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THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – FOURTH SESSION – 2025

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SNA
19/8/25*

DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

REPORT ON:

THE TEA (AMENDMENT) BILL (SENATE BILL NO. 1 OF 2023)

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LIST OF ABBREVIATIONS AND ACRONYMS

AFA	-	Agriculture Food Authority
A&L	-	Agriculture & Livestock
Cap.	-	Chapter
CBA	-	Collective Bargaining Agreement
CBS	-	Chief of the Burning Spear
CECM	-	County Executive Committee Member
CEO	-	Chief Executive Officer
CoG	-	Council of Governors
CS	-	Cabinet Secretary
CTC	-	Crush Tear and Curl
DDC	-	Directorate of Departmental Committees
Dr.	-	Doctor
EATTA	-	East Africa Tea Traders Association
EPZ	-	Export Processing Zone
GDP	-	Gross Domestic Product
GOK	-	Government of Kenya
Hon.	-	Honourable
KALRO	-	Kenya Agriculture & Livestock Research Organization
KEPHIS	-	Kenya Plant Health Inspectorate Service
KFS	-	Kenya Forest Services
KPAWU	-	Kenya Plantation and Agricultural Workers' Union
KTDA	-	Kenya Tea Development Authority
KTGA	-	Kenya Tea Growers Association
LTD	-	Limited
MEMARTS	-	Memorandum and Articles of Association
MOALD	-	Ministry of Agriculture & Livestock Development
MP	-	Member of Parliament
NA	-	National Assembly
NOPEU	-	National Ordinary People Empowerment Union
NTZDC	-	Nyayo Tea Zone Development Corporation
ODM	-	Orange Democratic Movement
PhD	-	Doctor of Philosophy
PS	-	Principal Secretary
SDA	-	State Department of Agriculture
SEZ	-	Special Economic Zone
TBK	-	Tea Board of Kenya
TRF	-	Tea Research Foundation
TRI	-	Tea Research Institute
TRIEA	-	Tea Research Institute of East Africa
REF	-	Reference
UAE	-	United Arab Emirates
UDA	-	United Democratic Alliance
UK	-	United Kingdom

LIST OF ANNEXURES

1. Adoption Schedule of the Report
2. Minutes
3. Copy of the Newspaper Advertisement
4. Copy of the Letter Inviting Stakeholders for the Meeting
5. A Copy of the Prevention of Tea (Amendment) Bill (*Senate Bill No. 1 of 2023*)
6. Matrix of the Bill
7. Witness Attendance Register for the Stakeholder Engagement Meeting

CHAIRPERSON'S FOREWORD

This Report presents the proceedings of the Departmental Committee on Agriculture and Livestock on its consideration of the Tea (Amendment) Bill (*Senate Bill No. 1 of 2023*), which was published on 6th January, 2023. The Bill underwent its First Reading on 12th November, 2024 and was subsequently committed to the Departmental Committee on Agriculture and Livestock for consideration and reporting to the House, pursuant to the provisions of Standing Order 127.

Comprising seventeen (17) clauses, the Bill seeks to amend specific provisions of the Tea Act (Cap. 343) to enhance protection of tea growers' proceeds from potential mismanagement by factories. It also seeks to incentivize value addition by exempting value-added teas from the Tea Levy, and to liberalise the tea sector by providing legal provisions for the direct sale of tea in overseas markets, thereby creating broader market access for producers.

In accordance with Article 118 (1) (b) of the Constitution and Standing Order 127(3), the Committee placed advertisements in the print media on 4th December, 2024 requesting for memoranda on the Bill from the public and relevant stakeholders. Further, through a letter referenced NA/DDC/A&L/2025/014 dated 3rd June, 2025, the Committee invited stakeholders to a public engagement session on Tuesday, 10th June 2025. During this meeting, five (5) stakeholders made oral submissions before the Committee.

The tea sector remains a critical pillar of Kenya's economy, contributing approximately 24% of national foreign exchange earnings. It supports employment in rural areas and sustains the livelihoods of thousands of smallholder farmers. Additionally, the industry has made significant investments in rural economies and local communities where its operations are based.

In its deliberations, the Committee considered the proposed amendments in light of an out-of-court settlement between the Tea Board of Kenya, the Kenya Tea Growers Association, and the East Africa Tea Traders Association. This settlement aimed to resolve contentious issues raised in constitutional petitions challenging the implementation of several sections of the Tea Act, 2020. The withdrawal of these cases by KTGA and EATTA was based on a mutual understanding that the proposed amendments would be reviewed by Parliament.

While the Council of Governors expressed support for the overall intent of the Bill, it raised concerns about the Bill's failure to address the equitable sharing of tea levies with tea-growing county governments, noting that agriculture is a fully devolved function under the Fourth Schedule of the Constitution. Most stakeholders expressed support for the Bill, citing the urgent need for reforms to revitalize the tea sector. They reaffirmed their commitment to constructive engagement on issues affecting the industry and tea farmers.

The Committee wishes to extend its sincere appreciation to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support extended throughout its sessions. We also acknowledge the valuable input from the Kenya Tea Growers Association, the Council of Governors, the Tea Board of Kenya, the Kenya Agricultural & Livestock Research Organization, the East Africa Tea Trade Association, and the Kenya Tea Development Agency. Lastly, I express my deep gratitude to the

Honourable Members of the Committee and the Secretariat for their dedication and contributions to the development and production of this report.

On behalf of the Departmental Committee on Agriculture and Livestock, and pursuant to Standing Order 199(6), it is my privilege and honour to present to this House the Committee's Report on the Tea (Amendment) Bill (*Senate Bill No. 1 of 2023*).

The Committee has reviewed the Bill and recommends its approval with amendments as outlined in the Schedule under Chapter Seven of this Report.

Hon. (Dr.) John Kanyuthia Mutunga, PhD, CBS, MP
Chairperson,
Departmental Committee on Agriculture and Livestock

CHAPTER ONE

I.0 PREFACE

I.1 Establishment of the Committee

- I. The Departmental Committee on Agriculture and Livestock is one of the twenty Departmental Committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:
 - i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
 - ii. *To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;*
 - iii. *On a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
 - iv. **To study and review all the legislation referred to it;**
 - v. *To study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - vi. *To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
 - vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on appointments);*
 - viii. *To examine treaties, agreements and conventions;*
 - ix. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
 - x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - xi. *To examine any questions raised by Members on a matter within its mandate.*

I.2 Mandate of the Committee

2. In accordance with the Second Schedule to the Standing Orders, the Committee is mandated to consider, agriculture, livestock, food production and marketing.
3. In executing its mandate, the Committee oversees the Ministry of Agriculture and Livestock Development.

1.3 Committee Membership

4. The Departmental Committee on Agriculture and Livestock was reconstituted by the House on 5th March, 2025 and comprises the following Members:

Chairperson

Hon. (Dr.) John Kanyuithia Mutunga, PhD, CBS, MP
Tigania West Constituency

UDA Party

Vice-Chairperson

Hon. Brighton Leonard Yegon, MP
Konoin Constituency

UDA Party

Hon. Sabina Wanjiru Chege, CBS, MP
Nominated Member
Jubilee Party

Hon. Gabriel Gathuka Kagombe, MP
Gatundu South Constituency
UDA Party

Hon. Ferdinand Kevin Wanyonyi, MP
Kwanza Constituency
Ford Kenya Party

Hon. Monicah Muthoni Marubu, MP
Lamu County
Independent Member

Hon. Geoffrey Makokha Odanga, MP
Matayos Constituency
ODM Party

Hon. Patrick Kibagendi Osero, MP
Borabu Constituency
ODM Party

Hon. Justice Kipsang Kemei, MP
Sigowet/Soin Constituency
UDA Party

Hon. Yussuf Mohamed Farah, MP
Wajir West Constituency
ODM Party

Hon. Jared Odoyo Okelo, MP
Nyando Constituency
ODM Party

Hon. John Okwisia Makali, MP
Kanduyi Constituency
Ford Kenya Party

Hon. Lawrence Mpuru Aburi, MP
Tigania East Constituency
NOPEU Party

Hon. Ruth Adhiambo Busia Odinga, MP
Kisumu County
ODM Party

Hon. David Kiplagat, MP
Soi Constituency
UDA Party

I.4 Committee Secretariat

5. The Committee is facilitated by the following Secretariat:

Ms. Laureen Omusa Wesonga
Clerk Assistant I/Head of Secretariat

Mr. Victor Kanda Kilimo
Clerk Assistant III

Mr. David Ng'eno
Principal Research Officer II

Mr. Shadrack Musyoki
Senior Research Officer

Mr. Gerald Kadede
Legal Counsel II

Ms. Jacinta Maru
Sergeant-At-Arms

Ms. Brigitta Mati
Senior Legal Counsel

CPA Robert Ngetich
Fiscal Analyst I

Ms. Edith Chepngeno
Media Relations Officer III

Ms. Teresia Macharia
Intern

CHAPTER TWO

2.0 BACKGROUND OF THE TEA SECTOR IN KENYA

2.1 Introduction

6. Kenya's tea industry is a vital pillar of the country's socio-economic development. It contributes approximately 2% to the GDP and accounts for about 23% of total export earnings. The sector supports the livelihoods of around 6.5 million people, directly and indirectly, representing nearly 13% of the national population. Furthermore, there are 834,129 registered tea growers spread across twenty-one (21) counties.
7. Kenya produces over 450 million kilograms of tea annually, generating more than Kshs. 120 billion in export revenue and Kshs. 22 billion from local sales.
8. Despite its significant economic contribution, tea farmers continue to face diminishing returns, largely due to rising production, processing, and marketing costs. These challenges have eroded farmers' income and reduced the sector's net contribution to national economic benefits, including foreign exchange earnings.
9. The Tea (Amendment) Bill, 2023 seeks to introduce targeted amendments to the Tea Act, 2020. Its key proposals include:
 - a) Facilitating direct sales of tea to increase farmer earnings;
 - b) Ensuring transparent and timely payment of tea proceeds;
 - c) Safeguarding tea revenues from mismanagement; and
 - d) Promoting value addition and diversification, including the development of specialty teas, to enhance global competitiveness and profitability.

2.2 Merits of the Tea (Amendment) Bill, 2023

The Bill seeks to address several longstanding concerns raised by stakeholders in the tea industry, including:

10. **Facilitation of direct sales of tea:** Introduction of legal provisions for direct sales of tea by licensed factories or their representatives. It mandates that all processed and manufactured tea for export be offered for sale at the auction floor, while also permitting participation in direct domestic and international sales. The Cabinet Secretary for Agriculture and livestock Development, in consultation with county governments, will develop regulations governing the procedure for such sales (Clauses 34A, 36(1), and 36A (1)).
11. **Introduction of a minimum reserve price:** Sub-clause 36A (2) stipulates that tea sold through direct sales must fetch a price higher than the highest auction price recorded in the preceding three months, thereby safeguarding farmer earnings.

12. **Devolution of transport regulation:** The amendment to Section 37 (1) of the Act requires commercial green leaf transporters to register with County Governments rather than the Tea Board. Sub-clause 37 (3) also empowers county assemblies to legislate procedures for registration and appeals, enhancing local governance and streamlining logistics.
13. **Direct settlement system for tea proceeds:** Section 36 (5) of the Act is amended to introduce a Direct Settlement System, ensuring farmers are paid within fourteen (14) days after an auction or sale. This System is to be supported by commercial banks regulated by the Central Bank of Kenya, ensuring timely and secure payments.
14. **Establishment of additional tea auction centres:** Sub-Clause 36 (8) authorises the Cabinet Secretary, in consultation with counties, to establish additional tea auction centres in tea-growing regions, responding to calls from stakeholders in the West Rift for decentralization.
15. **Incentives for value addition:** Section 53 of the Act is amended to exempt specialty and value-added teas (packed in ≤ 10 kg units) from paying the Tea Levy. Additionally, it reallocates Tea Levy funds: 60% to the Tea Board of Kenya (TBK) and 40% to the Tea Research Foundation, eliminating allocations for price stabilization and infrastructure.
16. **Institutional continuity:** The Bill does not propose changes to the existing institutional framework, ensuring continuity in sector governance.

2.3 Demerits of the Bill

The demerits of the Bill include:

17. **Increased management agent remuneration:** Sub-clause 34 (4) proposes increasing the fee payable to management agents from 1.5% to 2% of net sales, which could further burden farmers.
18. **Reallocation of the Tea Levy:** The amendment to Section 53 (5) of the Act removes funding for price stabilization and infrastructure development, potentially undermining long-term sectoral stability.
19. **Lack of a Tea Revolving Fund:** The Bill fails to establish a Tea Revolving Fund, similar to the Coffee Cherry Advance Revolving Fund, which could offer affordable financing to farmers.

2.4 Comparative Analysis

20. Globally, Kenya ranks as the third-largest tea producer after China and India, contributing 8.3% of global production in 2022. Kenyan tea exports represent 24% of global trade, with over 85 international markets including Pakistan, Egypt, the UK, UAE, and Sudan. Kenya's tea remains globally recognized for its quality and flavour.

CHAPTER THREE

3.0 OVERVIEW OF THE TEA (AMENDMENT) BILL (SENATE BILL NO. 1 OF 2023)

3.1 Introduction

21. The Tea (Amendment) Bill (*Senate Bill No. 1 of 2023*) is a Senate sponsored Bill introduced by Senator Hillary K. Sigei, M.P. The Bill is co-sponsored by Hon. Brighton Leonard Yegon, MP. It was passed by the Senate on 8th October, 2024 and subsequently transmitted to the National Assembly for consideration in accordance with legislative procedures.
22. The principal objective of the Bill is to amend specific provisions of the Tea Act (Cap. 343) to enhance protection of tea growers' proceeds from potential mismanagement by factories. In addition, the Bill seeks to incentivise value addition by exempting value-added teas from the Tea Levy, and to liberalize the tea sector by providing legal provisions for the direct sale of tea in overseas markets, thereby creating broader market access for producers.

3.2 Regulatory Frameworks

23. The Bill proposes new and amended regulatory responsibilities as follows:
 - a) **New Section 36 (8)**: The Cabinet Secretary, in consultation with counties, will prescribe regulations for auction procedures and the establishment of new auction centres;
 - b) **New Section 36A**: Provides for regulations governing direct sales of tea; and
 - c)
 - d) **Amended Section 37 (3)**: County Assemblies to enact laws for the registration of green leaf transporters, including an appeal process in case of denial.

3.3 Potential Impact of the Bill

The Bill is likely to have the following impact if enacted:

24. **Increase in the management fee**: Raising the management fee from 1.5% to 2% could undermine the intended financial benefits to farmers.
25. **Improved marketing and payment systems**: The Bill is likely to improve tea marketing by introducing direct sales and enforcing 14 day payment periods, thereby enhancing farmer liquidity and welfare.
26. **Value addition incentives**: The proposed tax exemptions for value-added and specialty teas are expected to stimulate product diversification, enhance competitiveness, and increase export earnings.

3.4 Clause by Clause Provisions of the Bill

27. **Clause 1** provides for the short title of Bill.
28. **Clause 2** seeks to amend Section 2 of the Tea Act (Cap. 343) by: deleting definition of the words “*export*” and “*import*” and substituting therefor new definitions; by amending definitions of the word “*tea*” and “*value addition*”; and by introducing and defining the terms “*direct sales*”, “*direct settlement system*”, “*green leaf*” and “*tea factory limited company*”.
29. **Clause 3** seeks to amend Section 5 of the principal Act to do away with the powers of the Tea Board of Kenya to register commercial green leaf transporters.
30. **Clause 4** seeks to amend Section 7 of the principal Act on the composition of the Board by replacing the Principal Secretary responsible for National Treasury or their representative with a representative of the Independent Producers Association of Kenya.
31. **Clause 5** seeks to amend Section 8 of the principal Act to affect the appointment of a representative of the Independent Producers Association of Kenya in the term of appointment of the Board.
32. **Clause 6** seeks to amend Section 22 of the principal Act to provide that where a Board member of a tea factory limited company is temporarily unable to perform their duties, the Board of the factory may appoint another person from the respective block to act in their place during the period of absence and not the Tea Board of Kenya.
33. **Clause 7** seeks to amend Section 23 of the principal Act to provide for notification to the Board by a large-scale tea grower on any intended sale or transfer of ownership of their holdings six months in advance.
34. **Clause 8** seeks to amend Section 31 of the principal Act to provide for declaration to the Board of all tea brought into the Special Economic Zone or an Export Processing Zone.
35. **Clause 9** seeks to amend Section 34 of the principal Act to enhance the remuneration of services rendered by a management agent from a maximum of one point five per centum of the net sales value of the tea sold per year to a maximum of two per centum.
36. **Clause 10** seeks to amend Section 34 of the principal Act to incorporate the intended new definition of the term “*tea factory limited company*” in the management agent contract.
37. **Clause 11** seeks to amend the principal Act by inserting a new section immediately after section 34 of the principal Act to provide for the sale of Kenya tea through auction and direct sales and registration of tea processed and manufactured in Kenya.
38. **Clause 12** seeks to amend section 36 of the principal Act to do away with the mandatory requirement of selling tea processed and manufactured in Kenya exclusively through auction, to

allow tea factory limited companies to participate in an auction through approved management agents and ensure that growers are paid within fourteen days from the date of auction.

39. **Clause 13** seeks to amend the principal Act by inserting a new section to provide for direct sale of tea and making of regulations for the direct sale of tea.
40. **Clause 14** seeks to amend section 37 of the principal Act to provide that a person who intends to carry out the business of commercial green leaf transporter to register with the respective county government and not the Board and giving the county assemblies powers to make county specific regulation with respect to that.
41. **Clause 15** seeks to amend section 53 of the principal Act to exempt value added tea from levy and reapportioning the tea levy.
42. **Clause 16** seeks to amend section 74 of the principal Act to correct a grammatical error.
43. **Clause 17** of the Bill seeks to amend section 76 of the principal Act by introducing a transitional provision.

3.5 Gaps not addressed by the Bill (as raised by Stakeholders)

During stakeholder engagement, stakeholders observed that the Bill has the following gaps:

44. **Excessive taxation:** Both national and county governments impose multiple charges, including levies, transport fees, and consultancy fees, increasing farmer costs.
45. **KTDA marketing concerns:** Stakeholders criticized manual bidding and unfair trade practices under the KTDA structure.
46. **Governance issues:** Alleged conflicts of interest in factory management and service outsourcing by TBK remain unaddressed.
47. **Energy costs:** Factories rely heavily on expensive firewood, which accounts for 35% of production costs, due to the stalling of hydro-power projects.
48. **Labour costs:** High CBA-driven labour rates, particularly with KPAWU, continue to strain factory operations.
49. **Broker fees:** The 1.5% per kilogram charge by East Africa Tea Trade Association brokers is above the global average and remains a concern.
50. **Factory governance structure:** The need to reduce the number of electoral zones and directors per factory for efficiency.

51. **Stalled Hydro-power projects:** Farmers continue to repay loans for incomplete projects (e.g. Kapkoros and Kiamokama), with no mechanisms for access to affordable energy alternatives.
52. **Outdated machinery:** Lack of modernization is leading to increased maintenance costs and operational inefficiencies.
53. **Financial transparency:** Stakeholders called for a forensic audit of factory assets and loan portfolios.

CHAPTER FOUR

4.0 PUBLIC PARTICIPATION/STAKEHOLDER CONSULTATION

54. Following the call for memoranda from the public through the placement of advertisements in the print media on 4th December 2024 and vide a letter REF: NA/DDC/A&L/2025/014 dated 3rd June, 2025 inviting stakeholders for a meeting, the Committee received memoranda from the following stakeholders on the Tea (Amendment) Bill (*Senate Bill No. 1 of 2023*):

- i. The Kenya Tea Growers Association;
- ii. The Council of Governors;
- iii. The Tea Board of Kenya;
- iv. The Kenya Agriculture & Livestock Research Organization
- v. The East Africa Trade Association; and
- vi. The Kenya Tea Development Agency

55. The stakeholders submitted as follows:

4.1 The Kenya Tea Growers Association (KTGA)

Ms. Linda Oluoch, Chief Executive Officer, Kenya Tea Growers Association in a meeting with the Committee held on 10th June 2025, proposed the following amendments to the Tea (Amendment) Bill, 2023 on behalf of KTGA:

Clause 2

56. Retain the meaning of “*value addition*” as it is in the Act. This will incentivize value addition, a current priority of the Government through clear, unrestrictive definition.

Committee Observation/Recommendation

The proposal was adopted with amendments by the Committee to capture the correct definition of “value addition”.

Clause 7

57. Delete or clarify the clause by introducing of section 23 (1)(a) and (2) to disclose the interest sought to be protected that requires disclosure to the Board of large-scale tea grower transactions to the exclusion of other agricultural enterprises or tea enterprises will advise the purpose of the disclosure. This is because as a strategic sub-sector to Government, additional requirements for transfer of tea enterprise without appropriate justification presents additional restrictions to the attractiveness of the industry to investors.

Committee Observation/Recommendation

The proposal was rejected by the Committee, the notification to the Board of any intended sale or transfer is important to ensure that the interest of the farmer is protected in such transactions.

Clause 11

58. Adopt the amendment introduced on clause 11, section 34 (a) introducing direct sales of tea overseas. Adoption of the proposal will be favourable to the marketing of Kenya teas (a) the auction; or (b) direct sales. All tea processed and manufactured in Kenya for the export market shall be registered with the Board prior to exportation"

Committee Observation/Recommendation

The proposal was adopted by the Committee since it supports the proposed amendment.

