were utilized towards financing its operations to enable it meet the object and purpose for which it is established.

f) Reserves

The Reserves accumulated by the Fund supported the integrity of the Fund and could act as a source of money to cover unexpected financial commitments. The final approval for utilization of these funds fell with the then Ministry of Agriculture, Livestock & Fisheries.

1.3 The use of the Sugar Development Fund

- For a long time the Sugar Development Fund was the only source of loans for cane development and factory rehabilitation. It funded the building of roads and bridges in the sugar belt, payment of farmers' arrears with prior approval from the Parent Ministry and could even finance subsidized fertilizer supplies.
- The fund provided finance to keep struggling private and State sugar millers businesses afloat. Mumias, Nzoia, Chemelil, Sony sugar and Muhoroni have all recently received billions of shillings in loans from this fund.
- The former Kenya Sugar Research Foundation currently Sugar Research Institute under KALRO developed fast-maturing varieties of sugar cane seedlings with the same fund.
- As at 31st July 2014 (i.e. prior to operationalization of the Agriculture and Food Authority (AFA) and Crop's Acts) the Sugar Development Fund had collected **Kshs. 26,311,256,454.95** in the form of levies since inception with a breakdown as follows:

  Levy from Local Sugar - **Kshs. 21,402,291,026.95**

  Levy from Imported Sugar - **Kshs. 4,908,965,428.00**
- Disbursements to the tune of **Kshs. 17,189,801,904.35** had been advanced as loans to various industry institutions.

However, on 1st July 2016 the Sugar Development Levy was discontinued.

1.4 The Rationale or Scrapping the Sugar Development Levy

The government first reduced SDL to 4% in 2007 with a view to enhancing farmers' earnings. However, the ex-factory price of sugar in Kenya being fairly inelastic, no change was realized. Subsequently, at the beginning of the 2016/17 fiscal year, the Sugar Development Levy (SDL) was abolished with the objective of reducing the cost of doing business in the industry thereby enabling the savings accrued to reach farmers in the form of increased earnings. However, the removal of the Levy has not created any positive impact on the growers' earnings which depend on the ex-factory sugar price excluding taxes and levies (including SDL).

1.5 Effect of the removal of the Levy

The effects were realized in the following key areas affecting Sugar production:-

- Affordable loans for factory and cane development
- Research
- Infrastructure
- Funding for Cane Testing Units (CTU)

i). Affordable loans for factory and cane development

From inception of SDF in 1992, the industry has benefited from affordable credit which initially was at 17% then reduced to 5% p.a. for Cane development and Factory Rehabilitation and Maintenance. Production had increased steadily with time peaking at 7.4 million tonnes of cane in 2016 from 639,742 tonnes of sugar in 2013. There were noticeable dips in production in 2008 following levy reduction and in 2011 on account of various factors.

Following the scrapping of levy (SDL) the main source of funding for cane development in 2016, cane production has diminished to worrying levels bottoming out in 2017 to 1990s production levels of about 375,000 tonnes of sugar. Millers have been unable to execute their production plans necessitating frequent government interventions. Indeed, the worst cane deficit in the industry is projected at 5.0 million tonnes of cane in 2019 and most of the mills, particularly the Government owned mills, who shoulder the burden of cane development, have been operating at below 40% installed capacity. The area under cane has diminished from 218,700 ha in June 2016 to the 196,940 ha in June 2017 and currently stands at 193,589 ha with average yields dropping from 70 to 58 tonnes of cane per ha. Cane crushed over the same period dropped from 7.4 million tonnes to 4.5 million tonnes despite the installed milling capacity increasing to 12 million tonnes of cane per year on account of private investments as shown on Table 1. below.

Sugar recovery worsened with an average of 15.29 tonnes of cane used to make a tonnes of sugar up from 12.08 tonnes used in June 2016 on account of harvesting very young and inadequate cane, collected over several days contrary to the best practice.

Table 1. Capacity Utilization for Sugar Plants

	Mill	Installed Capacity(TCD)	Capacity Utilization (A	Remarks
1	Chemelil Sugar	3,000	Operating below capacity	Has resumed milling in September, 2018
2	Muhoroni Sugar	2,200	"	Has resumed milling in September, 2018
3	Kibos Sugar	3,500	"	Crash on daily basis
4	Mumias Sugar	8,000	"	Currently shut down due to cane shortage
5	Nzoia Sugar	3,000	"	Collect cane and crush for 2 -4 days in the week
6	West Kenya	5,000	"	Do not crash on a daily basis
7	Butali Sugar	2,500	"	Do not crash on a daily basis
8	Sony Sugar	3,000	"	Collect cane and crash after 2-3 days
9	Sukari Industries	1,500	"	Do not mill on a daily basis
10	Transmara	4,000	"	Do not mill on a

	Sugar			daily basis
11	Kwale Int. Sugar	3,000	"	Closed
12	Olepito Unit	1,250	Operating below capacity	Do not crash on a daily basis

ii). Research

The Sugar Research Institute (SRI) relied almost entirely on grants from the SDF for its operations. With removal of the levy, research activities have almost ground to a halt. SDL contributed to the development and release of twenty one (21) improved varieties between 2002 and 2014. The varieties are high yielding, early maturing, and disease resistant and have high sucrose content. The requirement for bulking of adequate seed material from these varieties for the industry has not been realized. The requirement for seed cane for the 2017 calendar year alone had been projected to be 470,240 tonnes translating to 47,024 hectares requiring funding to the tune of **Kshs. 933,810,714.85**. It was envisaged that this could have been financed through the levy.

Since the discontinuation of the levy, focused sugar industry research and extension including dissemination for new varieties are limited.

iii). Infrastructure

The conditions of roads are poor which leads to high costs in the cane supply chain on account of slowing down and frequent breakdowns of cane hauling equipment. Since 2006, the fund had granted millers a total **Kshs. 1,968,708,816.25** for acquisition of roads maintenance equipment and construction of bridges and culverts. The equipment enabled most roads in the sugar growing areas to be rehabilitated. Currently the machines are idle, aged and need replacement. Maintenance of sugar roads has not been prioritized by the various County Governments despite being their responsibility.

With grants from SDL, a total of 59 permanent bridges and box culverts with a contract sum of **Kshs. 651,328,866.76** were constructed in the sugarcane growing areas over the life of the fund. These have impacted on cane supply costs by reducing distances travelled to the mills. This support has now stopped. There is still a need to put up more bridges and culverts to reduce on transport costs and increase farmers' revenue.

iv). Funding for Cane Testing Units (CTU)

The former Kenya Sugar Board commenced installation of Cane Testing Equipment in the industry back in 2014, a project currently in its final stages of completion. This was in compliance with the COMESA Council of Ministers Resolution 1 of 2007 which laid out the conditions upon which the Sugar Safeguards for Kenya was extended. Through this project, the Sugar Industry was going to transition to one where sugarcane payment is based on quality as opposed to weight. The project was wholly funded through SDL grants and it was hoped the levy would, at least for a start, provide the funding for operations and maintenance of the cane testing infrastructure. The project is now at its tail end and investments of over **Kshs. 1.7 Billion** already made. For the industry to derive value from it, it is critical that the project is financed to the end. Given the fact that the benefits will cut right across the industry and no single stakeholder has the ability to finance it at this stage, the levy would be the most ideal source of financing otherwise the project is in danger of being rendered moribund should a suitable alternative source of funding fails to be identified soon.

During the period of calibration before roll out that is expected to last the next two years, a budget of **Kshs. 687,040,648** is required. In addition, **Kshs. 95,000,000** is needed for upgrading the earlier pilot CTUs at Nzoia and South Nyanza sugar companies.