Clause 12

59. Amend the clause by deleting paragraph (e) and maintain the clause in the Tea Act at section 36(7) which allows for competitiveness and disclosure of auction rules by the organizer to the Board. The disruption of the existing auction will destabilize the sector trade and occasion loss of competitive advantages of a centralized, conveniently located auction attracting multiple buyers globally and suitably located to the regional logistics hub at the port of Mombasa.

Committee Observation/Recommendation

The proposal was rejected by the Committee because regulations do not disrupt the auction process but makes the process more efficient. The rules made by the auction organizer under section 36(7) do not amount to regulations.

Clause 13

60. Adopt clause 36A (1) and delete the proposed clause 36A (2) and (3) from the Bill. These stipulate price and procedure for direct sales. There exists a procedure for direct sales and related disclosures which can be monitored through regulatory oversight, and enhanced through digitization of data collection from industry. Provisions in regulations whose implementation can be overseen by the Regulator would also suffice: and may easily be reviewed as appropriate based on the regulator's observations, a flexibility that a provision in the Act will not allow. Also Delete the phrase "in consultation with County Governments" from Clause 36A (4). As indicated, allowing direct sales is advantageous to industry as it opens up avenues for tea marketing and sales.

Committee Observation/Recommendation

The proposal was adopted with amendments to provide that the prices offered at the direct sales shall be competitive and be sold at an average performance price of the last three months. The proposal to delete (3) was rejected by the Committee, it was amended to have the Cabinet Secretary consult the Council of Governors when making regulations.

61. Delete the clause as its anti-competitive prescriptive. The Competition Act provides adequate mechanisms for monitoring of price competitiveness and consumer protection. Further, the stipulation in consultation with county governments in governing tea trading will create inefficiencies, restrict trade and conflict with national economic policies. It discriminates against tea businesses compared to other sectors and lacks clarity on the issue it aims to address.

Committee Observation/Recommendation

The proposal was rejected by the Committee because it is important to safeguard the price of tea in the best interest of the grower. Further, county governments are stakeholders and there is no harm in consulting them in the regulation making process.

62. Delete the phrase "*packed into packets or containers holding not more than ten kilograms*" in the proposed sub-clause (2A) as per justifications above so that the exemption is applicable to all value-added teas. This will overall, incentivize value addition ventures.

Committee Observation/Recommendation

The proposal was rejected by the Committee because it is important to specify the quantity exempted from levy.

Clause 14

63. Delete the Clause. Sufficient provisions exist in County Licensing laws and the Public Finance Management Act. As indicated above, the tea sector is strategic to the Government and has been prioritized under the Bottom-Up Economic Transformation Agenda (BETA). As such proposals that introduce administrative bottlenecks at county level for the sector go counter to the Government's commitment to support the growth of the sector.

Committee Observation/Recommendation

The proposal was rejected by the Committee. County governments can make county specific regulations since they have been given the mandate under the Act to licence Greenleaf transporters.

Clause 17

64. Reverse all immovable assets of the former Tea Board of Kenya and the former Tea Research Foundation of Kenya which were vested in the Agriculture and Food Authority and Kenya Agricultural and Livestock Research Organization upon the commencement of the Crops Act and the Kenya Agricultural and Livestock Research Organization Act shall by virtue of this paragraph vest in the Board and respectively. This will strengthen the institutional framework for industry research and development.

Committee Observation/Recommendation

The proposal was adopted by the Committee because it supports the proposed amendment in the Bill.

4.2 Council of Governors (COG)

Ms. Mary Mwiti, Chied Executive Officer, CoG, in a letter, Ref: COG/6/48 Vol. 68 dated 5th June, 2025, proposed the following amendments to the Tea (Amendment) Bill, 2023:

Proposed Amendment to Section 5

65. Amend section 5 of the principal Act in paragraph (e) by deleting the words "*commercial tea nurseries, commercial green leaf transporters,*" appearing immediately after the words "*tea auction organizers.*" To align to the provision of section 38 of the Act which mandates the county governments to register commercial tea nurseries.

Committee Observation/Recommendation

The proposal was adopted by the Committee. Registration of commercial tea nurseries is a function of county governments under section 38(1) of the Act.

Clause 15

66. Amend by deleting paragraph 15(b) in its entirety and replacing with the following new paragraph: 15(b) "*The tea levy collected under subsection (2) shall be apportioned as follows: twenty per centum shall be applied by the Board in the furtherance or exercise of any function or power of the Board; twenty per centum shall be remitted directly to the Tea Research Foundation for execution of the function of the Foundation; and sixty per centum shall be remitted directly to the tea growing counties to be applied for development of the tea subsector on a pro rata basis*". This is to align the provisions of the Act to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the County Governments shall be responsible for development and regulation of agriculture. To achieve this, counties need to be adequately resourced, we therefore propose that 60% of the Levy is directly disbursed to counties for development of the tea sector.

Committee Observation/Recommendation

The proposal was rejected, the distribution of the levy to be retained as it is in the principal Act.

Clause2

67. Introduce the following new definitions: "*County Executive Committee Member*" means a County Executive Member for the time being responsible for matters relating to agriculture; and "*County Executive Committee*" means a county executive committee as provided for under Article 179(2) of the Constitution". To provide for the definition of the County Executive Committee responsible for matters relating to agriculture given that tea sector is largely devolved to the County Governments.

Committee Observation/Recommendation

The proposal was rejected because the terms are not used in the principal Act.

Proposed Amendment to Section 5

68. Amend sections 5(1)(d), (e), (f), (g), (h) and (j) to read as follows: (d) "*make recommendations to the Cabinet Secretary and County Executive Committee Members on the formulation of policies, plans and strategies for the regulation of the tea sector; (e) register tea buyers, exporters, importers, tea brokers, management agents auction organizers; (f) issue certificate of conformity to manufacturers; (g) In consultation with the County Governments, prescribe the management agents, tea auction organizers, commercial tea nurseries, commercial green leaf transporters; (h) license manufacturers; and (j) prescribe the maximum period and minimum amount for payment of green leaf*". This is because agriculture development and regulation has been fully devolved to County Governments pursuant to the Fourth Schedule of the Constitution. Further, part 2 section 7 of the Schedule gives the County Governments the mandate of Trade development and regulation including-markets and trade licensing. It is therefore imperative that the County Governments are involved in the development of the tea industry for the benefit of the farmers. This therefore means that registration of tea growers, licensing of tea dealers and processors as well licensing of as managing factories and their agents is a maximum period and minimum amount for payment of green leaf.

Committee Observation/Recommendation

The proposal was rejected by the Committee, the functions of the Board under the principal Act are sufficient.

Proposed Amendment to Section 20

69. Amend section 20 (1) to read as follows: "*Functions of County Governments 20(1) pursuant to the Fourth Schedule of the Constitution: (a) the Board, on behalf of the national government, shall be responsible regulation of Imports, exports, development and enforcement of standards in the tea sector;*

and (b) each County Government shall implement the national policies to the extent that the policies relate to the county and in particular shall be responsible for: (i) the development of tea grown within the county; (ii) register tea growers, tea factories, commercial tea nursery operators, green leaf transporters; warehouse operators, tea packers and manufacturers; (iii) license tea manufacturers; (iv) offer and coordinate of extension services on tea production and milling in the respective county; (v) Inspect tea nurseries, processors and warehouses located within their respective counties; (vi) enforce county and national legislation on tea industry code of practice and other industry standards; (vii) in collaboration with the Board and law enforcement agencies, enforce regulations within the county; (viii) sill and conservation of water; (ix) monitor and report of Incidences of pests and disease outbreaks and taking appropriate action in collaboration with the Board and other relevant government agencies; (x) regulation of cooperative societies within the county; and (xi) soil and water conservation”.

Committee Observation/Recommendation

The proposal was rejected by the Committee. There is no proposed amendment to that section in the Bill and the current provision in the principal Act is sufficient.

Proposed Amendment to Section 21

70. Amend section 21(2) and introduce a new clause 21(3) for the this section to read as follows: 21 (1) “Every tea grower shall register with a processor; (2) Every processor shall keep or cause to be kept for statistical purposes, a register of all tea growers registered with under subsection (1) specifying: (a) the name of the grower; (b) the location, size and parcel number of the land on which the tea is grown; (c) the variety of tea grown; and (d) such Information Board Government prescribe; and (3) Every processor shall share the information on the registered tea growers with the respective county government”. To provide for a framework where the processors operating in the county share the information of the registered growers with the respective county government for purposes county statistics on tea production.

Committee Observation/Recommendation

The proposal was rejected by the Committee. There is no proposed amendment to this section in the Bill and the current provisions in the Act are sufficient.

Proposed Amendment to Section 21

71. Amend section 21 (2) and introduce a new clause 21(6) to read as follows: 21(2) “The respective County Executive Committee Member with the approval of the County Assembly, shall prescribe regulations providing for the procedure for registration of small-scale tea growers and medium scale tea growers and the appeal process in case of refusal or denial of registration; (6) The tea factory shall furnish the County Executive Committee Member with particulars of all registered small-scale tea growers or medium scale tea growers in such manner as the County Executive Committee Member may prescribe; and 6A. The County Executive Committee Member shall share with the Board the particulars of all registered small-scale tea growers or medium scale tea growers in the county”. To align to our proposal under section 20 above and provide for consultations in the regulatory making process.

Committee Observation/Recommendation

The proposal was rejected by the Committee. There is no proposed amendment to this section in the Bill and the current provision in the Act are sufficient.

Proposed Amendment to Section 23

72. Amend section 23(1) and (2) to read as follows: 23(1) *“A large scale tea grower shall register with the respective County Executive Committee Member in a prescribed form and shall pay the prescribed fee; (1)(A) The County Executive Committee Member share the particulars of the large-scale tea growers with the Board in a prescribed form; and (2) The Cabinet Secretary in consultation with the County Governments shall prescribe regulations providing for the procedure for registration of large-scale tea growers and the appeal process in case of refusal or denial of registration”*. This is to align the provisions of the Act to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the County Governments shall be responsible for development and regulation of agriculture and trade including markets, trade licenses and fair-trading practices.

Committee Observation/Recommendation

The proposal was rejected by the Committee. The registration of large-scale growers is a mandate of the Board under the principal Act. The proposed amendment in the Bill that require a notification to the Board on any intended sale or transfer of ownership is sufficient.

Proposed Amendment to Section 25

73. Amend section 25 to read as follows: 25 (1) *“A person shall not manufacture tea for sale except under and in accordance with a licence issued under this Act; (2) A person shall apply for a manufacturing licence to the respective County Executive Committee Member in a prescribed form and shall pay the prescribed fee; (3) The County Executive Committee Member may: (a) issue a manufacturing licence, in accordance with this Act; (b) refuse to issue the licence on any ground which may appear to the County Executive Committee Member to be sufficient and inform the applicant in writing of the reasons thereof; and (4) Before the issuance or renewal of a manufacturing licence for a tea factory limited company the County Executive Committee Member shall satisfy a itself that the applicant has obtained a certificate of conformity from the Board and a procurement policy providing for competitive procurement of goods and services”*. This is to align the provisions of the Act to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the County Governments shall be responsible for development and regulation of agriculture and trade including markets, trade licenses and fair-trading practices.

Committee Observation/Recommendation

The proposal was rejected by the Committee. There is no proposed amendment to this section in the Bill and the current provision in the Act is sufficient.

Proposed Amendment to Section 28

74. Amend section 28 to read as follows: 28 (1) *“Every warehouse operator shall register with the respective County Executive Committee Member; (2) A person shall not store tea unless the person is registered in accordance with this Act; (3) The Cabinet Secretary shall, in consultation with the County Governments prescribe regulations providing for the procedure for registration of warehouse operators”*. This is to align the provisions of the Act to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the County Governments shall be responsible for development and regulation of agriculture and trade including markets, trade licenses and fair-trading practices.

Committee Observation/Recommendation

The proposal was rejected by the Committee. There is no proposed amendment to this section in the Bill and the current provision in the Act is sufficient.

Proposed Amendment to Section 29

75. Amend section 29 to read as follows: 29 (1) *“Every tea packer shall register with the respective County Executive Committee Member; (2) A person shall not pack tea unless the person is registered in accordance with this Act; and (3) The Cabinet Secretary shall, in consultation with the County Governments prescribe regulations providing for the procedure for registration of tea packers and the appeal process in case of refusal or denial of registration”*. This is to align the provisions of the Act to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the County Governments shall be responsible for development and regulation of agriculture and trade including markets, trade licenses and fair-trading practices.

Committee Observation/Recommendation

The proposal was rejected by the Committee. There is no proposed amendment to this section in the Bill and the current provision in the Act is sufficient.

Proposed Amendment to Section 37

76. Amend section 37 to read as follows: 37 (1) *“A person who intends to carry on the business of commercial green leaf transporter shall register with the respective County Executive Committee Member; (2) A person shall not carry on the business of commercial green leaf transporter unless the person is registered in accordance with this Act; and (3) The Cabinet Secretary shall in consultation with the County Governments prescribe regulations providing for the procedure for registration of commercial green leaf transporters and the appeal process in case of refusal or denial of registration”*. This is to align the provisions of the Act to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the County Governments shall be responsible for development and regulation of agriculture and trade including markets, trade licenses and fair-trading practices.

Committee Observation/Recommendation

The proposal was rejected by the Committee. The amendment introduces terms that have not been used in the Bill such as Chief Executive Committee Member as a substitute for county government.

Proposed Amendment to Section 38

77. Amend section 38 to read as follows: 38 (1) *“A person who intends to establish a commercial tea nursery shall register with the County Executive Committee Member where they intent to establish a tea nursery”*. To provide clarity as to whom the application for commercial tea nursery is to be addressed to at the county level.

Committee Observation/Recommendation

The proposal was rejected by the Committee. There is no proposed amendment to this section in the Bill. Additionally, there is no justification to substitute county government as it is in the Act with the CECM because the CECM is part of the county government.

Proposed Amendment to Section 39

78. Amend section 39 to read as follows: 39 (1) *“The Board or County Executive Committee Member shall, before registering, licensing or renewing a registration, certificate of conformity or licence under this Act, satisfy Itself that.”* To recognize the role of the County Executive Committee Members in issuance of licenses under the Act.

Committee Observation/Recommendation

The proposal was rejected by the Committee. There is no proposed amendment to this section in the Bill and the current provision in the Act is sufficient.

Proposed Amendment to Section 40

79. Amend section 40(1), (2), (3) and (4) to read as follows: 40 (1) *“A licence or certificate of conformity issued under this Act shall be subject to such conditions as the Board or County Executive Committee Member may determine and as are specified in the licence or certificate and to any conditions which may be prescribed; (2) The Board or County Executive Committee Member shall consider the professional and moral suitability of a person applying for a license or certificate and satisfy itself that such a person is a fit and proper person for the grant of the license or certificate; (3) In considering an application for a licence or certificate of conformity, the Board or County Executive Committee Member may require to be satisfied as to; and (4) The Board or County Executive Committee Member may at any time during the validity of a licence”*.To recognize the role of the County Executive Committee Members in issuance of licenses under the Act.

Committee Observation/Recommendation

The proposal was rejected by the Committee. There is no proposed amendment to this section in the Bill and the current provision in the Act is sufficient.

Proposed Amendment to Section 41

80. Amend section 41(1) and (2) to read as follows: 41 (1) *“An application for the renewal of a licence under this Act shall be made to respective County Executive Committee Member in a form prescribed not later than the first day of the month of June in which the current licence is due to expire; and (2) Despite subsection (1), a late application may be made upon payment of a late application fee as may be prescribed by the County Executive Committee Member”*. To recognize the role of County Executive Committee Members in issuance of licenses under the Act as per the provisions of the Fourth Schedule to the Constitution.

Committee Observation/Recommendation

The proposal was rejected by the Committee. There is no proposed amendment to this section in the Bill and the current provision in the Act is sufficient.

Proposed Amendment to Section 42

81. Amend section 42 to read as follows: 42. *“The County Executive Committee Member may revoke, alter or suspend a licence issued under this Act if in its opinion: (a) an offence under this Act, or in respect of the licensed activity under any other written law, has been committed by the licence holder or any employee of the licence holder; or (b) a condition of the licence has been contravened or not complied with”*. To recognize the role of the County Executive Committee Members in issuance of licenses under the Act as per the provisions of the Fourth Schedule to the Constitution.

Committee Observation/Recommendation

The proposal was rejected by the Committee. There is no proposed amendment to this section in the Bill and the current provision in the Act is sufficient.

Clause 4

82. Amend section 43 to read as follows: 43(1) *“The holder of a licence which is revoked shall Immediately surrender it to the County Executive Committee Member; and (2) A licence holder may at any time surrender the licence to the County Executive Committee Member and the licence shall cease to have effect immediately”*. To recognize the role of the County Executive Committee Members in issuance of licenses under the Act as per the provisions of the Fourth Schedule to the Constitution.

Committee Observation/Recommendation

The proposal was rejected by the Committee. There is no proposed amendment to this section in the Bill and the current provision in the Act is sufficient.

Clause 44

83. Amend by repealing section 44 and replacing it with new section 44 to read as follows: 44 (1) “An applicant for or holder of a certificate who is aggrieved by a decision of the Board may appeal to the Cabinet Secretary on or in respect of: (a) the grant, refusal, renewal, variation or revocation; or (b) the conditions imposed on the grant, renewal or variation, of a certificate; (2) An applicant for or holder of a licence who is aggrieved by a decision of the County Executive Committee Member may appeal to the County Executive Committee through office of County Secretary on or in respect of: (a) the grant, refusal, renewal, variation or revocation; or (b) the conditions imposed on the grant, renewal or variation, of a licence; (3) A person aggrieved by the decisions of the Cabinet Secretary or County Executive Committee under sub-section (1) and (2) may appeal to the High Court; and (4) An appeal under this section shall be lodged within thirty days from the date on which the appellant first received notice of the decision”. To allow the county governments to appoint persons qualifies as crops inspectors for purposes of assisting the county in discharging its mandates under the Act.

Committee Observation/Recommendation

The proposal was rejected by the Committee. There is no proposed amendment to this section in the Bill and the current provision in the Act is sufficient.

Clause 49

84. Amend section 49 to read as follows: 49 (1) “The Board or County Government may appoint qualified persons to be crop Inspectors for the purposes of this Act; and (2) For purposes of subsection (1), the Board in consultation with County Governments may, by regulations, prescribe the qualifications for a crop inspector”. To allow the County Governments to appoint persons qualifies as crops inspectors for purposes of assisting the county in discharging its mandates under the Act.

Committee Observation/Recommendation

The proposal was rejected by the Committee. There is no proposed amendment to this section in the Bill and the current provision in the Act is sufficient.

Clause 74

85. Amend section 74 (1) to read as follows: 74 (1) “The Cabinet Secretary may, in consultation with the Board and County Governments make Regulations”. Agriculture is fully devolved under the Constitution, it is therefore imperative that the Cabinet Secretary consults County Governments in the development of regulations as implementation has a direct impact on how the counties will undertake their functions as provided for under the Fourth Schedule to the Constitution.

Committee Observation/Recommendation

The proposal was rejected by the Committee. County governments are consulted on the regulations that affect counties and not all regulations made under the Act

4.3 The Tea Board of Kenya (TBK)

Mr. Willy Mutai, Chief Executive Officer, TBK, in a meeting with the Committee held on 25th July, 2025, proposed the following amendments to the Bill on behalf of the Tea Board of Kenya:

Clause 2

86. Amend section 2 (d), definition of the word “*value addition*” to read as follows: “*improvement on made tea through blending or flavouring or branding and packaging into a retail packet or a container holding not more than ten kilograms, or tea extracts, tea aroma and decaffeinated tea*”. To provide the correct definition of the word value addition and differentiate value added teas from bulk teas.

Committee Observation/Recommendation

The proposal was adopted by the Committee to capture the accurate definition of the term “value addition”.

87. Amend by introducing a new definition of the word “*e-trader*” after Section 2 (e) to mean “*a person providing platform for buying and selling of tea through platform an e-commerce platform*”.

Committee Observation/Recommendation

The proposal was adopted by the Committee because the Committee proposes to introduce e-trade in the Bill.

88. Amend definitions of “*small-scale tea grower*” to read as follows: “*a person cultivating tea in a parcel of land of less than ten acres supplying green leaf to a tea factory limited company*”. To align the definitions in the context it is used in the tea industry and ascribe the correct meaning to the amendment on “*tea factory limited company*”.

Committee Observation/Recommendation

The proposal was adopted by the Committee to align the definition to the context used in the tea industry.

89. Amend the definition of “*medium-scale tea grower*” to mean: “*a person cultivating tea in a parcel of land supplying green leaf to a tea factory limited company; To align the definitions in the context it is used in the tea industry and ascribe the correct meaning to the amendment on “tea factory limited company”.*”

Committee Observation/Recommendation

The proposal was adopted by the Committee to align the definition to the context used in the tea industry.

90. Introduce a new definition of "bespoke teas" to mean, "*special-order tea that is manufactured to stipulated customer specifications for a determined customer with the exception of straight-line teas and drier mouth teas*".

Committee Observation/Recommendation

The proposal was rejected by the Committee because the term has not been used in the principal Act

91. Introduce a new definition of "straight-line teas" meaning "*black cut-tear-curl teas that fall within the tea grades offered at the Mombasa Tea Auction including Pekoe Fanning One (PFI), Broken Pekoe One (BPI), Dust-1, Pekoe Dust (PD) and secondary grades*"

Committee Observation/Recommendation

The proposal was rejected by the Committee because the term has not been used in the Act.

Proposed Amendment to Section 5

92. Amend by deleting the word "*commercial*" before the words Greenleaf. Commercial green leaf transporters will be registered by the County Governments and not by the Board. To bring all green transporters within the regulatory ambit of the Tea Act and not just commercial green transporters.

Committee Observation/Recommendation

The proposal was rejected by the Committee because registration of commercial green leaf transporters is a function of the county government and not the Board. The Bill intends to delete it from the functions of the Board.

Proposed Amendment to Section 22

93. Amend section 22 by deleting sub-section (1) and renumbering subsections (2), (3), and (4) accordingly. Delete Section one as the size of the Board of tea factory companies is provided for under the Articles of Association.

Committee Observation/Recommendation

The proposal was adopted by the Committee to allow the constitution of company boards to be governed by their Memorandum and Articles of Association and the Companies Act.

Proposed Amendment to Section 25

94. Amend by deleting section 25 (3) since section 31 of the principal Act is amended by deleting "after consultation with the Cabinet Secretary". This is because Issuance of licenses and registrations is not a policy issue but is one of the routine functions of the Board as a semi-autonomous State Corporation. The requirement to consult the Cabinet Secretary during issuance of licenses be deleted. Appeals on issuance or non-issuance to be made to the Cabinet Secretary.

Committee Observation/Recommendation

There is no proposed amendment to this section in the Bill, however, the Committee adopted the proposal because issuance of licence by the Board does not require the consultation of the Cabinet Secretary.

Proposed Amendment to Section 25

95. Amend section 25 by adding a new sub-section 25(6) to read as follows: "a holder of a tea manufacturing license shall notify the Board of any intended sale or transfer of ownership of its holdings 6 months before the transaction is affected". The Cabinet Secretary shall make regulations to provide for transfer of holdings of a tea manufacturer. This will assist to manage significant changes in ownership of a tea factory that may have material effects or impact on the tea value chain.

Committee Observation/Recommendation

The proposal was adopted with amendments by the Committee to allow only a notification of change of ownership to the Board without having a specific timeline since transfer of property is governed by other laws.

Proposed Amendment to Section 31

96. Amend Section 31(1)(a) to be under a different margin note, not imports. Teas destined for Special Economic Zone or Export Processing Zone are not necessarily imports.

Committee Observation/Recommendation

The proposal was rejected by the Committee because section 31 is on imports.

Proposed Amendment to Section 32

97. Amend Section 32 of the principal Act by adding a new subsection 3(c) as follows; “*The remuneration paid to a tea broker by a tea factory limited company and a tea buyer or exporter for services rendered*”. The rates payable for services rendered by tea broker by a tea factory or a tea buyer/exporter to be prescribed through regulations.

Committee Observation/Recommendation

The proposal was rejected by the Committee. The money paid to brokers must be capped to cushion farmers from exploitation.

Proposed Amendment to Section 32

98. Amend Section 32(4) by deleting the words “*limited company*” appearing immediately after the words “*a tea factory*”. To provide clarity on the application of the provisions of Section 32 (4) as being applicable to all tea factories.

Committee Observation/Recommendation

The proposal was rejected by the Committee. The money paid to the brokers must be capped to cushion the farmers from exploitation.

Proposed Amendment to New Section 34A

99. Amend by inserting the following new subsection: 34A(1)(c) “*E-commerce; and 34A (2) The Cabinet Secretary may prescribe regulations providing for the sale of teas through the auction, direct sales and e-commerce.*”

Committee Observation/Recommendation

The proposal was adopted by the Committee to incorporate e-commerce in the trade of tea.

Proposed Amendment to New Section 34B

100. Introduce the following new section 34 (B) to operationalize section 34 (A) (1) (c): 34 B (1) “*A person who intends to establish an e-commerce platform for sale of tea shall register with the Board; (2) A person shall not establish an e-commerce platform for tea unless the person is registered in accordance with this Act; (3) The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of e-traders and the appeal process in case of refusal or denial of registration; and (4) A person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine not exceeding five million shillings or to both*”. This to provide regulatory the framework for sale of teas through an e-commerce platform.

Committee Observation/Recommendation

The proposal was adopted by the Committee to operationalize the provision on e-commerce in the trade of tea.

Proposed Amendment to Section 36

101. Delete Section 36 (c) (5). The proposed amendment will be difficult to implement as proceeds for tea sales for the entire month are aggregated in the tea factories account and then paid to the tea grower by the 5th of the following month.

Committee Observation/Recommendation

The proposal was adopted by the Committee, the current system of paying growers works well and the proposed mode might be impractical to implement.

Proposed Amendment to Section 36

102. Do not delete Section 36 (d) (6) because by deleting this section you will remove the safeguards in the Act meant to ensure tea growers are paid on time from the proceeds of sale.

Committee Observation/Recommendation

The proposal was rejected by the Committee because the growers need to be paid at the earliest time possible.

103. Introduce the following new Section 38B to deal with the registration of a scheme owner and certification agent: 38B. (1) "A person shall not operate a voluntary certification scheme for tea in Kenya without being registered by the Board; (2) A certification voluntary scheme owner or certification agent operating in the tea industry in Kenya shall register with the Board and pay the prescribed fee; (3) The Cabinet Secretary shall prescribe regulations providing procedure registration for the for registration of voluntary certification scheme owners certification agents; and (4) A person who operates a voluntary certification scheme for tea in Kenya without being registered by the Board commits an offence". To control the multiplicity of various certifications in the tea sub-sector which are increasing cost of production thus reducing the profitability of tea producers' earnings and growers'

Committee Observation/Recommendation

The proposal was rejected by the Committee. There is no proposed amendment to this section and the provision in the Act is sufficient.

104. Amend by introducing the following new section 40 (B) immediately after section 40 to disclose the beneficial ownership of a holder of a licence or registration certificate: 40B (1) "An applicant for a license or a certificate registration shall disclose information on beneficial ownership of the company or any entity contained in the application; (2) A holder of a license or a certificate of registration shall within 14 days

following any amendment beneficial of ownership information, furnish the Board with a copy of the amended beneficial owners' register; and (3) A person who fails to comply with Section 40B commits offence". To comply with Section 93A of the Companies Act, 2015 which requires every company registered in Kenya to prepare and keep a register of its beneficial owners.

Committee Observation/Recommendation

The proposal was rejected by the Committee because the requirement for beneficial owner is already provided for under the companies Act and the information can be obtained administratively.

Proposed Amendment to Section 48

105. Amend section 48 by deleting the word "eight" after the word "within" and substituting it with "ten". To enable the tea sector value chain players put in place the necessary infrastructure to do value addition.

Committee Observation/Recommendation

The proposal was adopted with amendments by the Committee to provide that the period for value addition shall be ten years pegged to the date of commencement of business and not the commencement date of the Act.

Proposed Amendment to Section 53

106. Amend section 53 (2A) as follows: "*Specialty tea Value added tea packed into packets containers containing not more than ten kilograms, tea aroma, tea extracts and decaffeinated teas shall be exempted from tea levy*". To provide incentives for value addition of Kenya tea prior to export, brand and origin recognition of Kenya tea and include tea aroma, extracts tea and decaffeinated teas which are high value in the teas to be exempted from tea levy

Committee Observation/Recommendation

The proposal was adopted to capture all the value-added tea and to provide incentives for value addition of Kenyan tea.

Proposed Amendment to Section 54

107. Amend section 54 by deleting subsections 2 (b) and 3 (a). To align to the deleted provisions under Section 53 (5).

Committee Observation/Recommendation

The proposal to delete the Tea Levy from the Act was rejected by the Committee.

Proposed Amendment to Section 74

108. Amend by introducing the following section 74(B) immediately after section 74: 74B (1) *“The Cabinet Secretary may, in consultation with the Board, make guidelines to provide for: (a) Corporate Governance Guidelines for the tea industry; and (b) Code of Ethics and Conduct for tea Director(s)”*. To address the governance challenges in the tea sub-sector and; to foster ethics and integrity among directors in the tea factories.

Committee Observation/Recommendation

The proposal was adopted by the Committee to ensure uniform practice by directors in the governance of the tea sector.

Third Schedule: Tea Blocks

109. Amend the Third Schedule as follows: (1) Deleting "Narok" from the East Block and inserting it under the West Block; and (2) Adding "West Pokot" under the West Block. To correct misclassification of Narok under the tea blocks and to incorporate all tea growing under the West Block respectively.

Committee Observation/Recommendation

The proposal was adopted by the Committee to correct mis-classification of Narok under the tea blocks and to incorporate all tea growing under the West Block.

4.4 Kenya Agricultural and Livestock Research Organization (Tea Research Institute)

Ms. Lilian Kerfo, the Institute Director, Kenya Agriculture and Livestock Research Organization, in a meeting with the Committee held on 10th June, 2025, proposed the following amendments to the Bill:

Subtitle

110. Amend the overall purpose of the Act in the subtitle to read: *"An ACT of Parliament to amend the Tea Act to provide for direct sales of tea, the payment of tea proceeds, governance of Tea Research Foundation, and for connected purposes"* TRF is yet to be reformed due to structural inadequacy in the principal Act.

Committee Observation/Recommendation

The proposal was rejected by the Committee. The Bill does not contain proposed amendments to the Tea Research Foundation.

Proposed Amendment to Clause 55

111. Amend Clause 55 by inserting the following sub-clauses (3) and (4): (3) *“The headquarters of the Foundation shall be in Kericho County; and (4) The Foundation may establish such centres in Kenya as it may consider necessary for the efficient performance of its functions”*. This key item is missing in the principal act.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provision in the Act is sufficient.

Proposed Amendment to Clause 56

112. Amend Clause 56 by inserting the following sub-clauses: *“(1) The Foundation shall consist of the following organs: a) the Board of Tea Research Foundation under section 58; b) the staff under Section 69; c) the research centres specified in the first Schedule to the amended Act; and d) Associate centres, provided for under subsection (2); (2) Any organization/institution which undertakes tea research or similar research, may apply to the Board to join the Foundation, and if the Board grants the application, the organization shall be an associate institute of the Foundation”*. To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provision in the principal Act is sufficient.

Proposed Amendment to Section 57

113. Amend Section 56 in principal Act without altering its contents by substituting it with Clause 57.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provision in the Act is sufficient.

Part VII

114. Introduce a new clause 58 as follows: 58 (1) *“The management of the Foundation shall vest in a Board which shall consist of: (a) a chairperson appointed by the President by notice in the Gazette; (b) the Principal Secretary responsible for Agriculture or a representative nominated by the Principal Secretary in writing; (c) the Secretary to the Science Commission appointed under paragraph 6 of the Second Schedule of Science and Technology Act or a representative nominated by the Secretary in writing; (d) the Principal Secretary responsible for National Treasury or a representative nominated by the Principal*

Secretary in writing; (e) one person of either gender each who shall have knowledge and experience in the tea sector and be from the smallholder subsector in the East and West tea blocks as in Second Schedule nominated by the Cabinet Secretary; (f) One person representing Council of Governors nominated by the Cabinet Secretary; (g) one person elected and representing large scale tea growers nominated by the Cabinet Secretary; (h) Chief Executive officer appointed in accordance with section 64 who shall be an ex-officio member of the Board; (2) The Cabinet Secretary shall appoint the members under subsection (1) (d), (e), (f) and (g) by notice in the Gazette; and (3) A person shall not be appointed to be a chairperson of the Board of Foundation unless that person holds at least a degree or its equivalent in any discipline from an institution recognized in Kenya and has relevant experience in the tea sector". To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provision in the Act is sufficient.

Clause 58 (4)

115. Amend to introduce a new sub-clause (4): "*The Chairperson and members appointed under section 6 (1)(e), (f) and (g) shall serve for a term of three years renewable for one further term*". To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Clause 58 (5)

116. Amend to introduce a new Sub-clause (5): (5) "*A person shall cease to be a member of the Board if such person: (a) is unable to perform the functions of his office by reason of mental or physical infirmity; (b) is adjudged bankrupt; (c) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months; (d) is absent from three consecutive meetings of the Board without the permission of the Board; (e) resigns in writing, addressed, in the case of the Chairman to the President, and in the case of any other member, to the Cabinet Secretary; (f) fails to declare his interest in any matter being considered or to be considered by the Board; or (g) violates Chapter Six of the Constitution*". To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Proposed Amendment to Section 59

117. Amend by introducing the following new clause 59: 59. *“The functions of the Board of the Foundation shall be to: (a) carry out the objects and functions of the Foundation; (b) advise the Cabinet Secretary on matters of policy relating to tea research; (c) oversee the effective co-ordination of the operations of the Foundation; (d) ensure that the activities of the Foundation are consistent with the policy and objectives Of the Government, and the national priorities relating to agriculture and agricultural research; (e) approve, oversee and evaluate on a continuing basis the programs being implemented by the Foundation; (f) direct strategic research and policy and prioritise and determine the research agenda; (g) co-operation with other lead agencies and Foundations in carrying out tea research; (h) development of an economic, efficient and cost-effective internal management structure, strategic and annual plan of the Foundation; (i) implementation and fulfilment of the polices and agreed objectives, performance targets and service standards of the Foundation; (j) provision of advice as required on all matters within the responsibility of the Foundation; and k) perform such other functions as may be necessary for the exercise of its powers and functions under this Act”.* To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Proposed Amendment to Section 60: Powers of the Board

118. Amend by introducing the following new Clause 60: 60. *“The Board shall have all the powers necessary for the proper performance of its functions under this Act and subject to the provisions of this Act, the Board shall have the power to: (a) enter into contracts; (b) manage, control and administer the assets of the Foundation in such manner and for such purposes as best promotes the purpose for which the Foundation is established; (c) receive gifts, grants, donations or endowments made to the Foundation and make disbursement therefrom; (d) open such bank accounts as may be necessary for the funds of the Foundation into which all moneys received by the Foundation shall be paid in the first instance and out of which all payments made by the Foundation shall be made; (e) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Foundation; and (f) subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the Foundation's funds not immediately required for the purposes of this Act, as it may determine”.* To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Proposed Amendment to Section 61: Committees of the Board

119. Amend by introducing the following new Clause 61: 61 (1) *“The Board may, from time to time, establish such committees as it considers necessary for the better carrying out of its functions under this Act; and (2) The Board may co-opt into the membership of a committee established under subsection (1), such other persons whose knowledge and skills are found necessary for the functions of the Foundation”*. To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Proposed Amendment to Section 62: Delegation of Powers by the Board

120. Amend by introducing the following new clause 62: 62. *“The Board may by resolution either generally or in any particular case, delegate to any committee of the Board or to any member, officer, employee or agent of the Board, the exercise of any, of the powers or the performance of any of the functions or duties of the Board under this Act or under any other written law”*. To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Proposed Amendment to Section 63: Conduct of Business Affairs of the Board

121. Amend by introducing the following new clause 63: 63. *“The Board shall conduct its affairs in accordance with the provisions of the third Schedule, but subject thereto, the Board may regulate its own procedure”*. To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Proposed Amendment to Section 64: Appointment of CEO

122. Amend by introducing the following new clause 64: 64 (1) *“There shall be a Chief Executive Officer of the Foundation who shall be competitively recruited by the Board and appointed by the Cabinet Secretary; (2) The Chief Executive Officer shall be appointed on 'such terms and conditions of service as the Board shall determine, with approval of the Cabinet Secretary, for a term of five years renewable for*

one further term; (3) The Chief Executive Officer shall be an ex-officio member of the Board and shall have no right to vote at any meeting of the Board; and (4) The Chief Executive Officer shall be responsible to the Board for all the activities of the Foundation". To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Proposed Amendment to Section 65: Qualifications of Chief Executive Officers

123. Amend by introducing the following new clause 65: 65. "A person shall qualify for appointment as Chief Executive Officer if that person: (a) holds a doctor of philosophy degree in agricultural related fields from a recognized university; (b) is a citizen of Kenya; (c) has experience in: (i) agricultural science; (ii) policy formulation; (iii) policy-oriented research and analysis; (iv) management of human resource and finance; (v) meets the requirements of chapter six of the Constitution; and (vi.) has at least ten years' experience in leadership". To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Proposed Amendment to Section 66: Qualification of a Deputy Director

124. Amend by introducing the following new clause 66: 66. "There shall be a Deputy Director of the Foundation. The Deputy Director shall be appointed by the Board to deputize the CEO on 'such terms and conditions of service as the Board shall determine. A person shall be qualified for appointment as the Deputy Director, if the person: (a) is a citizen of Kenya; (b) holds a doctor of philosophy degree from a university recognised in Kenya; (c) has at least ten years' experience in leadership or at senior management level in research; and (d) meets the requirements of chapter six". To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Proposed Amendment to Section 67: Functions of the Chief Executive Officer

125. Amend by introducing the following new clause 67: 67 (1) "The Chief Executive Officer of the Foundation and shall be under the general supervision and control of the Board; (2) Subject to sub-section (1), the Chief Executive Officer shall be responsible for the: (a) day-to-day operation of the Foundation;

(b) administration of the Foundation and control of the staff of the Foundation; (c) of funds, property and affairs of the Foundation; (d) management of funds, property and affairs of the foundation; (e) implementation of the policies and programs of the Foundation and reporting thereon to the Board; (f) development of an operations plan for achieving the Foundation objects; and (g) performance of any other duty necessary for the implementation of this Act as may be assigned to him by the Board; and (3) The Chief Executive Officer shall submit to the Board for approval, not later than three months before the commencement of each financial year, a programme of activities of the Foundation in respect of that financial year". To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Clause 68: Removal of Chief Executive Officer

126. Amend by introducing the following new clause 68: 68. "The Board may remove the Chief Executive Officer from office in accordance with his terms and conditions of service for: (a) inability to perform the functions of the office arising out of physical or mental incapacity; and (b) gross misconduct or misbehaviour; c) incompetence or neglect of duty; or any other ground that would justify removal from office under the terms and conditions of service". To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Clause 69: Staff of the Foundation

127. Amend by introducing the following new clause 69: 69 (1) "The staff of the Tea Research Institute employed by the Kenya Agricultural and Livestock Research Organization prior to the commencement of this Act, shall be the staff of the Foundation; (2) The Board may appoint such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Foundation under this Act upon such terms and conditions of service as the Board may determine; and (3) The Board may, on the advice of the Chief Executive Officer engage, on behalf of the Foundation, the services of such experts in respect of any of the functions of the Foundation in connection with which they are considered to have special competence". To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Clause 70: Remuneration of the Staff of the Foundation

128. Amend by introducing the following new clause 70: 70. *“The officers, agents and staff of the Foundation shall be paid such remuneration and allowances as the Cabinet Secretary shall, in consultation with the Salaries and Remuneration Commission determine”*. To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Clause 71: Common Seal of the Foundation

129. Amend by introducing the following new clause 71: 71 (1) *“The common seal of the Foundation shall be kept in the custody of the Chief Executive Officer or such other person as the Board may direct, and shall not be used except upon the order of the Board; (2) The common seal of the Foundation shall, when affixed to a document and authenticated, be judicially and officially noticed and unless the contrary is proved any order or authorization by the Foundation under this section shall be presumed to have been duly given; and (3) The affixing of the common seal of the Foundation shall be authenticated by the signatures of the chairperson and the Chief Executive Officer: Provided that the Board shall, in the absence of the chairperson or the Chief Executive Officer, in any particular matter, nominate one member of the Board to authenticate the common seal of the Foundation on behalf of either the chairperson of the Board or the Director”*. To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Clause 72: Common Seal of the Foundation

130. Amend by introducing the following new clause 72: 72 (1) *“No matter or thing done by a member of the Board or any officer, employee, or agent of the Foundation shall, if the matter or thing is done in good faith for executing the functions, powers or duties of the Foundation render the member, officer, employee or agent personally liable to any actions claim or demand whatsoever; and (2) Any expenses incurred by any person in any suit or prosecution brought against him in any court, in respect of any act which is done or purported to be done by him under the direction of the Foundation, shall, if the court holds that such act was done in good faith, be paid out of the general funds of the Foundation, unless such expenses are recovered by him in such suit or prosecution”*. To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Part VIII: Establishment of Research Advisory Committee

Clause 74

131. Amend by introducing the following new clause 74: 74 (1) *“There is established a committee to be known as the Research Advisory Committee; (2) The Committee shall consist of: (a) Chairperson; and (b) such persons with such knowledge and expertise as the Board may consider necessary for the performance of its functions under this Act; and (3) The Chairperson and members of the Committee shall be appointed by the Board, from amongst persons who are not necessarily members of the Board, on such terms and conditions as the Board may determine with approval of the Board”*. To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Clause 75: Functions of the Research Advisory Committee