2. THE COMMODITIES FUND(CF)

The Commodities Fund (CF) was established under the Crops Act 2013 (amended May 2016), Article 9 (1). The Fund was the successor of Coffee Development Fund and Sugar Development Fund (which was part of Kenya Sugar Board) that ceased to be following the enactment of Crops Act 2013 after the review and consolidation of over 130 laws (which existed in the agricultural sector in Kenya, including the Coffee Act, 2001 that had established Coffee Development Fund, and Sugar Act, 2001 that had established Kenya Sugar Board, which administered Sugar Development Fund) which culminated in the enactment of the Agriculture and Food Authority Act, 2013 (amended May 2016), the Crops Act 2013 (amended

May, 2016), and the Kenya Agricultural and Livestock Research Act, 2013. The Fund was operationalized on 1st August 2014. This implies that the Commodities Fund has taken over the operations of the former Coffee and Sugar Development Funds with a further mandate in terms of lending in the sector and credit collection including legal recourse where need be.

With the taking over the lending operations of the former Sugar Development Fund, Commodities Fund (ComFund) took over the historical outstanding debts of the sugar industry institutions to the tune of **Kshs. 13.9 billion** as at **31st July 2014.**

2.1 ComFund Mandate and Usage

The mandate of the Fund is to provide sustainable and affordable credit and advances to the agriculture sector for:

- Farm improvement;
- Farm inputs;
- Farming operations;
- Price stabilization and;
- Any other lawful purpose approved by the Board of Trustees.

The core functions of the fund include the following:

i) Development of loan products for scheduled agricultural commodities as per Commodities Fund's credit policy, Crops Act, 2013, AFFA Act, 2013 and various crops regulations.
ii) Collection of repayments arising from disbursed credit facilities.
iii) Facilitation of capacity building related to agricultural credit facilities.
iv) Financing agricultural sector infrastructure development.
v) Establish and maintain a price stabilization system.
vi) Financing value addition initiatives within the Agriculture sector

The sources of funds as provided in the Crop Act (2013) to achieve its mandate are:-

- Monies paid as license fees,
- Commission,

- Export or import agency fees that may accrue to or vest in the Agriculture and Food Authority,
- Funds appropriated by Parliament and funds from any other lawful source approved by the Trustees.

However the Fund has not actualized this and there are changes required in the legislation.

2.2 ComFund coverage of SDL functions

The Fund is currently advancing loans for Cane Development and Factory Rehabilitation to industry institutions as was the case during the Sugar Development Fund. Disbursements of grants is the prerogative of Agriculture and Food Authority.

A total of **Kshs. 1,257,545,000** has been disbursed to the sugar industry from ComFund since operationalization of the Crops Act (2013) on 1st August 2014 for Cane Development and Factory Rehabilitation. It should be notable that though ComFund has not received any grants from the Government for on lending, the funds disbursed were only from the proceeds of loan recoveries amounting to **Kshs. 1,575,264,184** over the period 1st August 2014 to 31st December 2018 which it has continued to revolved.

*AFA through the Sugar Directorate in addition disbursed **Kshs. 2,811,344,928** to the sugar industry from Sugar Development Levies it had received to the tune of **Kshs. 2,544,918,465** since operationalization of the Crops Act (2013) on 1st August 2014 for Factory Rehabilitation and Settlement of Farmers Arrears. These funds ideally should have been channeled through ComFund for onward lending. No more loan disbursements have been made from AFA Sugar Directorate since the Sugar Development Levy was discontinued.*

Within the Third Medium Term Plan (MTP III) 2018-2022, the government endeavors to move the economy towards a high growth trajectory to achieve 10 percent economic growth rate by the end of the Plan period. To this end, the government has prioritized programmes and projects which will generate broad based inclusive economic growth, faster job creation, reduction of poverty and inequalities. In addition, the government has identified four priority initiatives "The Big Four Agenda" namely: manufacturing, universal healthcare, affordable housing and food security to be achieved within the plan period.