132. Amend by introducing the following new Clause 75: 75 (1) *“The Committee shall: (a) make recommendations to the Board on Strategic and policy issues related to tea research and research program infrastructure; (b) oversee the implementation of policies and programs of the research and recommendations of the program review committee; (c) advise the Board on the status of programs and projects undertaken by Foundation and make recommendations on the improvements that may be undertaken; (d) make recommendations to the Board on mechanisms for partnering and integrating basic and translational research programs and for the adoption of research findings within the tea sector; (e) evaluate and make recommendations to the Board on of strategic investment areas and collaborations with other research organizations or individuals undertaking tea research; (f) Provide advice and capacity building to research centres and individuals undertaking tea research and programmes pursuant to this Act; (g) review bi-annually the operations of the Foundation and budgets of tea research in relation to the programs and initiatives undertaken by the Foundation; (h) provide a forum for feedback and through which individuals undertaking tea research in the relevant area of research, can submit their proposals and recommendations to the Foundation; and (i) perform such other functions as shall be assigned to it by the Board”*. To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Clause 76: Conduct of Business Affairs of the Committee

133. Amend by introducing the following new clause 76: 76 (1) *“The provisions of the first Schedule shall apply mutatis mutandis with respect to the conduct of the business and affairs of the committee but subject thereto the Committee, may regulate its own procedure”*. To facilitate formation, creation of governance structure and operationalisation of Tea the Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Part IX: Operations of the Foundation

Clause 77

134. Amend by introducing the following new clause 77: 77 (1) *“The Board shall, for the effective co-ordination of tea research and development activities in Kenya by the Foundation and individuals conducting tea research, establish operational units within the Foundation in the following sectors: (a) Crop improvement and management; (b) Sustainable ecosystem management and conservation; (c) Tea processing and value addition; (d) Policy and institutional development; (e) Partnership and business development; (f) Planning, resource mobilization and quality control; (g) Knowledge management and information communication; and (h) Administration and finances; (2) Each operational unit shall consist of such members of the staff and such other persons as the Board shall determine; (3) Each operational unit shall perform such functions as the Chief Executive Officer shall determine; and (4) The Board may create such other operational units or reconstitute, merge or dissolve an operational unit as it shall consider necessary”*. To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Clause 78

135. Amend by introducing the following new Clause 78: 78 *“(1) The Chief Executive Officer shall competitively recruit and appoint a Centre Director for each tea research center on such terms and conditions as the Board shall determine; and (2) The Centre Director shall, subject to the directions of the Chief Executive Officer, be responsible for the day-to-day management of a research Centre”*. To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

X: Financial Provisions

Clause 79: Funds of the Foundation

136. Amend by introducing the following new clauses 79: 79. (1) *“The funds and assets of the Foundation shall comprise of: (a) such moneys or assets as may accrue to or vest in the Foundation in the course of the exercise of its power or the performance of its functions under this Act, including proceeds from Patents and Plant Breeders' Rights; (b) the National Research Fund; (c) such moneys as may be payable to the Foundation pursuant to this Act or any other written law; (d) monies from the tea levy (As per sections 53(5)(c) and 54(3)(b) of Tea Act, 2020); (e) such gifts as may be donated to the Foundation; (f) such moneys as may be appropriated by Parliament for the purposes of the Foundation; and (g) moneys from any other source granted, donated, or lent to the Foundation; and (2) The Public Finance Management Act, 2015 (2022), shall be applicable in the management of financial resources in the sectors at all levels”.* To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Clause 80: Powers to Raise or Borrow Money

137. Insert the following new clause 80: 80. *“The Board may upon consultation with the Cabinet Secretary and from time to time, raise or borrow, either by way of mortgage, charge or overdraft from a bank or in such other ways as may be appropriate, such sums of money as it may consider necessary for or in connection with the exercise of its powers or performance of its functions and duties under this Act”.* To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Clause 81: Powers to Invest

138. Insert the following new clause 81: 81. *“The Foundation may, from time to time and, subject to the provisions of this Act, invest any sums standing to the credit of the Foundation, whether in any fund established by it, in securities or in any form of property in which the Trustees are authorized to invest*

under the Trustee Act, and in such other securities or property as may be approved for the purpose by the Cabinet Secretary for the time being responsible for finance". To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Clause 82: Accounts and Audit

139. Insert the following new clause 82: 82 (1) *"The Foundation through Board shall cause to be kept such books of accounts and other books in relation thereto of all its undertakings. funds, activities and property as the Cabinet Secretary may from time to time approve and shall, within a period of three months after the end of the financial year, or within such a longer period as the Cabinet Secretary may approve, cause to be prepared, signed and forwarded to the Auditor-General: (a) a statement of income and expenditure of the Foundation during that year; and (b) a statement of the financial position of the Foundation on the last day of that year; and (2) The accounts of the Foundation shall be examined, audited and reported upon annually in accordance with the provisions of the Public Audit Act, 2015". To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.*

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Clause 83: Annual Reports and Publications

140. Insert the following new clause 83: 83 (1) *"The Foundation shall, within a period of three months after the end of the financial year or within such longer period as the Cabinet Secretary may approve, submit to the Cabinet Secretary a report of the operations of the Foundation during such year, and the yearly financial position and such other statements of account as the Cabinet Secretary shall require, together with the Auditor-General's report thereon; (2) The Foundation shall, if the Cabinet Secretary so requires, publish the reports, financial position and statements of income and expenditure submitted to him under subsection (1) in such manner as the Cabinet Secretary may specify; and (3) The Cabinet Secretary shall cause to be tabled before Parliament the reports, financial position and statements of income and expenditure submitted to him under sub-section (1), and such statements of accounts as he may approve, within a period of fourteen days of the receipt of the reports and statements by him, or, if Parliament is not sitting, within fourteen days of the commencement of its next sitting". To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.*

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Clause 84: Financial Year of the Foundation

141. Insert the following new clause 84: 84. *“The financial year of the Foundation shall be the period of twelve months ending on the thirtieth of June in each year”*. To facilitate formation, creation of governance structure and operationalization of Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

Part XI – Miscellaneous Provisions

142. Insert the following new clause 85: 85 (1) *“The Chief Executive Officer may, in writing, request any person to furnish the Foundation with such information or to produce such documents or records as he deems necessary and relevant for the performance of the functions of the Foundation; (2) A person who: (a) refuses or fails, without reasonable cause, to comply with a request under subsection (1) to furnish any information or to produce any documents or records; or (b) in furnishing such information, makes a statement, which he knows to be false, commits an offence and shall be liable, on conviction, to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding two years, or to both”*. To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

a) Board to Keep Information Confidential

Insert the following new clause 86: 86. *“The Board shall keep information acquired for purposes of the Foundation confidential and shall disclose such information only to the extent it considers necessary for the proper performance of the functions of the Foundation”*. To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

b) Limitations of Right to Access Information

Insert the following new clause 87: 87 (1) *“The right of access to information guaranteed under Article 35 of the Constitution is hereby limited under Article 24 of the Constitution to the nature and extent*

specified under subsection; and (2) The Foundation, being a public entity, shall be under no obligation as contemplated under Article 35 of the Constitution to give any information that would, in the opinion of the Foundation, compromise the integrity of research, patent and other related rights". To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

c) Offences for Improper Disclosure of Information

Insert the following new clause 88: 88 (1) "No officer, member of staff, or agent of the Foundation shall disclose information acquired under this Act except: (a) in the course of his duties under this Act; or (b) with the written consent of the Board; (2) No person who receives information in contravention of subsection (1) shall disclose or publish the information; and (3) A person who contravenes subsection (1) or (2) commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment". To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

d) Exemption

Insert the following new clause 89: "Subject to other applicable laws, the Foundation shall be exempted from such taxes, duties, fees, levy, cess or other charges as the Cabinet Secretary for the time being responsible for finance may by, notice in the Gazette, specify". To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

e) Regulations

Insert the following new clause 90: 90. "The Cabinet Secretary may, on the recommendation of the Foundation, make regulations generally for the better carrying into effect the provisions of this Act". To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

143. First Schedule: Conduct of Business and Affairs of the Board of the Foundation

a) Tenure of Office

“Any member of the Board of Directors, other than an ex-officio member shall, subject to the provisions of this Schedule, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for re-appointment, subject to a maximum of two terms of office”.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

b) Meetings

“The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting. (1) Notwithstanding the provisions of subparagraph (1), the Chairman may, and upon requisition in writing by at least six members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board; (2) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board; (3) The quorum for the conduct of the business of the Board shall be seven members including the chairperson; (4) The chairperson shall preside at every meeting of the Board at which he is present but, in his absence, the members present shall elect one of their numbers to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson; (5) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote; and (6) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof interest by Board members”. To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

c) Disclosure of Interest by Board Members

(1) "If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter: Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Board may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question; (2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made; and (3) A member of the Board who contravenes subparagraph (1) commits an offence and is liable to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both".

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

d) Execution of Instrument

"Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose". To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

e) Minutes

"The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose". To facilitate formation, creation of governance structure and operationalisation of the Tea Research Foundation.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is no amendment to this provision in the Bill and the provisions in the Act is sufficient.

4.5 Kenya Tea Development Agency (KTDA)

Mr. Geoffrey Chege Kirundi, National Chairman, KTDA, in a meeting with the Committee held on 10th June, 2025 proposed the following amendments to the Tea (Amendment) Bill, 2023:

144. KTDA reiterated that the Bill seeks to address critical aspects of the Tea Act No. 23 of 2020, but raised concerns on certain provisions namely: (a) Centralization of Functions: The Tea Board of Kenya retains excessive control over both regulatory and commercial functions, potentially leading to conflicts of interest and inefficiencies (b) Erosion of Autonomy: Provisions that override the Memoranda and Articles of Association of tea factory companies undermine the autonomy granted under the Companies Act, Cap 486; (c) Inadequate Representation at the Tea Board of Kenya: The current structure limits equitable and inclusive representation, particularly for smallholder farmers who contribute significantly to tea production; (d) Market Restrictions: Mandatory auction requirements and overregulation of exports impede free market principles and the ability of farmers to seek better market opportunities.
145. Amend the Bill by establishing an independent Tea Industry Appeals Tribunal to provide accessible and cost-effective dispute resolution mechanisms, reducing the burden on court cases to the factory companies.
146. Amend the Bill by introducing mandatory annual public disclosure of TBK's audited accounts, licensing activities, and regulatory impact assessments to enhance transparency and accountability.

Clause 2

147. Amend the provision to read: "tea factory limited company" *means a tea factory collectively owned through shares by small scale tea growers, medium scale tea growers and large-scale growers*". The large-scale tea growers and independent factories have been left out of the factory definition.

Committee Observation/Recommendation

The proposal was rejected by the Committee because the definition of "tea factory" as it is currently defined in the Act is sufficient.

Proposed Amendment to Section 7

148. Amend section 7 (f) by deleting the words "*four persons, two...*" and replacing thereof with the words "*six persons, three...elected by the small holder*". This representation of the small holder is inadequate as compared to the area they represent.

Committee Observation/Recommendation

The proposal was rejected by the Committee because membership of the Board is currently eleven against the *Mwongozo Code* which recommends a maximum of 9.

149. Delete Section 22 (1). The justification for leaving the number of directors open to the Articles is because of the turnover of the Tea Factory Company, the shareholding of the Tea Factory Company, the geographical administration of the various Tea Factory Companies Limited and the flexibility in the management of the tea factory.

Committee Observation/Recommendation

The proposal was adopted by the Committee to allow the directorship of the companies to be managed by the Companies Act.

Proposed Amendment to New Section 34 A (2)

150. Delete Section 34 A (2) since it will create bottlenecks leading to delays in exportation of the tea. The requirement also duplicates duties undertaken by different government bodies in registering tea for the export market such as KEPHIS.

Committee Observation/Recommendation

The proposal was adopted by the Committee. Requiring tea to be registered by the Board before export can lead to delays and loss of clients given the manner in which tea is sold. This is a process that can be done administratively without expressly stating in the Act.

Proposed Amendment to Sections 30 to 32

151. Amend sections 30 to 32 by removing the word “exporting” from registration; brokers to submit brokerage agreements and appointed by the tea factory boards.

Committee Observation/Recommendation

The proposal was rejected by the Committee.

Proposed Amendment to Section 34 (9)

152. Amend by deleting the provision. The Companies Act stipulates how directors of a company are to be elected, number of directors as well as their tenure, and how to deal with conflict of interest which should be in line with the Tea Factory Articles of Association.

Committee Observation/Recommendation

The proposal was adopted by the Committee. The directors of tea companies are elected to sit in the holding companies because of the interests they protect. Any potential conflict of interest is governed by the Companies Act.

Proposed Amendment to New Section 36A (2)

153. Amend the provision to read: "*The prices offered at the direct sales shall be sold at a price above the average price recorded at the auction within the three months preceding the sale.*" Direct sales offer exporters and buyers the flexibility to negotiate prices based on market conditions, demand, and tea quality. Tying direct sales to the highest auction prices will limit this flexibility.

Committee Observation/Recommendation

The proposal was adopted by the Committee. An average price within a duration of three months is more favourable. Pegging the price to the highest price recorded might lead to accumulation of stock and reduction of quality considering that the prices fluctuate.

Proposed Amendment to Section 36 (3)

154. Amend the provision to read: "*The Cabinet Secretary shall, in consultation with the Council of Governor prescribe regulations for the procedure of direct sale of tea.*" Engaging with the county governments individually may lead to delays and inconsistencies in the formulation of regulations.

Committee Observation/Recommendation

The proposal was adopted by the Committee. It might be challenging for the Cabinet Secretary to consult all the 47 counties when making regulations, consulting the Council of Governors makes the process more efficient.

Proposed Amendment to Section 36 (6)

155. Amend by deleting the provision because the implementation will pose a challenge as the amounts payable per Factory Company Limited will vary, thereby taking away from the uniformity of payment within the sector.

Committee Observation/Recommendation

The Bill proposes a deletion of the subsection already. The proposal was adopted by the Committee.

Proposed Amendment to Section 36 (8)

156. Amend by deleting the provision and retaining the Mombasa Tea Auction as the sole auction centre because establishing multiple auction centres in tea-growing counties risks segmenting the tea market, leading to difference in pricing. This could dilute Kenya's competitive edge in the global tea market, which benefits from a centralised pricing system.

Committee Observation/Recommendation

The proposal was rejected by the Committee because the intention of the proposed amendment is to open up the market and allow establishment of competent auction centres.

Proposed Amendment to Section 47 (1)

157. Amend by harmonizing and making fee structures transparent across all counties. County fees lack safeguards against double taxation/economic barriers.

Committee Observation/Recommendation

The proposal was rejected by the Committee because county governments are independent and have structures for charging fees within the law.

Proposed Amendment to Section 48 (1)

158. Amend by assigning to manufacturers and producers instead of exporters. Since this is a misplaced additional responsibility.

Committee Observation/Recommendation

The proposal was adopted with amendments to allow for a ten-year period for value addition pegged on the commencement of business and not the commencement of the Act.

Proposed Amendment to Section 53

159. Amend by capping the levy at Kshs. 1/Kg of made tea while exempting specialty/value added tea. Also revise allocation to 70% marketing, 10% TBK functions and 20% research and delete infrastructure provision and/or fund TBK and Tea Research Foundation from the ex-chequer.

Committee Observation/Recommendation

The proposal was rejected by the Committee.

ZONES

Zone 2 & 3

Clause 3 (section 5)

160. Amend by deleting paragraph (b) and (j); and amending paragraph (l) by removing minimum payment. Retain maximum payment period. Conflicting roles and distortion of market dynamics.

Committee Observation/Recommendation

The proposal was rejected by the Committee because the functions of the Board under the Act are sufficient.

Clause 4 (section 7)

161. Replace with a minimum of seven (7) directors representing the smallholders from East and West regional block. Under representation of smallholders at the Tea Board of Kenya.

Committee Observation/Recommendation

The proposal was rejected by the Committee because the membership of the Board is currently eleven against the *Mwongozo* Code which recommends a maximum of 9.

Clause 6 (section 22)

162. Amend by deleting (2); and amending (4). Appointment should be as per the respective factories MEMARTS. Interference with Company Governance.

Committee Observation/Recommendation

The proposal was rejected by the Committee

Zone 5

Clause 6 (section 22)

163. Amend section 22 (1) by removing “*maximum of five*” and replacing with “*Minimum of six and maximum of nine members*”.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is a proposed amendment to delete the provision on the number of directors.

Zone 7

Clause 2

164. The current definition of “*tea factory limited*” limits tea factory ownership to small and medium-scale ownership by shareholding. Expand this provision to include all tea factories regardless of ownership structure, to ensure inclusivity and avoid discrimination.

Committee Observation/Recommendation

The proposal was rejected by the Committee because the definition in the principal Act is sufficient.

Clause 6 (section 22)

165. Proposes changes to the composition of the Board to 5 out of which 3 will be elected directors.

Committee Observation/Recommendation

The proposal was rejected by the Committee because the provision on the number of Board members has been deleted from the Act.

4.6 East Africa Tea Trade Association (EATTA)

Mr. George Omunga, MD, East Africa Tea Trade Association in a meeting with the Committee held on 10th June 2025, proposed the following amendments to the Bill:

Clause 2

166. Amend definition of the word "value addition" by inserting the words "into a packet or a container holding not more than ten kilograms" appearing immediately after the word "branding" As read together with the Tea Act upon insertion of the amendment, Value Addition is defined as "improvements on made tea through packaging, blending, flavouring, tea extracts, aroma and branding "into a packet or a container holding not more than ten kilograms". This definition restricts value-added tea as being tea packed into a container of not more than 10kg. There are value-added tea products that are packed into 25Kg packages as required by markets like Sudan and other teas as tea extracts that are packed in drums, therefore going by this definition would exclude those.

Committee Observation/Recommendation

The proposal to amend definition of the term 'value addition' was adopted by the Committee with amendment to capture the correct definition.

167. Amend paragraph 2 (e) by inserting the following new definitions in the proper alphabetical sequence "direct sales" to mean *a contractual arrangement between a factory and an overseas buyer or local buyer for the sale of made tea based on mutually accepted terms and conditions enforceable in law*"; and "direct sales overseas" to mean *bulk tea sales exported directly by a tea factory to an export market*. This is because there is no need of two definitions which mean the same. The first definition is preferred as it recognizes that direct sales can either be overseas and locally.

Committee Observation/Recommendation

The proposal was rejected by the Committee because the term has not been used in the Act.

Clause 3

168. Amend the clause by deleting subclause (2) and substituting therefore the following new paragraph, "The Cabinet Secretary shall appoint the members under subsection (1)(e), (f), (g) and (h) by notice in the Gazette.
169. Amend the clause by deleting subclause (3) and substituting therefor the following new subclause, "*The appointment of the chairperson or members of the Board under subsection (1)(a), (e), (f), (g) and (h) and shall consider the gender, regional and other diversities of the people of Kenya*".

Committee Observation/Recommendation

The proposal was adopted by the Committee with amendment to remove the Principal Secretary for National Treasury from the list of those appointed by gazette notice by the Cabinet Secretary. The proposed amendment has been cured by paragraph 4(a)(i) of the Bill.

Clause 4

170. Amend by deleting subsection (1) and substituting therefor the following new subsection, "*The persons appointed under section 7(1)(a), (e), (f), (g), and (h), shall serve for a term of three years renewable once on account of good performance*". The provision on account of good performance be expunged from the clause as there exists no objective criteria to determine what constitutes good performance.

Committee Observation/Recommendation

The proposal was adopted with amendments by the Committee however, it has been cured by the proposed amendment in the Bill.

Clause 6

171. Amend by deleting 1(A) since all tea brought into a Special Economic Zone Enterprise or an Export Processing Zone shall be declared to the Board in the prescribed form.

Committee Observation/Recommendation

The proposal was rejected by the Committee because all tea needs to be declared to the board to control importations.

Clause 7

172. Amend Section 32 of the principal Act subsection (4) by deleting the words "limited company" appearing immediately after the words "a tea factory".

Committee Observation/Recommendation

The proposal was rejected by the Committee because it is important to stipulate the fee paid to brokers.

Clause 8

173. Amend Section 34 (3)(a) and 34(4) of the Principal Act should be deleted and be addressed under the regulations in sections 74 (b) and (c) of the Tea (Amendment) Act 2023.

Committee Observation/Recommendation

The proposal was adopted with amendment by the Committee to retain definition of tea factory as it is currently in the Act.

Clause 10

174. Amend 10 (b) in subsection (2) by deleting subsection (1) and substituting therefor the following new subsection, "*A tea factory intending to participate in a tea auction shall: (a) register with the Board and the auction organizer; and (b) participate in the auction directly and through a management agent*". A tea factory can be allowed to register with the auction organizer or participate in the auction through the management agent.

Committee Observation/Recommendation

The proposal was rejected by the Committee because it is already provided for under section 36(7) of the Act.

Clause 12

175. Amend section 36 by deleting subsection (8). The benefits of having a consolidated auction that accommodates all the teas from the region (East and Central Africa) provides economies of scale that translate to lower auction selling costs for the producers as well as convenience to the local and global buyers who when blending different origin teas will need the teas to be easily accessible.

Committee Observation/Recommendation

The proposal was rejected by the Committee.

176. Amend by adopting clause 36A (1) and deleting the introduced Section 36A (2) & (3) and 36B from the Bill. The proposal is unduly prejudicial to processors of tea as businesses that should have freedom to sell their tea at an appropriate price/set price to ensure the business remains sustainable.

Committee Observation/Recommendation

The proposal was rejected by the Committee, the provision on direct sales should be in the Act.

Clause 13

177.Delete section 36A (3) & (4). Since consultation with county governments in the stipulation of procedure for direct sales will be unconstitutional for delegating national policy development for a scheduled crop to the county government, requiring county government consultation for tea trading will create inefficiencies, restrict trade, and conflict with national economic policies. It discriminates against tea businesses compared to other sectors and lacks clarity on the issue it aims to address. Additionally, it is unconstitutional to delegate tea policy direction to county governments.

Committee Observation/Recommendation

The proposal was rejected by the Committee, the provision on direct sales should be in the Act.

178.Amend by deleting Clause 36B from the Bill. The proposal for a direct settlement scheme is not clear in terms of who it is intended for and it interferes with the freedom of contracts. Tea producers other than the Tea Factory Limited Companies have obligations that may get disrupted by the imposition of the settlement scheme

Committee Observation/Recommendation

The proposal was rejected by the Committee because it is important to stipulate in the Act how a factory can participate in the auction if they wish to.

Clause 8

179.Amend by deleting Clause 36 (8) from the Bill. The proposal which envisions the setting up of auction centres within the counties. will compromise the benefits of a Centralized Multi-origin auction location and platform, currently bringing together teas from the region (East and Central Africa) and which has the convenience of accessibility to the port and attraction of many Global Tea Buyers.

Committee Observation/Recommendation

The proposal was rejected by the Committee because the Bill intends to open up the market for the trade of tea and not restrict it.

Clause 15

180. Amend the clause to adopt quantum based (kg) levy so that farmers who produces better quality are not punished. They proposed that the Tea Levy should be apportioned as follows: Tea Board (40%), tea marketing (20%), tea research (30%) and infrastructure development (10%) respectively. The 10% infrastructure development should be administered through the county governments in the tea growing areas while the 20% marketing allocation should be managed by a committee with representation from the various tea sector players and the Tea Board of Kenya with clear annual budgets and a monitoring process.

Committee Observation/Recommendation

The proposal was rejected, the provision in the principal Act is sufficient

CHAPTER FIVE

5.0 COMMITTEE OBSERVATIONS


Having considered the Bill, the Committee made the following observations on the Tea (Amendment) Bill (Senate Bill No. 1 of 2023):

1. The amendments proposed to the Tea Act, 2020 pursuant to the out of court settlement between the Tea Board of Kenya, KTGA and East Africa Tea Traders Association aim at address various contentious issues that had been raised in a Constitutional Petition filed by some tea industry stakeholders challenging implementation of various sections of the Tea Act, 2020. The withdrawal of the court cases by KTGA and EATTA was premised on the understanding that the proposed additional amendments would be considered by Parliament.
2. There is need to address the equitable sharing of the tea levy within the tea growing industry and stakeholders. Key among them are county governments, Tea Board of Kenya, Tea Marketing, Tea Research Foundation and infrastructural development of the tea regions considering each need of the stakeholder and the development of the industry.
3. All the stakeholders were in support of the Bill noting that the tea sector in the country needed the measures proposed in the Bill to revamp the industry. The stakeholders expressed commitment to engage constructively in matters that affect the tea industry and tea farmers in the sector.

CHAPTER SIX

6.0 COMMITTEE RECOMMENDATION

The Committee having reviewed the Tea (Amendment) Bill (*Senate Bill No. 1 of 2023*) recommends that the House **approves the Bill with amendments** as proposed in the Schedule in Chapter Seven of this Report.

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 19 AUG 2025	
DAY.	
TABLED BY:	
CLERK THE-TABLE:	

CHAPTER SEVEN

7.0 SCHEDULE OF PROPOSED AMENDMENTS

The Committee proposed the following amendments to be considered by the House in the Committee Stage:

Clause 2

1. **THAT**, Clause 2 of the Bill be amended—

(a) by deleting the definition of “value addition” and substituting therefor the following new definition—

“Value addition” means improvement on made tea through blending or flavouring or branding and packaging into a retail packet or a container holding not more than ten kilograms, or tea extracts, tea aroma and decaffeinated tea.”

(b) by deleting the definition of “tea limited factory.”

(c) by inserting the following new definitions in their proper alphabetical sequence—

“e-trader” means a person providing a platform for buying and selling of tea through an e-commerce platform;

“Small-scale tea grower” means a person cultivating tea in a parcel of land of less than ten acres supplying green leaf to a tea factory limited company;

“Medium-scale tea grower” means a person cultivating tea in a parcel of land supplying green leaf to a tea factory limited company;

Clause 3

2. **THAT**, the Bill be amended by deleting clause 3 and substituting therefor the following new clause—

“Section 5 of the principal Act be amended—

(a) *by deleting the words “commercial green leaf transporters” appearing immediately after the words “commercial tea nurseries”;*

(b) *by deleting the words “commercial tea nurseries” appearing immediately the words “tea auction organizers”.*

Justification

Registration of commercial tea nurseries is a function of county governments under section 38(1) of the Act.

Clause 6

3. **THAT**, Clause 6 of the Bill be amended—
 - (a) by numbering the existing provision as (a);
 - (b) by inserting the following new paragraph immediately after paragraph (a)—

“(b) Section 22 of the principal Act be amended by deleting subsection (1)”

Justification

To allow the constitution of company boards to be governed by their Memorandum and Articles of Association and the Companies Act

Clause 7

4. **THAT**, Clause 7 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph—

*“(a) by inserting the following new subsection immediately after subsection (1)—
(1A) A large scale tea grower shall notify the Board of any intended sale or transfer of any intended sale or transfer of ownership of its holding three months before the commencement of the intended transaction.”*

Justification

The notification to the Board of any intended sale is important to ensure that interest of the grower is taken care of. However, since such a transfer of sale is governed by other laws, it might not be possible to know with certainty when the transfer of sale will take effect hence a notification of three months before commencement is more reasonable.

Clause 11

5. **THAT**, Clause 11 of the Bill be amended in section 34A—
 - (a) by inserting the following new paragraph immediately after paragraph (b) in subsection (1)—

“(c) e-commerce.”
 - (b) by inserting the following new subclause immediately after subclause (2)—

“(3) The Cabinet Secretary may prescribe regulations providing for the sale of teas through the auction, direct sales and e-commerce.”
 - (c) by inserting the following new section immediately after section 34A—

“34B (1) A person who intends to establish an e-commerce platform for sale of tea shall register with the Board.

- (2) A person shall not establish an e-commerce platform for tea unless the person is registered in accordance with this Act.
- (3) The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of e-traders and the appeal process in case of refusal or denial of registration.
- (4) A person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine not exceeding five million shillings or to both."

(d) by deleting subclause (2).

Justifications

- (a) **To incorporate e-commerce in the trade of tea and to operationalise the provision on e-commerce in the trade of tea.**
- (b) **Requiring tea to be registered by the Board before export can lead to delays and loss of clients given the manner in which tea is sold. This is a process that can be done administratively without expressly stating in the Act.**

Clause 12

6. **THAT**, Clause 12 of the Bill be amended by deleting paragraph (c).

Justification

The current system of paying the growers works well and the proposed mode might be impractical to implement.

Clause 13

7. **THAT**, Clause 13 of the Bill be amended in the proposed new Clause 36A—
- (a) By deleting subclause (2) and substituting therefor the new subclause—
- "(2) The prices offered at the direct sales shall be sold at a price above the average price recorded at the auction within the three months preceding the sale."*

Justification

Tying direct sales to the highest auction prices will limit this flexibility. Requiring prices to exceed auction highs could make Kenyan tea less competitive in the international market, as buyers may shift to other tea-producing countries offering better pricing flexibility. Direct buyers may avoid Kenyan tea due to the artificial price floor, reducing demand and potentially leading to an oversupply in the market which could depress overall prices.

(b) By deleting subclause (3) and substituting therefor the following new subclause—

"(3) The Cabinet Secretary shall, in consultation with the Council of Governor prescribe regulations for the procedure of direct sale of tea."

Justification

Engaging with the county governments individually may lead to delays and inconsistencies in the formulation of regulations. Different counties may prioritize their unique interests, complicating the development of cohesive national-level policies for the tea sector. The Council of Governors serves as a collective representative body for all counties, providing a single platform for engagement with the national government. Consulting the Council of Governors will ensure that county-level interests are uniformly represented while maintaining a national perspective.

Clause 15

8. **THAT**, Clause 15 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph—

(a) inserting the following new subsection immediately after subsection (2)—

"2A. Specialty tea, value added tea packed into packets or containers containing not more than ten kilograms, tea aroma, tea extracts and decaffeinated teas shall be exempted from tea levy."

Justification

To provide incentives for value addition of Kenya tea prior to export, branding and origin recognition of Kenya tea and include tea aroma, extracts tea and decaffeinated teas which are high value in the teas to be exempted from tea levy.

Clause 16

9. **THAT**, Clause 16 of the Bill be amended—

(a) by numbering the existing provision as paragraph (a);

(b) by inserting the following new paragraph immediately after paragraph (a)

"(b) The principal Act be amended in section 74 by inserting the following new subclause immediately after subclause (2)—

(2A) The Cabinet Secretary may, in consultation with the Board, make Guidelines to provide for –

(a) Corporate Governance Guidelines for the tea industry;

(b) Code of Ethics and Conduct for tea Director(s);"

Justification

To ensure uniform practice by directors in the governance of the tea sector.

New Proposed Clauses

10. **THAT**, Section 25 of the principal Act is amended—
- (a) in subsection (3) by deleting the words “*after consultation with the Cabinet Secretary*” in the opening statement.
 - (b) By inserting the following new subsections immediately after subsection (5)—
 - “(6) *A holder of a tea manufacturing license shall notify the Board of any intended sale or transfer of ownership of its holdings before the transaction is affected.*
 - (7) *The Cabinet Secretary shall make regulations to provide for transfer of holdings of a tea manufacturer.*”

Justifications

- (a) **Issuance of licence by the Board does not require consultation of the CS.**
- (b) **To allow only a notification of change of ownership to the Board.**
- (c) **To retain definition of “tea factory” as it is in the Act. A Factory is not necessarily a limited com**

Justifications

- (a) **To enable each factory to pay for the cost of their staff.**
 - (b) **The directors of tea companies are elected to sit in the holding companies because of the interests they protect. Any potential conflict of interest is governed by the Companies Act.**
11. **THAT**, Section 48 of the principal Act be amended by deleting subsection (1) and substituting therefor the following new subsection—
- “(1) *All tea buyers or exporters shall value add at least forty per centum of their annual Kenya tea exports within ten years of the commencement of their business.*”

Justification

To increase the duration for value addition to ten years and peg to the date of commencement of business and not the commencement date of the Act.

THIRD SCHEDULE

12. **THAT**, the Third Schedule to the Bill be amend by—
- (a) deleting “*Narok*” from the East Block and inserting it under the West Block;
 - (b) adding “*West Pokot*” under the West Block

Justification

To correct mis-classification of Narok under the tea blocks and to incorporate all tea growing counties

SIGNED.......... DATE..........
HON. (DR.) JOHN KANYUTHIA MUTUNGA, PhD, CBS, MP
CHAIRPERSON,
DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK



REFERENCES

1. Agriculture and Food Authority Act, Cap. 317. (2013).
2. Ministry of Agriculture, Livestock, Fisheries and Cooperatives (2021). Agricultural Policy – 2021: Food, Our Health, Wealth and Security. Ministry of Agriculture, Livestock, Fisheries and Cooperatives.
3. Parliamentary Service Commission (PSC) (2023). Operationalising the Bottom-Up Economic Transformation Agenda. Parliamentary Service Commission.
4. Republic of Kenya. Constitution. (2010). Government Printer.
5. Tea Board of Kenya (2020). Draft Strategic Plan 2023-27. Tea Board of Kenya.
6. Tea Board of Kenya (n.d). History of Kenyan Tea. Tea Board of Kenya.
7. The Tea Act, 2020. 23 (2020).
8. Ministry of Agriculture and Livestock Development (2024). Taskforce to Investigate the Underlying Causes and Impacts of Unsold Tea in Kenya. Ministry of Agriculture and Livestock Development.



THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

ADOPTION SCHEDULE

We, the undersigned Honorable Members of the Departmental Committee on Agriculture and Livestock today, Saturday, 16th August 2025 do hereby affix our signatures to this **Report on the Tea (Amendment) Bill (Senate Bill No. 1 of 2023)** to affirm our approval and confirm its accuracy, validity and authenticity:

S/NO.	NAME	SIGNATURE
1.	HON. (DR.) JOHN KANYUITHIA MUTUNGA, PhD, CBS, MP - CHAIRPERSON	
2.	HON. BRIGHTON LEONARD YEGON, MP - VICE-CHAIRPERSON	
3.	HON. SABINA WANJIRU CHEGE, CBS, MP	
4.	HON. FERDINAND KEVIN WANYONYI, MP	
5.	HON. GEOFFREY MAKOKHA ODANGA, MP	
6.	HON. JUSTICE KIPSANG KEMEI, MP	
7.	HON. JARED ODOYO OKELO, MP	
8.	HON. LAWRENCE MPURU ABURI, MP	
9.	HON. DAVID KIPLAGAT, MP	
10.	HON. GABRIEL GATHUKA KAGOMBE, MP	
11.	HON. MONICAH MUTHONI MARUBU, MP	
12.	HON. PATRICK KIBAGENDI OSERO, MP	
13.	HON. YUSSUF MOHAMED FARAH, MP	
14.	HON. JOHN OKWISIA MAKALI, MP	
15.	HON. RUTH ADHIAMBO BUSIA ODINGA, MP	



THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 25TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK HELD ON FRIDAY, 25TH JULY 2025 IN THE INNER PIER ROOM, ENGLISH POINT MARINA HOTEL, MOMBASA AT 9.30 AM.

PRESENT

- | | | |
|---|---|-------------------------|
| 1. Hon. (Dr.) John Kanyuithia Mutunga, PhD, CBS, MP | - | Chairperson |
| 2. Hon. Brighton Leonard Yegon, MP | - | Vice-Chairperson |
| 3. Hon. Sabina Wanjiru Chege, CBS, MP | | |
| 4. Hon. Geoffrey Makokha Odanga, MP | | |
| 5. Hon. Lawrence Mpuru Aburi, MP | | |
| 6. Hon. David Kiplagat, MP | | |
| 7. Hon. Gabriel Gathuka Kagombe, MP | | |
| 8. Hon. Yussuf Mohamed Farah, MP | | |
| 9. Hon. Patrick Kibagendi Osero, MP | | |

ABSENT WITH APOLOGY

1. Hon. Ferdinand Kevin Wanyonyi, MP
2. Hon. Justice Kipsang Kemei, MP
3. Hon. Jared Odoyo Okelo, MP
4. Hon. Monicah Muthoni Marubu, MP
5. Hon. John Okwisa Makali, MP
6. Hon. Ruth Adhiambo Busia Odinga, MP

IN ATTENDANCE

COMMITTEE SECRETARIAT

- | | | |
|-------------------------|---|-----------------------------|
| 1. Mr. Nicodemus Maluki | - | Clerk Assistant I |
| 2. Mr. Victor K. Kilimo | - | Clerk Assistant III |
| 3. Mr. Gerald Kadede | - | Legal Counsel II |
| 4. CPA Robert Ng'etich | - | Fiscal Analyst I |
| 5. Mr. Shadrack Musyoki | - | Research Officer III |
| 6. Ms. Edith Cheggeno | - | Media Relations Officer III |
| 7. Ms. Jacinta Maru | - | Serjeant-at-Arms |
| 8. Ms. Teresia Macharia | - | Intern |

STAKEHOLDERS

State Department for Agriculture

1. Mr. David Kithale - Parliamentary Liason Officer
2. Mr. Willy Mutai - Chief Executive Officer, Tea Board of Kenya
3. Mr. Peter Kibiku - Senior Officer, Tea Board of Kenya
4. Ms. Peris Mudida - Director Legal Services, Tea Board of Kenya

Kenya Tea Development Agency

1. Mr. Chege Kirundi - Chairman, Kenya
2. Mr. Wilson Muthaura - Chief Executive Officer
3. Mr. Baptista Muriki - Board Member
4. Mr. Solomon Maina - Board Member
5. Mr. Enos Njeru - Board Member
6. Ms. Catherine Mukira - Board Member
7. Mr. Philip Langat - Board Member
8. Mr. James Githinji Mwangi - Board Member
9. Mr. Omweno Ombasa - Board Member
10. Mr. David Wanjohi - Board Member
11. Mr. Vincent Atei - Board Member
12. Mr. Francis Wanjau - Board Member
13. Mr. Simeon K. Rugut - General Manager, Finance & Strategy Division (GFSD),
14. Mr. Mathews Odero - General Manager, Corporate Services (GCS)

AGENDA

1. Prayers
2. Preliminaries/Adoption of the Agenda
3. Confirmation of Minutes
4. Matters Arising
5. Confirmation of Minutes
6. **Stakeholder Engagement on the Tea (Amendment) Bill (Senate Bill No. 1 of 2023)**
7. Any other Business
8. Adjournment/Date of the Next Sitting

MIN. NO. NA/A&L/2025/104: PRELIMINARIES/ADOPTION OF THE AGENDA

The Chairperson called the meeting to order at 10:00 a.m., and prayed. The Chair then invited all participants present to introduce themselves.

The Agenda was thereafter adopted, having been proposed by **Hon. Sabina Wanjiru Chege, CBS, MP** and seconded by **Hon. David Kiplagat, MP**.

MIN. NO. NA/A&L/2025/105: CONFIRMATION OF MINUTES

This agenda item was deferred to the next meeting.

MIN. NO. NA/A&L/2025/105: SUBMISSION BY THE TEA BOARD OF KENYA ON THE TEA (AMENDMENT) BILL (SENATE BILL NO. 1 OF 2023)

Mr. Willy Mutai, the Chief Executive Officer of the Tea Board of Kenya, appearing on behalf of the Board and the State Department for Agriculture, appeared before the Committee and made submissions on the Tea (Amendment) Bill (Senate Bill No. 1 of 2023) as follows:

Section 2

1. Amend section 2 (d), definition of the word "value addition" to read as follows: *"improvement on made tea through blending or flavouring or branding and packaging into a retail packet or a container holding not more than ten kilograms, or tea extracts, tea aroma and decaffeinated tea"*. To provide the correct definition of the word value addition and differentiate value added teas from bulk teas.

Committee Observation/Recommendation

The proposal was adopted by the Committee to capture the accurate definition of the term "value addition".

2. Amend by introducing a new definition of the word "e-trader" after Section 2 (e) to mean *"a person providing platform for buying and selling of tea through platform an e-commerce platform"*.

Committee Observation/Recommendation

The proposal was adopted by the Committee because the Committee proposes to introduce e-trade in the Bill.

3. Amend definitions of "small-scale tea grower" to read as follows: *"a person cultivating tea in a parcel of land of less than ten acres supplying green leaf to a tea factory limited company"*. To align the definitions in the context it is used in the tea industry and ascribe the correct meaning to the amendment on "tea factory limited company".

Committee Observation/Recommendation

The proposal was adopted by the Committee to align the definition to the context used in the tea industry.

4. Amend the definition of "medium-scale tea grower" to mean: *"a person cultivating tea in a parcel of land supplying green leaf to a tea factory limited company; To align the definitions in the context it is used in the tea industry and ascribe the correct meaning to the amendment on "tea factory limited company"*.

Committee Observation/Recommendation

The proposal was adopted by the Committee to align the definition to the context used in the tea industry.

5. Introduce a new definition of "bespoke teas" to mean, *"special-order tea that is manufactured to stipulated customer specifications for a determined customer with the exception of straight-line teas and drier mouth teas"*.

Committee Observation/Recommendation

The proposal was rejected by the Committee because the term has not been used in the Act

6. Introduce a new definition of "straight-line teas" meaning "black cut-tear-curl teas that fall within the tea grades offered at the Mombasa Tea Auction including Pekoe Fanning One (PFI), Broken Pekoe One (BPI), Dust-1, Pekoe Dust (PD) and secondary grades"

Committee Observation/Recommendation

The proposal was rejected by the Committee because the term has not been used in the Act

Section 5

7. Amend by deleting the word "commercial" before the words Greenleaf. Commercial green leaf transporters will be registered by the County Governments and not by the Board. To bring all green transporters within the regulatory ambit of the Tea Act and not just commercial green transporters.

Committee Observation/Recommendation

The proposal was rejected by the Committee because registration of commercial green leaf transporters is a function of the county government and not the Board. The Bill intends to delete it from the functions of the Board.

Section 22

8. Amend section 22 by deleting sub-section (1) and renumbering subsections (2), (3), and (4) accordingly. Delete Section one as the size of the Board of tea factory companies is provided for under the Articles of Association.

Committee Observation/Recommendation

The proposal was adopted by the Committee to allow the constitution of company boards to be governed by their Memorandum and Articles of Association and the Companies Act.

Section 25

9. Amend by deleting section 25 (3) since section 31 of the principal Act is amended by deleting "after consultation with the Cabinet Secretary". This is because Issuance of licenses and registrations is not a policy issue but is one of the routine functions of the Board as a semi-autonomous State Corporation. The requirement to consult the Cabinet Secretary during issuance of licenses be deleted. Appeals on issuance or non-issuance to be made to the Cabinet Secretary.

Committee Observation/Recommendation

There is no proposed amendment to this section in the Bill, however, the Committee adopted the proposal because issuance of licence by the Board does not require the consultation of the CS.