The Kenya Development Agenda is in line with Sustainable Development Goals (SDGs) and the Africa Agenda 2063. Within the Africa Agenda 2063, the relevant goal is in Aspiration 1, Goal 5: Modern agriculture for increased productivity. In the SDGs, the relevant goals for ComFund are:

a) SDG 1: End Poverty in all its forms everywhere;
b) SDG 2: End hunger, achieve food security and improved nutrition and promote sustainable agriculture;
c) SDG 9: Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation; and
d) SDG 12: Ensure sustainable consumption and production patterns.

ComFund therefore has an important role to play towards the achievement of the SDGs, Africa Agenda 2063, Kenya Vision 2030 and The Big Four Agenda by supporting the crops sector through provision of affordable credit and advances across the value chain.

2.3 Achievements of ComFund

Since 1st August 2014, ComFund has mainly been concentrating on provision of credit for coffee and sugar due to inadequate finances. The Fund has achieved the following:

i) Having in place a fully functional Board of Trustees as well as a Chairman.
ii) Developed a five year strategic plan covering 2018/19 to 2022/23
iii) Disbursement of **Kshs. 1,303,811,810** towards individual coffee farmers and institutions within the sector;
iv) Disbursement of **Kshs. 1,257,545,000** in loans for Cane Development and Factory Rehabilitation to Sugar Millers. The funding was strictly from loan recoveries as no financial support has been availed from the Government since the Fund came into being on 1st August 2014;

v) Developed various financial products for coffee and sugar to meet customer's needs;

vi) Establishment of regional offices in Nyeri, Embu, Meru, Eldoret, Kisumu and Kericho;

vii) Development and implementation of operational policies and procedures for smooth running of the Fund;

viii) The Fund has in collaboration with Coffee Research and County Government been able to beef capacity of over 3,000 farmers on coffee husbandry, society management, debt management and project management through the Integrated Coffee Productivity Project (ICPP). The Fund has also issued in excess of 300,000 coffee seedlings.

ix) Developed capacity of the Fund's human capital;

x) Implemented an Enterprise Resource Planning (ERP) system;

xi) Implemented a mobile platform (M-Commodity) to facilitate efficient disbursement and repayment of loans.

4.4 Challenges of the ComFund

a) Large non-performing loan book that was inherited from the former Sugar and Coffee Development Funds. Majority being from the Sugar Development Fund. Majority of the sugar debt consists of historical non-performing loans by Government owned mills and Outgrowers Institutions due to governance issues, misapplication and diversion of loan funds;

b) Inadequate funding support for coffee and sugar crops. The demand for coffee and sugar loans is far higher in comparison to available funds;

c) Lack of funds to develop other scheduled crops. Currently, the Fund lacks monies to develop the additional crops (Fibre Crops, Food Crops Horticultural Crops Nuts and Oils, Tea, Pyrethrum and other related Crops);

d) High levels of indebtedness among its borrowers and especially Government owned sugar Mills in the sugar sector and old coffee loans;

e) Obsolete and inefficient coffee and sugar processing machinery hence high cost of operations and reduced returns;

f) Unclear Government loan write offs; this creates poor borrowing and loan repayment habits since many borrowers default expecting Government write offs. A case in point is the impending privatization of Government owned Sugar Mills wherein the companies owe the fund in excess of Kshs. 10.4 billion;

g) Due to the crisis currently facing the sugar industry of inadequate cane, nonpayment of arrears due to farmers and obsolete machinery prone to frequent breakdown Mumias, Chemelil, Muhoroni, Nzoia and South Nyanza Sugar Companies are heavily indebted to the Fund and are unable to service their debt obligations;

h) The Crops Acts (2013) does not indicate that ComFund is a corporate body however one of the proposed amendments which is currently in the second reading is that the Fund be recognized as such.

i) Lack of transfer of Funds from Sugar Directorate made it difficult for the Fund to fulfill its mandate to Sugarcane farmers.

j) Impending privatization of Government owed mills are affecting remittances of Sugar loans.

k) A number of the Sugar Outgrower Institutions are no longer in operation and the securities in place at the time were floating debentures making it difficult to recover the amounts owed.