Section 25

10. Amend section 25 by adding a new sub-section 25(6) to read as follows: "*a holder of a tea manufacturing license shall notify the Board of any intended sale or transfer of ownership of its holdings 6 months before the transaction is affected*". The Cabinet Secretary shall make regulations to provide for transfer of holdings of a tea manufacturer. This will assist to manage significant changes in ownership of a tea factory that may have material effects or impact on the tea value chain.

Committee Observation/Recommendation

The proposal was adopted with amendments by the Committee to allow only a notification of change of ownership to the Board without having a specific timeline since transfer of property is governed by other laws.

Section 31

11. Amend Section 31 (1)(a) to be under a different margin note, not imports. Teas destined for Special Economic Zone or Export Processing Zone are not necessarily imports.

Committee Observation/Recommendation

The proposal was rejected by the Committee because section 31 is on imports.

Section 32

12. Amend Section 32 of the principal Act by adding a new subsection 3(c) as follows; "*The remuneration paid to a tea broker by a tea factory limited company and a tea buyer or exporter for services rendered*". The rates payable for services rendered by tea broker by a tea factory or a tea buyer/exporter to be prescribed through regulations.

Committee Observation/Recommendation

The proposal was rejected by the Committee. The money paid to brokers must be capped to cushion farmers from exploitation.

Section 32

13. Amend Section 32 (4) by deleting the words "*limited company*" appearing immediately after the words "*a tea factory*". To provide clarity on the application of the provisions of Section 32 (4) as being applicable to all tea factories.

Committee Observation/Recommendation

The proposal was rejected by the Committee. The money paid to the brokers must be capped to cushion the farmers from exploitation.

Section 34A

14. Amend by inserting the following new subsection: 34A(1)(c) "E-commerce; and 34A (2) The Cabinet Secretary may prescribe regulations providing for the sale of teas through the auction, direct sales and e-commerce."

Committee Observation/Recommendation

The proposal was adopted by the Committee to incorporate e-commerce in the trade of tea.

Section 34B

15. Introduce the following new section 34 (B) to operationalize section 34 (A) (1) (c): 34 B (1) "A person who intends to establish an e-commerce platform for sale of tea shall register with the Board; (2) A person shall not establish an e-commerce platform for tea unless the person is registered in accordance with this Act; (3) The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of e-traders and the appeal process in case of refusal or denial of registration; and (4) A person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine not exceeding five million shillings or to both". This to provide regulatory the framework for sale of teas through an e-commerce platform.

Committee Observation/Recommendation

The proposal was adopted by the Committee to operationalize the provision on e-commerce in the trade of tea.

Section 36

16. Delete Section 36 (c) (5). The proposed amendment will be difficult to implement as proceeds for tea sales for the entire month are aggregated in the tea factories account and then paid to the tea grower by the 5th of the following month.

Committee Observation/Recommendation

The proposal was adopted by the Committee, the current system of paying growers works well and the proposed mode might be impractical to implement.

Section 36

17. Do not delete Section 36 (d) (6) because by deleting this section you will remove the safeguards in the Act meant to ensure tea growers are paid on time from the proceeds of sale.

Committee Observation/Recommendation

The proposal was rejected by the Committee because the growers need to be paid at the earliest time possible.

18. Introduce the following new Section 38B to deal with the registration of a scheme owner and certification agent: 38B. (1) "A person shall not operate a voluntary certification scheme for tea in Kenya without being registered by the Board; (2) A certification voluntary scheme owner or certification agent operating in the tea industry in Kenya shall register with the Board and pay the prescribed fee; (3) The Cabinet Secretary shall prescribe regulations providing procedure registration for the for registration of voluntary certification scheme owners certification agents; and (4) A person who operates a voluntary certification scheme for tea in Kenya without being registered by the Board commits an offence". To control the multiplicity of various certifications in the tea sub-sector which are increasing cost of production thus reducing the profitability of tea producers' earnings and growers'

Committee Observation/Recommendation

The proposal was rejected by the Committee. There is no proposed amendment to this section and the provision in the Act is sufficient

19. Amend by introducing the following new section 40 (B) immediately after section 40 to disclose the beneficial ownership of a holder of a licence or registration certificate: 40B (1) "An applicant for a license or a certificate registration shall disclose information on beneficial ownership of the company or any entity contained in the application; (2) A holder of a license or a certificate of registration shall within 14 days following any amendment beneficial of ownership information, furnish the Board with a copy of the amended beneficial owners' register; and (3) A person who fails to comply with Section 40B commits offence". To comply with Section 93A of the Companies Act, 2015 which requires every company registered in Kenya to prepare and keep a register of its beneficial owners.

Committee Observation/Recommendation

The proposal was rejected by the Committee because the requirement for beneficial owner is already provided for under the companies Act and the information can be obtained administratively.

Section 48

20. Amend section 48 by deleting the word "eight" after the word "within" and substituting it with "ten". To enable the tea sector value chain players put in place the necessary infrastructure to do value addition.

Committee Observation/Recommendation

The proposal was adopted with amendments by the Committee to provide that the period for value addition shall be ten years pegged to the date of commencement of business and not the commencement date of the Act

Section 53

21. Amend section 53 (2A) as follows: "*Specialty tea Value added tea packed into packets containers containing not more than ten kilograms, tea aroma, tea extracts and decaffeinated teas shall be exempted from tea levy*". To provide incentives for value addition of Kenya tea prior to export, brand and origin recognition of Kenya tea and include tea aroma, extracts tea and decaffeinated teas which are high value in the teas to be exempted from tea levy

Committee Observation/Recommendation

The proposal was adopted to capture all the value-added tea and to provide incentives for value addition of Kenyan tea.

Section 54

22. Amend section 54 by deleting subsections 2 (b) and 3 (a). To align to the deleted provisions under Section 53 (5).

Committee Observation/Recommendation

The proposal to delete the Tea Levy from the Act was rejected by the Committee.

Section 74

23. Amend by introducing the following section 74 (B) immediately after section 74: 74B (1) "*The Cabinet Secretary may, in consultation with the Board, make guidelines to provide for: (a) Corporate Governance Guidelines for the tea industry; and (b) Code of Ethics and Conduct for tea Director(s)*". To address the governance challenges in the tea sub-sector and; to foster ethics and integrity among directors in the tea factories.

Committee Observation/Recommendation

The proposal was adopted by the Committee to ensure uniform practice by directors in the governance of the tea sector.

Third Schedule: Tea Blocks

24. Amend the Third Schedule as follows: (1) Deleting "Narok" from the East Block and inserting it under the West Block; and (2) Adding "West Pokot" under the West Block To correct misclassification of Narok under the tea blocks and to incorporate all tea growing under the West Block respectively.

Committee Observation/Recommendation

The proposal was adopted by the Committee to correct misclassification of Narok under the tea blocks and to incorporate all tea growing under the West Block.

MIN. NO. NA/A&L/2025/106:

ADJOURNMENT/DATE OF THE NEXT MEETING

The meeting was adjourned at forty-five minutes past one o'clock. The Committee agreed to reconvene on Friday, 25th July 2025, at 3.00 p.m.

SIGNED:  DATE: 

**HON. (DR.) JOHN KANYUITHIA MUTUNGA, PhD, CBS, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON AGRICULTURE &
LIVESTOCK**



THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 26TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK HELD ON FRIDAY, 25TH JULY 2025 IN THE INNER PIER ROOM, ENGLISH POINT MARINA HOTEL, MOMBASA AT 3.00 PM.

PRESENT

- | | | |
|---|---|-------------------------|
| 1. Hon. (Dr.) John Kanyuithia Mutunga, PhD, CBS, MP | - | Chairperson |
| 2. Hon. Brighton Leonard Yegon, MP | - | Vice-Chairperson |
| 3. Hon. Sabina Wanjiru Chege, CBS, MP | | |
| 4. Hon. Geoffrey Makokha Odanga, MP | | |
| 5. Hon. Lawrence Mpuru Aburi, MP | | |
| 6. Hon. David Kiplagat, MP | | |
| 7. Hon. Gabriel Gathuka Kagombe, MP | | |
| 8. Hon. Yussuf Mohamed Farah, MP | | |
| 9. Hon. Patrick Kibagendi Osero, MP | | |

ABSENT WITH APOLOGY

1. Hon. Ferdinand Kevin Wanyonyi, MP
2. Hon. Justice Kipsang Kemei, MP
3. Hon. Jared Odoyo Okelo, MP
4. Hon. Monicah Muthoni Marubu, MP
5. Hon. John Okwisa Makali, MP
6. Hon. Ruth Adhiambo Busia Odinga, MP

IN ATTENDANCE

COMMITTEE SECRETARIAT

- | | | |
|-------------------------|---|-----------------------------|
| 1. Mr. Nicodemus Maluki | - | Clerk Assistant I |
| 2. Mr. Victor K. Kilimo | - | Clerk Assistant III |
| 3. Mr. Gerald Kadede | - | Legal Counsel II |
| 4. CPA Robert Ng'etich | - | Fiscal Analyst I |
| 5. Mr. Shadrack Musyoki | - | Research Officer III |
| 6. Ms. Edith Chepgeno | - | Media Relations Officer III |
| 7. Ms. Jacinta Maru | - | Serjeant-at-Arms |
| 8. Ms. Teresia Macharia | - | Intern |

STAKEHOLDERS

State Department for Agriculture

1. Mr. David Kithale - Parliamentary Liason Officer
2. Mr. Willy Mutai - Chief Executive Officer, Tea Board of Kenya
3. Mr. Peter Kibiku - Senior Officer, Tea Board of Kenya
4. Ms. Peris Mudida - Director Legal Services, Tea Board of Kenya

Kenya Tea Development Agency

1. Mr. Chege Kirundi - Chairman, Kenya
2. Mr. Wilson Muthaura - Chief Executive Officer
3. Mr. Baptista Muriki - Board Member
4. Mr. Solomon Maina - Board Member
5. Mr. Enos Njeru - Board Member
6. Ms. Catherine Mukira - Board Member
7. Mr. Philip Langat - Board Member
8. Mr. James Githinji Mwangi - Board Member
9. Mr. Omweno Ombasa - Board Member
10. Mr. David Wanjohi - Board Member
11. Mr. Vincent Atei - Board Member
12. Mr. Francis Wanjau - Board Member
13. Mr. Simeon K. Rugut - General Manager, Finance & Strategy Division (GFSD),
14. Mr. Mathews Odero - General Manager, Corporate Services (GCS)

AGENDA

1. Prayers
2. Preliminaries/Adoption of the Agenda
3. Confirmation of Minutes
4. Matters Arising
5. Confirmation of Minutes
6. **Stakeholder Engagement on the Tea (Amendment) Bill (Senate Bill No. 1 of 2023)**
7. Any other Business
8. Adjournment/Date of the Next Sitting

MIN. NO. NA/A&L/2025/107:

PRELIMINARIES/ADOPTION OF THE AGENDA

The Chairperson called the meeting to order at three o'clock in the afternoon, and prayed. He thereafter, invited all participants present to introduce themselves.

The Agenda was thereafter adopted, having been proposed by **Hon. Sabina Wanjiru Chege, CBS, MP** and seconded by **Hon. David Kiplagat, MP**.

MIN. NO. NA/A&L/2025/108:

CONFIRMATION OF MINUTES

This agenda item was deferred to the next meeting.

MIN. NO. NA/A&L/2025/109:

KENYA TEA DEVELOPMENT AGENCY (KTDA), ON THE TEA (AMENDMENT) BILL (SENATE BILL NO. 1 OF 2023)

Mr. Chege Kirundi, Chairman of Kenya Tea Development Agency (KTDA), accompanied by Members of the Board, appeared before the Committee and made submissions on the Tea (Amendment) Bill (Senate Bill No. 1 of 2023) as follows:

1. KTDA reiterated that the Bill seeks to address critical aspects of the Tea Act No. 23 of 2020, but raised concerns on certain provisions namely: (a) Centralization of Functions: The Tea Board of Kenya retains excessive control over both regulatory and commercial functions, potentially leading to conflicts of interest and inefficiencies (b) Erosion of Autonomy: Provisions that override the Memoranda and Articles of Association of tea factory companies undermine the autonomy granted under the Companies Act, Cap 486; (c) Inadequate Representation at the Tea Board of Kenya: The current structure limits equitable and inclusive representation, particularly for smallholder farmers who contribute significantly to tea production; (d) Market Restrictions: Mandatory auction requirements and overregulation of exports impede free market principles and the ability of farmers to seek better market opportunities.
2. Amend the Bill by establishing an independent Tea Industry Appeals Tribunal to provide accessible and cost-effective dispute resolution mechanisms, reducing the burden on court cases to the factory companies.
3. Amend the Bill by introducing mandatory annual public disclosure of TBK's audited accounts, licensing activities, and regulatory impact assessments to enhance transparency and accountability.

Clause 2

4. Amend the provision to read: "tea factory limited company" *means a tea factory collectively owned through shares by small scale tea growers, medium scale tea growers and large-scale growers*". The large-scale tea growers and independent factories have been left out of the factory definition.

Committee Observation/Recommendation

The proposal was rejected by the Committee because the definition of "tea factory" as it is currently defined in the Act is sufficient.

Section 7

5. Amend section 7 (f) by deleting the words "*four persons. two...*" and replacing thereof with the words "*six persons, three...elected by the small holder*". This representation of the small holder is inadequate as compared to the area they represent.

Committee Observation/Recommendation

The proposal was rejected by the Committee because membership of the Board is currently eleven against the Mwongozo Code which recommends a maximum of 9.

6. Delete Section 22 (1). The justification for leaving the number of directors open to the Articles is because of the turnover of the Tea Factory Company, the shareholding of the Tea Factory Company, the geographical administration of the various Tea Factory Companies Limited and the flexibility in the management of the tea factory.

Committee Observation/Recommendation

The proposal was adopted by the Committee to allow the directorship of the companies to be managed by the Companies Act.

Sections 34 A (2)

7. Delete Section 34 A (2) since it will create bottlenecks leading to delays in exportation of the tea. The requirement also duplicates duties undertaken by different government bodies in registering tea for the export market such as KEPHIS.

Committee Observation/Recommendation

The proposal was adopted by the Committee. Requiring tea to be registered by the Board before export can lead to delays and loss of clients given the manner in which tea is sold. This is a process that can be done administratively without expressly stating in the Act.

Sections 30 to 32

8. Amend sections 30 to 32 by removing the word "exporting" from registration; brokers to submit brokerage agreements and appointed by the tea factory boards.

Committee Observation/Recommendation

The proposal was rejected by the Committee.

Sections 34 (9)

9. Amend by deleting the provision. The Companies Act stipulates how directors of a company are to be elected, number of directors as well as their tenure, and how to deal with conflict of interest which should be in line with the Tea Factory Articles of Association.

Committee Observation/Recommendation

The proposal was adopted by the Committee. The directors of tea companies are elected to sit in the holding companies because of the interests they protect. Any potential conflict of interest is governed by the Companies Act.

Section 36A (2)

10. Amend the provision to read: "*The prices offered at the direct sales shall be sold at a price above the average price recorded at the auction within the three months preceding the sale.*" Direct sales offer exporters and buyers the flexibility to negotiate prices based on market conditions, demand, and tea quality. Tying direct sales to the highest auction prices will limit this flexibility.

Committee Observation/Recommendation

The proposal was adopted by the Committee. An average price within a duration of three months is more favourable. Pegging the price to the highest price recorded might lead to accumulation of stock and reduction of quality considering that the prices fluctuate.

Section 36 (3)

11. Amend the provision to read: "*The Cabinet Secretary shall, in consultation with the Council of Governor prescribe regulations for the procedure of direct sale of tea.*" Engaging with the county governments individually may lead to delays and inconsistencies in the formulation of regulations.

Committee Observation/Recommendation

The proposal was adopted by the Committee. It might be challenging for the CS to consult all the 47 counties when making regulations, consulting the Council of Governors makes the process more efficient.

Sections 36 (6)

12. Amend by deleting the provision because the implementation will pause a challenge as the amounts payable per Factory Company Limited will vary, thereby taking away from the uniformity of payment within the sector.

Committee Observation/Recommendation

The Bill proposes a deletion of the subsection already. The proposal was adopted by the Committee.

Section 36 (8)

13. Amend by deleting the provision and retaining the Mombasa Tea Auction as the sole auction centre because establishing multiple auction centres in tea-growing counties risks segmenting the tea market, leading to difference in pricing. This could dilute Kenya's competitive edge in the global tea market, which benefits from a centralised pricing system.

Committee Observation/Recommendation

The proposal was rejected by the Committee because the intention of the proposed amendment is to open up the market and allow establishment of competent auction centres.

Section 47 (1)

14. Amend by harmonizing and making fee structures transparent across all counties. County fees lack safeguards against double taxation/economic barriers.

Committee Observation/Recommendation

The proposal was rejected by the Committee because county governments are independent and have structures for charging fees within the law.

Section 48 (1)

15. Amend by assigning to manufacturers and producers instead of exporters. Since this is a misplaced additional responsibility.

Committee Observation/Recommendation

The proposal was adopted with amendments to allow for a ten-year period for value addition pegged on the commencement of business and not the commencement of the Act.

Section 53

16. Amend by capping the levy at Kshs. 1/Kg of made tea while exempting specialty/value added tea. Also revise allocation to 70% marketing, 10% TBK functions and 20% research and delete infrastructure provision and/or fund TBK and Tea Research Foundation from the ex-chequer.

Committee Observation/Recommendation

The proposal was rejected by the Committee.

ZONES

Zone 2 & 3

Clause 3 (section 5)

17. Amend by deleting paragraph (b) and (j); and amending paragraph (l) by removing minimum payment. Retain maximum payment period. Conflicting roles and distortion of market dynamics.

Committee Observation/Recommendation

The proposal was rejected by the Committee because the functions of the Board under the Act are sufficient.

Clause 4 (section 7)

18. Replace with a minimum of seven (7) directors representing the smallholders from East and West regional block. Underrepresentation of smallholders at the Tea Board of Kenya.

Committee Observation/Recommendation

The proposal was rejected by the Committee because the membership of the Board is currently eleven against the Mwongozo Code which recommends a maximum of 9.

Clause 6 (section 22)

19. Amend by deleting (2); and amending (4). Appointment should be as per the respective factories MEMARTS. Interference with Company Governance.

Committee Observation/Recommendation

The proposal was rejected by the Committee

Zone 5

Clause 6 (section 22)

20. Amend section 22 (1) by removing “*maximum of five*” and replacing with “*Minimum of six and maximum of nine members*”.

Committee Observation/Recommendation

The proposal was rejected by the Committee because there is a proposed amendment to delete the provision on the number of directors.

Zone 7

Clause 2

21. The current definition of “*tea factory limited*” limits tea factory ownership to small and medium-scale ownership by shareholding. Expand this provision to include all tea factories regardless of ownership structure, to ensure inclusivity and avoid discrimination.

Committee Observation/Recommendation

The proposal was rejected by the Committee because the definition in the Act is sufficient.

Clause 6 (section 22)

22. Proposes changes to the composition of the Board to 5 out of which 3 will be elected directors.


Committee Observation/Recommendation

The proposal was rejected by the Committee because the provision on the number of Board members has been deleted from the Act.

MIN. NO. NA/A&L/2025/109:

ADJOURNMENT/DATE OF THE NEXT MEETING

The meeting was adjourned at forty minutes past six o'clock. The Committee agreed to reconvene on Saturday, 26th July 2025, at 9.00 am.

SIGNED:  DATE: 19/08/2025

 HON. (DR.) JOHN KANYUITHIA MUTUNGA, PhD, CBS, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON AGRICULTURE &
LIVESTOCK



THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 27TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK HELD ON SATURDAY, 26TH JULY 2025 IN THE INNER PIER ROOM, ENGLISH POINT MARINA HOTEL, MOMBASA AT 9.30AM

PRESENT

- | | | |
|---|---|-------------------------|
| 1. Hon. (Dr.) John Kanyuithia Mutunga, PhD, CBS, MP | - | Chairperson |
| 2. Hon. Brighton Leonard Yegon, MP | - | Vice-Chairperson |
| 3. Hon. Sabina Wanjiru Chege, CBS, MP | | |
| 4. Hon. Geoffrey Makokha Odanga, MP | | |
| 5. Hon. Lawrence Mpuru Aburi, MP | | |
| 6. Hon. David Kiplagat, MP | | |
| 7. Hon. Gabriel Gathuka Kagombe, MP | | |
| 8. Hon. Yussuf Mohamed Farah, MP | | |
| 9. Hon. Patrick Kibagendi Osero, MP | | |

ABSENT WITH APOLOGY

1. Hon. Ferdinand Kevin Wanyonyi, MP
2. Hon. Justice Kipsang Kemei, MP
3. Hon. Jared Odoyo Okelo, MP
4. Hon. Monicah Muthoni Marubu, MP
5. Hon. John Okwisa Makali, MP
6. Hon. Ruth Adhiambo Busia Odinga, MP

IN ATTENDANCE

COMMITTEE SECRETARIAT

- | | | |
|-------------------------|---|-----------------------------|
| 1. Mr. Nicodemus Maluki | - | Clerk Assistant I |
| 2. Mr. Victor K. Kilimo | - | Clerk Assistant III |
| 3. Mr. Gerald Kadede | - | Legal Counsel II |
| 4. CPA Robert Ng'etich | - | Fiscal Analyst I |
| 5. Mr. Shadrack Musyoki | - | Research Officer III |
| 6. Ms. Edith Chepgeno | - | Media Relations Officer III |
| 7. Ms. Jacinta Maru | - | Serjeant-at-Arms |
| 8. Ms. Teresia Macharia | - | Intern |

STAKEHOLDERS

The Principal Secretary, State Department for Agriculture, appeared before the Committee and made his remarks on the Bill as follows:

He appreciated the Committee's support to the Ministry and expressed concurrence with the presentations and progress made by the Tea Board of Kenya. He highlighted key challenges facing the tea sector, including poor infrastructure, the need for value addition to Kenyan tea, and the hawking of green leaf. He further reiterated that before a factory is registered, approval must first be obtained from the respective zones. The Principal Secretary emphasized the following clauses:

Amend Section 36(c), subsection (5), by deleting and inserting the words '*and paid to the tea growers*' immediately after the words '*tea factory accounts*'.

Justification

The proposed amendment will be difficult to implement since proceeds from tea sales for the entire month are aggregated in the tea factory accounts and subsequently paid to the tea growers by the 5th day of the following month.

Amend Section 36(6) of the Principal Act is amended by deleting the words "*receipt of proceeds of sale of tea*" appearing before the words "*pay tea growers*" and substituting therefor the words "*delivery of green leaf*".

Justification

Deleting Section 36(6) would remove the safeguards in the Act that are intended to ensure tea growers are paid on time from the proceeds of sale.

Proposed New Section 38D (Not in the Bill)

38D. Voluntary Certification Schemes

1. A person shall not operate a voluntary certification scheme for tea in Kenya without being registered by the Board.
2. A voluntary certification scheme owner or certification agent operating in the tea industry in Kenya shall register with the Board and pay the prescribed fee.
3. The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of voluntary certification scheme owners and certification agents.
4. A person who operates a voluntary certification scheme for tea in Kenya without being registered by the Board commits an offence.

Justification

This proposed provision seeks to control the multiplicity of certification schemes in the tea sub-sector, which have increased the cost of production and consequently reduced the profitability of tea producers and growers' earnings. It also ensures that tea value chain players receive value for services offered by standards owners, who have previously engaged the industry without the knowledge or approval of the regulator.

40B. Disclosure of Beneficial Ownership

1. An applicant for a licence or a certificate of registration shall disclose information on the beneficial ownership of the company or any entity contained in the application.

Amend the Third Schedule by—

- (a) deleting "Narok" from the East Block and inserting it under the West Block;
- (b) adding "West Pokot" under the West Block.

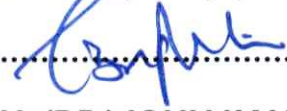
Justification

The amendment seeks to correct the misclassification of Narok under the tea blocks and to incorporate all tea-growing counties.

MIN. NO. NA/A&L/2025/113:

ADJOURNMENT/DATE OF THE NEXT MEETING

The meeting was adjourned at twenty five minutes past one o'clock. The Committee agreed to reconvene on Saturday, 26th July 2025, at three two o'clock in the afternoon.

SIGNED:  **DATE:** 19/08/2025

 **HON. (DR.) JOHN KANYUITHIA MUTUNGA, PhD, CBS, MP**
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON AGRICULTURE & LIVESTOCK



THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 28TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK HELD ON SATURDAY, 26TH JULY 2025 IN THE INNER PIER ROOM, ENGLISH POINT MARINA HOTEL, MOMBASA AT 2.30PM

PRESENT

- | | | |
|---|---|-------------------------|
| 1. Hon. (Dr.) John Kanyuithia Mutunga, PhD, CBS, MP | - | Chairperson |
| 2. Hon. Brighton Leonard Yegon, MP | - | Vice-Chairperson |
| 3. Hon. Sabina Wanjiru Chege, CBS, MP | | |
| 4. Hon. Geoffrey Makokha Odanga, MP | | |
| 5. Hon. Lawrence Mpuru Aburi, MP | | |
| 6. Hon. David Kiplagat, MP | | |
| 7. Hon. Gabriel Gathuka Kagombe, MP | | |
| 8. Hon. Yussuf Mohamed Farah, MP | | |
| 9. Hon. Patrick Kibagendi Osero, MP | | |

ABSENT WITH APOLOGY

1. Hon. Ferdinand Kevin Wanyonyi, MP
2. Hon. Justice Kipsang Kemei, MP
3. Hon. Jared Odoyo Okelo, MP
4. Hon. Monicah Muthoni Marubu, MP
5. Hon. John Okwisa Makali, MP
6. Hon. Ruth Adhiambo Busia Odinga, MP

IN ATTENDANCE

COMMITTEE SECRETARIAT

- | | | |
|-------------------------|---|-----------------------------|
| 1. Mr. Nicodemus Maluki | - | Clerk Assistant I |
| 2. Mr. Victor K. Kilimo | - | Clerk Assistant III |
| 3. Mr. Gerald Kadede | - | Legal Counsel II |
| 4. CPA Robert Ng'etich | - | Fiscal Analyst I |
| 5. Mr. Shadrack Musyoki | - | Research Officer III |
| 6. Ms. Edith Chepgeno | - | Media Relations Officer III |
| 7. Ms. Jacinta Maru | - | Serjeant-at-Arms |
| 8. Ms. Teresia Macharia | - | Intern |

AGENDA

1. Prayers
2. Preliminaries/Adoption of the Agenda
3. Confirmation of Minutes
4. Matters Arising
5. Confirmation of Minutes
6. **Consideration of the proposed amendments to the Tea (amendments) Bill, 2023 (Senate Bill No. 1 of 2023)**
7. Any other Business
8. Adjournment/Date of the Next Sitting

MIN. NO. NA/A&L/2025/114: PRELIMINARIES/ADOPTION OF THE AGENDA

The Chairperson called the meeting to order at half past two o'clock and prayed.

The Agenda was adopted, having been proposed by the Hon. Geoffrey Makokha Odanga, MP, and seconded by the Hon. David Kiplagat, MP.

MIN. NO. NA/A&L/2025/115: CONFIRMATION OF MINUTES

This agenda item was deferred to the next meeting.

MIN. NO. NA/A&L/2025/116: CONSIDERATION OF THE COMMITTEE OF PROPOSED AMENDMENTS TO THE TEA (AMENDMENT) BILL (SENATE BILL NO. 1 OF 2023)

After receiving submissions from stakeholders, the Committee proposed the following amendments for consideration by the House at the Committee Stage:

Clause 2

1. THAT, Clause 2 of the Bill be amended—

- (a) by deleting the definition of “value addition” and substituting therefor the following new definition—

“Value addition” means improvement on made tea through blending or flavouring or branding and packaging into a retail packet or a container holding not more than ten kilograms, or tea extracts, tea aroma and decaffeinated tea.”

- (b) by deleting the definition of “tea limited factory.”

- (c) by inserting the following new definitions in their proper alphabetical sequence—

“e-trader” means a person providing a platform for buying and selling of tea through an e-commerce platform;

“Small-scale tea grower” means a person cultivating tea in a parcel of land of less than ten acres supplying green leaf to a tea factory limited company;

"Medium-scale tea grower" means a person cultivating tea in a parcel of land supplying green leaf to a tea factory limited company;

Clause 3

2. THAT, the Bill be amended by deleting clause 3 and substituting therefor the following new clause—

"Section 5 of the principal Act be amended—

- (a) by deleting the words "commercial green leaf transporters" appearing immediately after the words "commercial tea nurseries";*
- (b) by deleting the words "commercial tea nurseries" appearing immediately the words "tea auction organizers".*

Justification

Registration of commercial tea nurseries is a function of county governments under section 38(1) of the Act.

Clause 6

3. THAT, Clause 6 of the Bill be amended—

- (a) by numbering the existing provision as (a);
- (b) by inserting the following new paragraph immediately after paragraph (a)—

"(b) Section 22 of the principal Act be amended by deleting subsection (1)"

Justification

To allow the constitution of company boards to be governed by their Memorandum and Articles of Association and the Companies Act

Clause 7

4. THAT, Clause 7 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph—

"(a) by inserting the following new subsection immediately after subsection (1)—

(1A) A large scale tea grower shall notify the Board of any intended sale or transfer of any intended sale or transfer of ownership of its holding three months before the commencement of the intended transaction."

Justification

The notification to the Board of any intended sale is important to ensure that interest of the grower is taken care of. However, since such a transfer of sale is governed by other laws, it might not be possible to know with certainty when the transfer of sale will take effect hence a notification of three months before commencement is more reasonable.

Clause 11

5. THAT, Clause 11 of the Bill be amended in section 34A—

(a) by inserting the following new paragraph immediately after paragraph (b) in subsection (1)—

“(c) e-commerce.”

(b) by inserting the following new subclause immediately after subclause (2)—

“(3) *The Cabinet Secretary may prescribe regulations providing for the sale of teas through the auction, direct sales and e-commerce.*”

(c) by inserting the following new section immediately after section 34A—

“34B (1) *A person who intends to establish an e-commerce platform for sale of tea shall register with the Board.*

(2) *A person shall not establish an e-commerce platform for tea unless the person is registered in accordance with this Act.*

(3) *The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of e-traders and the appeal process in case of refusal or denial of registration.*

(4) *A person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine not exceeding five million shillings or to both.*”

(d) by deleting subclause (2).

Justifications

(a) To incorporate e-commerce in the trade of tea and to operationalise the provision on e-commerce in the trade of tea.

(b) Requiring tea to be registered by the Board before export can lead to delays and loss of clients given the manner in which tea is sold. This is a process that can be done administratively without expressly stating in the Act.

Clause 12

6. THAT, Clause 12 of the Bill be amended by deleting paragraph (c).

Justification

The current system of paying the growers works well and the proposed mode might be impractical to implement.

Clause 13

7. THAT, Clause 13 of the Bill be amended in the proposed new Clause 36A—

(a) By deleting subclause (2) and substituting therefor the new subclause—

“(2) *The prices offered at the direct sales shall be sold at a price above the average price recorded at the auction within the three months preceding the sale.*”

Justification

Tying direct sales to the highest auction prices will limit this flexibility. Requiring prices to exceed auction highs could make Kenyan tea less competitive in the international market, as buyers may shift to other tea-producing countries offering better pricing flexibility. Direct buyers may avoid Kenyan tea due to the artificial price floor, reducing demand and potentially leading to an oversupply in the market which could depress overall prices.

- (b) By deleting subclause (3) and substituting therefor the following new subclause—

"(3) The Cabinet Secretary shall, in consultation with the Council of Governor prescribe regulations for the procedure of direct sale of tea."

Justification

Engaging with the county governments individually may lead to delays and inconsistencies in the formulation of regulations. Different counties may prioritize their unique interests, complicating the development of cohesive national-level policies for the tea sector. The Council of Governors serves as a collective representative body for all counties, providing a single platform for engagement with the national government. Consulting the Council of Governors will ensure that county-level interests are uniformly represented while maintaining a national perspective.

Clause 15

8. THAT, Clause 15 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph—

- (a) inserting the following new subsection immediately after subsection (2)—

"2A. Specialty tea, value added tea packed into packets or containers containing not more than ten kilograms, tea aroma, tea extracts and decaffeinated teas shall be exempted from tea levy."

Justification

To provide incentives for value addition of Kenya tea prior to export, branding and origin recognition of Kenya tea and include tea aroma, extracts tea and decaffeinated teas which are high value in the teas to be exempted from tea levy.

Clause 16

9. THAT, Clause 16 of the Bill be amended—

- (a) by numbering the existing provision as paragraph (a);

- (b) by inserting the following new paragraph immediately after paragraph (a)

"(b) The principal Act be amended in section 74 by inserting the following new subclause immediately after subclause (2)—

(2A) The Cabinet Secretary may, in consultation with the Board, make Guidelines to provide for –

- (a) Corporate Governance Guidelines for the tea industry;*

- (b) Code of Ethics and Conduct for tea Director(s);"*

Justification

To ensure uniform practice by directors in the governance of the tea sector.

New Clauses

10. THAT, Section 25 of the principal Act is amended—

(a) in subsection (3) by deleting the words “*after consultation with the Cabinet Secretary*” in the opening statement.

(b) By inserting the following new subsections immediately after subsection (5)—

“(6) A holder of a tea manufacturing license shall notify the Board of any intended sale or transfer of ownership of its holdings before the transaction is affected.

“(7) The Cabinet Secretary shall make regulations to provide for transfer of holdings of a tea manufacturer.”

Justifications

(a) Issuance of licence by the Board does not require consultation of the CS.

(b) To allow only a notification of change of ownership to the Board.

(c) To retain definition of “tea factory” as it is in the Act. A Factory is not necessarily a limited company.

11. THAT, Section 34 of the principal Act be amended by deleting—

(a) by deleting subsection (5) and substituting therefor the following new subsection—

“(5) The staff costs for personnel seconded to the tea factory limited company by a management agent shall be borne by the tea limited factory;”

(b) by deleting subsection (9).

Justifications

(a) To enable each factory to pay for the cost of their staff.

(b) The directors of tea companies are elected to sit in the holding companies because of the interests they protect. Any potential conflict of interest is governed by the Companies Act.

12. THAT, Section 48 of the principal Act be amended by deleting subsection (1) and substituting therefor the following new subsection—

“(1) All tea buyers or exporters shall value add at least forty per centum of their annual Kenya tea exports within ten years of the commencement of their business.”

Justification

To increase the duration for value addition to ten years and peg to the date of commencement of business and not the commencement date of the Act.

THIRD SCHEDULE

13. THAT, the Third Schedule to the Bill be amend by—

- (a) deleting "Narok" from the East Block and inserting it under the West Block;
- (b) adding "West Pokot" under the West Block

Justification

To correct misclassification of Narok under the tea blocks and to incorporate all tea growing counties

MIN. NO. NA/A&L/2025/117:

ADJOURNMENT/DATE OF THE NEXT MEETING

The meeting was adjourned at thirty minutes past four o'clock. The date of the next will be communicated on notice.

SIGNED:  **DATE:** 19/08/2025

**HON. (DR.) JOHN KANYUITHIA MUTUNGA, PhD, CBS, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON AGRICULTURE &
LIVESTOCK**



THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 31ST SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK HELD ON FRIDAY, 15TH AUGUST 2025 AT HILTON GARDEN INN HOTEL, SUITE 6, 6TH FLOOR, MACHAKOS COUNTY AT 9:30AM

PRESENT

- | | | |
|---|---|-------------------------|
| 1. Hon. (Dr.) John Kanyuithia Mutunga, PhD, CBS, MP | - | Chairperson |
| 2. Hon. Brighton Leonard Yegon, MP | - | Vice-Chairperson |
| 3. Hon. Sabina Wanjiru Chege, MP | | |
| 4. Hon. Geoffrey Makokha Odanga, MP | | |
| 5. Hon. Justice Kipsang Kemei, MP | | |
| 6. Hon. Jared Odoyo Okelo, MP | | |
| 7. Hon. Lawrence Mpuru Aburi, MP | | |
| 8. Hon. David Kiplagat, MP | | |
| 9. Hon. Gabriel Gathuka Kagombe, MP | | |
| 10. Hon. Monicah Muthoni Marubu, MP | | |
| 11. Hon. Patrick Kibagendi Osero, MP | | |

ABSENT WITH APOLOGY

1. Hon. Ferdinand Kevin Wanyonyi, MP
2. Hon. Yussuf Mohamed Farah, MP
3. Hon. John Okwisa Makali, MP
4. Hon. Ruth Adhiambo Busia Odinga, MP

IN ATTENDANCE

COMMITTEE SECRETARIAT

- | | | |
|-------------------------|---|---------------------|
| 1. Mr. Nicodemu Maluki | - | Clerk Assistant I |
| 2. Mr. Victor K. Kilimo | - | Clerk Assistant III |
| 3. Mr. Gerald Kadede | - | Legal Counsel II |
| 4. Ms. Lydia Nyagol | - | Secretary |
| 5. Ms. Jacinta Maru | - | Serjeant-At-Arms |

AGENDA

1. Prayers
2. Preliminaries/Adoption of the Agenda

3. Confirmation of Minutes
4. **Clause by Clause Consideration of the Tea (Amendment) Bill, (Senate Bill No. 1 of 2023)**
5. Any other Business
6. Adjournment/Date of the Next Sitting

MIN. NO. NA/A&L/2025/128: PRELIMINARIES/ADOPTION OF THE AGENDA

The Chairperson called the meeting to order at thirty minutes past nine and prayed. He then invited all members and secretariat to participate fully in the business ahead.

The agenda was adopted having been proposed and seconded by the Hon. Justice Kipsang Kemei, MP, and the Hon. Brighton Leonard Yegon, MP respectively.

MIN. NO. NA/A&L/2025/129: CONFIRMATION OF MINUTES

The agenda item was deferred to the next meeting.

MIN. NO. NA/A&L/2025/130: CLAUSE BY CLAUSE CONSIDERATION OF THE TEA (AMENDMENT) BILL, (SENATE BILL NO. 1 OF 2023)

The legal Counsel took Members through the draft report on the Tea (Amendment) Bill, (Senate Bill No. 1 of 2023) capturing submissions and proposed amendments by stakeholders and agreed to the following amendments:

Clause 2

1. **THAT**, Clause 2 of the Bill be amended—
 - (a) by deleting the definition of “*value addition*” and substituting therefor the following new definition—

“*Value addition*” means improvement on made tea through blending or flavouring or branding and packaging into a retail packet or a container holding not more than ten kilograms, or tea extracts, tea aroma and decaffeinated tea.”
 - (b) by deleting the definition of “*tea limited factory*.”
 - (c) by inserting the following new definitions in their proper alphabetical sequence—

“*e-trader*” means a person providing a platform for buying and selling of tea through an e-commerce platform;

“*Small-scale tea grower*” means a person cultivating tea in a parcel of land of less than ten acres supplying green leaf to a tea factory limited company;

“*Medium-scale tea grower*” means a person cultivating tea in a parcel of land supplying green leaf to a tea factory limited company;

Clause 3

2. **THAT**, the Bill be amended by deleting clause 3 and substituting therefor the following new clause—

“Section 5 of the principal Act be amended—

- (a) by deleting the words “commercial green leaf transporters” appearing immediately after the words “commercial tea nurseries”;*
- (b) by deleting the words “commercial tea nurseries” appearing immediately the words “tea auction organizers”.*

Justification

Registration of commercial tea nurseries is a function of county governments under section 38(1) of the Act.

Clause 6

3. THAT, Clause 6 of the Bill be amended—

- (a) by numbering the existing provision as (a);
- (b) by inserting the following new paragraph immediately after paragraph (a)—
“(b) Section 22 of the principal Act be amended by deleting subsection (1)”

Justification

To allow the constitution of company boards to be governed by their Memorandum and Articles of Association and the Companies Act

Clause 7

4. THAT, Clause 7 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph—

*“(a) by inserting the following new subsection immediately after subsection (1)—
(1A) A large scale tea grower shall notify the Board of any intended sale or transfer of any intended sale or transfer of ownership of its holding three months before the commencement of the intended transaction.”*

Justification

The notification to the Board of any intended sale is important to ensure that interest of the grower is taken care of. However, since such a transfer of sale is governed by other laws, it might not be possible to know with certainty when the transfer of sale will take effect hence a notification of three months before commencement is more reasonable.

Clause 11

5. THAT, Clause 11 of the Bill be amended in section 34A—

- (a) by inserting the following new paragraph immediately after paragraph (b) in subsection (1)—
“(c) e-commerce.”
- (b) by inserting the following new subclause immediately after subclause (2)—
“(3) The Cabinet Secretary may prescribe regulations providing for the sale of teas through the auction, direct sales and e-commerce.”

- (c) by inserting the following new section immediately after section 34A—

“34B (1) A person who intends to establish an e-commerce platform for sale of tea shall register with the Board.

(2) A person shall not establish an e-commerce platform for tea unless the person is registered in accordance with this Act.

(3) The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of e-traders and the appeal process in case of refusal or denial of registration.

(4) A person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine not exceeding five million shillings or to both.”

- (d) by deleting subclause (2).

Justifications

(a) To incorporate e-commerce in the trade of tea and to operationalise the provision on e-commerce in the trade of tea.

(b) Requiring tea to be registered by the Board before export can lead to delays and loss of clients given the manner in which tea is sold. This is a process that can be done administratively without expressly stating in the Act.

Clause 12

- 6. THAT,** Clause 12 of the Bill be amended by deleting paragraph (c).

Justification

The current system of paying the growers works well and the proposed mode might be impractical to implement.

Clause 13

- 7. THAT,** Clause 13 of the Bill be amended in the proposed new Clause 36A—

(a) By deleting subclause (2) and substituting therefor the new subclause—

“(2) The prices offered at the direct sales shall be sold at a price above the average price recorded at the auction within the three months preceding the sale.”

Justification

Tying direct sales to the highest auction prices will limit this flexibility. Requiring prices to exceed auction highs could make Kenyan tea less competitive in the international market, as buyers may shift to other tea-producing countries offering better pricing flexibility. Direct buyers may avoid Kenyan tea due to the artificial price floor, reducing demand and potentially leading to an oversupply in the market which could depress overall prices.

(b) By deleting sub clause (3) and substituting therefor the following new sub clause—

"(3) The Cabinet Secretary shall, in consultation with the Council of Governor prescribe regulations for the procedure of direct sale of tea."

Justification

Engaging with the county governments individually may lead to delays and inconsistencies in the formulation of regulations. Different counties may prioritize their unique interests, complicating the development of cohesive national-level policies for the tea sector. The Council of Governors serves as a collective representative body for all counties, providing a single platform for engagement with the national government. Consulting the Council of Governors will ensure that county-level interests are uniformly represented while maintaining a national perspective.

Clause 15

8. **THAT**, Clause 15 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph—

- (a) inserting the following new subsection immediately after subsection (2)—
"2A. Specialty tea, value added tea packed into packets or containers containing not more than ten kilograms, tea aroma, tea extracts and decaffeinated teas shall be exempted from tea levy."

Justification

To provide incentives for value addition of Kenya tea prior to export, branding and origin recognition of Kenya tea and include tea aroma, extracts tea and decaffeinated teas which are high value in the teas to be exempted from tea levy.

Clause 16

9. **THAT**, Clause 16 of the Bill be amended—
- (a) by numbering the existing provision as paragraph (a);
- (b) by inserting the following new paragraph immediately after paragraph (a)
"(b) The principal Act be amended in section 74 by inserting the following new sub clause immediately after sub clause (2)—
(2A) The Cabinet Secretary may, in consultation with the Board, make Guidelines to provide for –
(a) Corporate Governance Guidelines for the tea industry;
(b) Code of Ethics and Conduct for tea Director(s);"

Justification

To ensure uniform practice by directors in the governance of the tea sector.
New Clauses

10. **THAT**, Section 25 of the principal Act is amended—

- (a) in subsection (3) by deleting the words “after consultation with the Cabinet Secretary” in the opening statement.
- (b) By inserting the following new subsections immediately after subsection (5)—
 - “(6) A holder of a tea manufacturing license shall notify the Board of any intended sale or transfer of ownership of its holdings before the transaction is affected.
 - (7) The Cabinet Secretary shall make regulations to provide for transfer of holdings of a tea manufacturer.”

Justifications

- (a) Issuance of licence by the Board does not require consultation of the CS.
- (b) To allow only a notification of change of ownership to the Board.
- (c) To retain definition of “tea factory” as it is in the Act. A Factory is not necessarily a limited company.

- 11. **THAT**, Section 34 of the principal Act be amended by deleting—
 - (a) by deleting subsection (5) and substituting therefor the following new subsection—
 - “(5) The staff costs for personnel seconded to the tea factory limited company by a management agent shall be borne by the tea limited factory;”
 - (b) by deleting subsection (9).

Justifications

- (a) To enable each factory to pay for the cost of their staff.
- (b) The directors of tea companies are elected to sit in the holding companies because of the interests they protect. Any potential conflict of interest is governed by the Companies Act.

- 12. **THAT**, Section 48 of the principal Act be amended by deleting subsection (1) and substituting therefor the following new subsection—
 - “(1) All tea buyers or exporters shall value add at least forty per centum of their annual Kenya tea exports within ten years of the commencement of their business.”

Justification

To increase the duration for value addition to ten years and peg to the date of commencement of business and not the commencement date of the Act.

THIRD SCHEDULE

- 13. **THAT**, the Third Schedule to the Bill be amend by—
 - (a) deleting “Narok” from the East Block and inserting it under the West Block;
 - (b) adding “West Pokot” under the West Block

Justification

To correct mis-classification of Narok under the tea blocks and to incorporate all tea growing counties

MIN. NO. NA/A&L/2025/131:

ADJOURNMENT/DATE OF THE NEXT MEETING

The meeting was adjourned at eleven minutes to one o'clock. The next meeting will be held on Friday, 15th August 2025 at 2.00pm.

SIGNED: DATE:

HON. (DR.) JOHN KANYUITHIA MUTUNGA, PhD, CBS, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON AGRICULTURE & LIVESTOCK



THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 35TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK HELD ON SATURDAY, 16TH AUGUST 2025 AT HILTON GARDEN INN HOTEL, SUITE 6, 6TH FLOOR, MACHAKOS COUNTY AT 2:30PM

PRESENT

- | | | |
|---|---|-------------------------|
| 1. Hon. (Dr.) John Kanyuithia Mutunga, PhD, CBS, MP | - | Chairperson |
| 2. Hon. Brighton Leonard Yegon, MP | - | Vice-Chairperson |
| 3. Hon. Sabina Wanjiru Chege, MP | | |
| 4. Hon. Geoffrey Makokha Odanga, MP | | |
| 5. Hon. Justice Kipsang Kemei, MP | | |
| 6. Hon. Jared Oduyo Okelo, MP | | |
| 7. Hon. Lawrence Mpuru Aburi, MP | | |
| 8. Hon. David Kiplagat, MP | | |
| 9. Hon. Gabriel Gathuka Kagombe, MP | | |
| 10. Hon. Monicah Muthoni Marubu, MP | | |
| 11. Hon. Patrick Kibagendi Osero, MP | | |

ABSENT WITH APOLOGY

1. Hon. Ferdinand Kevin Wanyonyi, MP
2. Hon. Yussuf Mohamed Farah, MP
3. Hon. John Okwisa Makali, MP
4. Hon. Ruth Adhiambo Busia Odinga, MP

IN ATTENDANCE

COMMITTEE SECRETARIAT

- | | | |
|-------------------------|---|---------------------|
| 1. Mr. Nicodemu Maluki | - | Clerk Assistant I |
| 2. Mr. Victor K. Kilimo | - | Clerk Assistant III |
| 3. Mr. Gerald Kadede | - | Legal Counsel II |
| 4. Ms. Lydia Nyagol | - | Secretary |
| 5. Ms. Jacinta Maru | - | Serjeant-At-Arms |

AGENDA

1. Prayers
2. Preliminaries/Adoption of the Agenda
3. Confirmation of Minutes

4. **Consideration and adoption of the Tea (Amendment) Bill (Senate Bill No. 1 of 2023); the Pyrethrum (Repeal) Bill, 2024 (National Assembly Bill No. 40 of 2025); and the Prevention of Livestock and Produce Theft Bill, 2023 (Senate Bill, No. 12 of 2023)**
5. Any other Business
6. Adjournment/Date of the Next Sitting

MIN. NO. NA/A&L/2025/130: PRELIMINARIES/ADOPTION OF THE AGENDA

The Chairperson called the meeting to order at thirty minutes past two o'clock by prayed.

The agenda was adopted having been proposed and seconded by the Hon. David Kiplagat, MP, and the Hon. Monicah Muthoni Marubu, MP respectively.

MIN. NO. NA/A&L/2025/131: CONFIRMATION OF MINUTES

The agenda item was deferred to the next meeting.

MIN. NO. NA/A&L/2025/132: CONSIDERATION AND ADOPTION OF THE TEA (AMENDMENT) BILL (SENATE BILL NO. 1 OF 2023)

The Committee adopted its report with the following proposed amendments to be considered by the House in the Committee Stage:

Clause 2

THAT, Clause 2 of the Bill be amended—

- (a) by deleting the definition of "value addition" and substituting therefor the following new definition—

"Value addition" means improvement on made tea through blending or flavouring or branding and packaging into a retail packet or a container holding not more than ten kilograms, or tea extracts, tea aroma and decaffeinated tea."

- (b) by deleting the definition of "tea limited factory."

- (c) by inserting the following new definitions in their proper alphabetical sequence—

"e-trader" means a person providing a platform for buying and selling of tea through an e-commerce platform;

"Small-scale tea grower" means a person cultivating tea in a parcel of land of less than ten acres supplying green leaf to a tea factory limited company;

"Medium-scale tea grower" means a person cultivating tea in a parcel of land supplying green leaf to a tea factory limited company;

Clause 3

THAT, the Bill be amended by deleting clause 3 and substituting therefor the following new clause—

“Section 5 of the principal Act be amended—

- (a) by deleting the words “commercial green leaf transporters” appearing immediately after the words “commercial tea nurseries”;*
- (b) by deleting the words “commercial tea nurseries” appearing immediately the words “tea auction organizers”.*

Justification

Registration of commercial tea nurseries is a function of county governments under section 38(1) of the Act.

Clause 6

THAT, Clause 6 of the Bill be amended—

- (a) by numbering the existing provision as (a);
- (b) by inserting the following new paragraph immediately after paragraph (a)—

“(b) Section 22 of the principal Act be amended by deleting subsection (1)”

Justification

To allow the constitution of company boards to be governed by their Memorandum and Articles of Association and the Companies Act

Clause 7

THAT, Clause 7 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) by inserting the following new subsection immediately after subsection (1)—

(1A) A large scale tea grower shall notify the Board of any intended sale or transfer of any intended sale or transfer of ownership of its holding three months before the commencement of the intended transaction.”

Justification

The notification to the Board of any intended sale is important to ensure that interest of the grower is taken care of. However, since such a transfer of sale is governed by other laws, it might not be possible to know with certainty when the transfer of sale will take effect hence a notification of three months before commencement is more reasonable.

Clause 11

THAT, Clause 11 of the Bill be amended in section 34A—

- (a) by inserting the following new paragraph immediately after paragraph (b) in subsection (1)—

“(c) e-commerce.”

(b) by inserting the following new subclause immediately after subclause (2)—
“(3) *The Cabinet Secretary may prescribe regulations providing for the sale of teas through the auction, direct sales and e-commerce.*”

(c) by inserting the following new section immediately after section 34A—

“34B (1) *A person who intends to establish an e-commerce platform for sale of tea shall register with the Board.*

(2) *A person shall not establish an e-commerce platform for tea unless the person is registered in accordance with this Act.*

(3) *The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of e-traders and the appeal process in case of refusal or denial of registration.*

(4) *A person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine not exceeding five million shillings or to both.*”

(d) by deleting subclause (2).

Justifications

(a) To incorporate e-commerce in the trade of tea and to operationalise the provision on e-commerce in the trade of tea.

(b) Requiring tea to be registered by the Board before export can lead to delays and loss of clients given the manner in which tea is sold. This is a process that can be done administratively without expressly stating in the Act.

Clause 12

THAT, Clause 12 of the Bill be amended by deleting paragraph (c).

Justification

The current system of paying the growers works well and the proposed mode might be impractical to implement.

Clause 13

THAT, Clause 13 of the Bill be amended in the proposed new Clause 36A—

(a) By deleting subclause (2) and substituting therefor the new subclause—

"(2) The prices offered at the direct sales shall be sold at a price above the average price recorded at the auction within the three months preceding the sale."

Justification

Tying direct sales to the highest auction prices will limit this flexibility. Requiring prices to exceed auction highs could make Kenyan tea less competitive in the international market, as buyers may shift to other tea-producing countries offering better pricing flexibility. Direct buyers may avoid Kenyan tea due to the artificial price floor, reducing demand and potentially leading to an oversupply in the market which could depress overall prices.

(b) By deleting subclause (3) and substituting therefor the following new subclause—

"(3) The Cabinet Secretary shall, in consultation with the Council of Governor prescribe regulations for the procedure of direct sale of tea."

Justification

Engaging with the county governments individually may lead to delays and inconsistencies in the formulation of regulations. Different counties may prioritize their unique interests, complicating the development of cohesive national-level policies for the tea sector. The Council of Governors serves as a collective representative body for all counties, providing a single platform for engagement with the national government. Consulting the Council of Governors will ensure that county-level interests are uniformly represented while maintaining a national perspective.

Clause 15

THAT, Clause 15 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph—

(a) inserting the following new subsection immediately after subsection (2)—

"2A. Specialty tea, value added tea packed into packets or containers containing not more than ten kilograms, tea aroma, tea extracts and decaffeinated teas shall be exempted from tea levy.

Justification

To provide incentives for value addition of Kenya tea prior to export, branding and origin recognition of Kenya tea and include tea aroma, extracts tea and decaffeinated teas which are

high value in the teas to be exempted from tea levy.

Clause 16

THAT, Clause 16 of the Bill be amended—

(a) by numbering the existing provision as paragraph (a);

(b) by inserting the following new paragraph immediately after paragraph (a)

“(b) The principal Act be amended in section 74 by inserting the following new subclause immediately after subclause (2)—

(2A) The Cabinet Secretary may, in consultation with the Board, make Guidelines to provide for –

(a) Corporate Governance Guidelines for the tea industry;

(b) Code of Ethics and Conduct for tea Director(s);”

Justification

To ensure uniform practice by directors in the governance of the tea sector.

New Proposed Clauses

THAT, Section 25 of the principal Act is amended—

(a) in subsection (3) by deleting the words *“after consultation with the Cabinet Secretary”* in the opening statement.

(b) By inserting the following new subsections immediately after subsection (5)—

“(6) A holder of a tea manufacturing license shall notify the Board of any intended sale or transfer of ownership of its holdings before the transaction is affected.

(7) The Cabinet Secretary shall make regulations to provide for transfer of holdings of a tea manufacturer.”

Justifications

(a) Issuance of licence by the Board does not require consultation of the CS.

(b) To allow only a notification of change of ownership to the Board.

(c) To retain definition of “tea factory” as it is in the Act. A Factory is not necessarily a limited company.

THAT, Section 34 of the principal Act be amended by deleting—

(a) by deleting subsection (5) and substituting therefor the following new subsection—

“(5) The staff costs for personnel seconded to the tea factory limited company by a management agent shall be borne by the tea limited factory;”

(b) by deleting subsection (9).

Justifications

(a) To enable each factory to pay for the cost of their staff.

- (b) The directors of tea companies are elected to sit in the holding companies because of the interests they protect. Any potential conflict of interest is governed by the Companies Act.

THAT, Section 48 of the principal Act be amended by deleting subsection (1) and substituting therefor the following new subsection—

“(1) All tea buyers or exporters shall value add at least forty per centum of their annual Kenya tea exports within ten years of the commencement of their business.”

Justification

To increase the duration for value addition to ten years and peg to the date of commencement of business and not the commencement date of the Act.

THIRD SCHEDULE

THAT, the Third Schedule to the Bill be amend by—

(a) deleting “Narok” from the East Block and inserting it under the West Block;

(b) adding “West Pokot” under the West Block

Justification

To correct mis-classification of Narok under the tea blocks and to incorporate all tea growing counties

MIN. NO. NA/A&L/2025/133:

CONSIDERATION AND ADOPTION OF THE PYRETHRUM (REPEAL) BILL, 2024 (NATIONAL ASSEMBLY BILL NO. 40 OF 2025)

Having reviewed the Pyrethrum (Repeal) Bill, 2024 (National Assembly Bill No. 40 of 2025, the Committee recommended that the House **approves the Bill without amendments.**

MIN. NO. NA/A&L/2025/134:

CONSIDERATION AND ADOPTION OF THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT BILL, 2023 (SENATE BILL, NO. 12 OF 2023)

The Committee adopted the report with the following proposed amendments for consideration by the House in the Committee Stage:

Long Title

THAT, the Bill be amended by deleting the long title and substituting therefor the following new long title—

“AN ACT of Parliament to provide for: a legal framework for the identification of livestock; the prevention of livestock theft; the regulation of trade in livestock, the return of illegally acquired livestock; and for connected purposes.”

Justification

Return of illegally acquired firearms is a security function which falls under the Ministry of Interior.

Clause 2

THAT, Clause 2 of the Bill be amended—

- (a) by deleting the definition of the term “ammunition”;
- (b) by deleting the definition of the term “county executive committee member”;
- (c) by deleting the definition of the term “firearm”;
- (d) by deleting the definition of “Ministry” and substituting therefor the following new definition—
“Ministry” means the Ministry of Agriculture and Livestock Development”; and
- (e) by deleting the words “county executive committee member in the respective county” in the definition of the word “register” and substituting therefor the words “county government”.

Justifications

- a) **The Committee has proposed amendments to delete the terms from the Bill and thus no need to define them as they haven’t been used in the Bill.**
- b) **To specify that the Ministry that is being referred to is the Ministry of Agriculture and Livestock Development.**

Clause 3

- I. **THAT**, Clause 3 of the Bill be amended in paragraph (a)—
 - (a) by deleting subparagraph (i) and substituting therefor the following new subparagraph—
“(i) the prevention, combating and eradication of livestock theft through reliable and verifiable identification mechanism”.
 - (b) by deleting subparagraph (iii) and substituting therefor the following new subparagraph—
“(iii) the regulation of livestock movement from one place to another.” and
 - (c) by deleting subparagraph (iv).

Justification

To align the object of the Bill to the intention of the Bill and to delete functions that fall within the Ministry of Interior.

Clause 4

THAT, Clause 4 of the Bill be amended by deleting paragraph (d).

Justification

This is a security function which falls under the Ministry of Interior.

Clause 5

THAT, Clause 5 of the Bill be amended—

- (a) by deleting the marginal note and substituting therefor the following new marginal note—
“Functions of the county government”
- (b) by deleting the opening statement and substituting therefor the following new opening statement—
“(5) Every county government shall—
- (c) by deleting paragraph (a) and substituting therefor the following new paragraph—
“(a) establish and maintain a county specific register of livestock brands in collaboration with the Ministry;”
- (d) by deleting paragraph (c) and substituting therefor the following new paragraph—
“(c) design, formulate and implement strategies and mechanisms for the prevention, combating and eradicating livestock theft;”
- (e) by deleting paragraph (e) and substituting therefor the following new paragraph—
“(c) promote the abandonment of livestock theft by collaborating with relevant agencies in sensitizing livestock owners on alternative sustainable forms of livelihood;” and
- (f) By deleting paragraph (f).

Justifications

- (a) The Bill being a national legislation, emphasis is on county governments and not CECMs;**
- (b) To ensure that county governments develop livestock brands in consultation with the Ministry so that the brands are well differentiated;**
- (c) To introduce implementation by county governments after designing and formulating strategies; and**
- (d) Paragraph (f) is covered under paragraph (c).**

Clause 6

THAT, Clause 6 of the Bill be amended—

- (a) by deleting subclause (1) and substituting therefor the following new subclause —
“(1) Every livestock owner shall apply to the county government for registration of their livestock.”
- (b) by deleting subclause (2) and substituting therefor the following new subclause—
“(2) An application for registration under this section shall be in accordance to county specific legislation.”

(c) by deleting subclause (3) and substituting therefor the following new subclause—
“(3) A county government shall ensure registration of livestock within thirty days from the date of an application for registration by a livestock owner upon compliance with the registration requirements.”

(d) by deleting subclause (4); and

(e) by deleting subclause (5).

Justifications

(a) The Bill being a national legislation, emphasis is county governments and not CECMs;

(b) To ensure that details on the application for the registration can be left for the county specific legislations since counties have different and unique challenges;

(c) To ensure that brands are developed by the county in consultation with the Ministry and not the livestock owner;

(d) To ensure that application to the county government is for registration of livestock and not brands, the counties to develop the brands.

Clause 7

THAT, the Bill be amended in Clause 7—

(a) by deleting subclause (1) and substituting therefor the following new subclause—
“(1) Upon registration of a brand, a county government shall issue to the applicant a certificate of registration in the form prescribed in the county specific legislation.”

(b) in subclause (2)—

(i) by deleting the phrase “under subsection (2)” appearing immediately before the word “made” and substituting therefor the words “under this section”; and

(ii) by deleting the phrase “county executive committee member” and substituting therefor the phrase “county government”.

(c) in subclause (4) by deleting the phrase “subsection (2)” in the opening statement and substituting therefor the words “under this section.”

(d) in subclause (5) by deleting the words “under subclause (3)” appearing immediately before the word “certificate”.

Justifications

(a) The Bill being a national legislation, emphasis is on county governments and not CECMs; and

(b) To avoid a lot of cross referencing of sections in the Bill.

Clause 8

THAT, Clause 8 of the Bill be amended—

- (a) in subclause (1) by deleting the words “*county executive committee*” and substituting therefor the words “*county government*”;
- (b) in subclause (3)—
 - (i) by deleting the words “*county executive committee*” and substituting therefor the words “*county government*”; and
 - (ii) by deleting the phrase “*subsection (1)*” and substituting therefor the word “*this section*”.
- (c) in subclause (5) by deleting the words “*county executive committee member*” and substituting therefor the words “*county government*”.

Justifications

(a) The Bill being a national legislation, emphasis is on county governments and not CECMs; and

(b) To avoid a lot of cross referencing of sections in the Bill.

Clause 9

THAT, Clause 9 of the Bill be amended—

- (a) in subclause (1)
 - (i) by deleting the words “*county executive committee*” appearing in the opening statement and substituting therefor the words “*county government*”;
 - (ii) in paragraph (a) by deleting the words “*county executive committee*” and substituting therefor the words “*county government*”; and
 - (iii) in paragraph (c) by deleting the words “*county executive committee*” and substituting therefor the words “*county government*”.

Justification

The Bill being a national legislation, emphasis is on county governments and not CECMs.

Clause 10

THAT, Clause 10 of the Bill be amended in subclause (1) by deleting the words “*county executive committee member*” and substituting therefor the words “*county government*”.

Justification

The Bill being a national legislation, emphasis is on county governments and not CECMs.

Clause 11

THAT, Clause 11 of the Bill be amended—

- (a) in subclause (1) by deleting the word “*six*” appearing immediately after the phrase “*of*” and substituting therefor the word “*three*”;
- (b) in subclause (2) by deleting the word “*three*” appearing immediately after the word “*within*” and substituting therefor the word “*six*”;

(c) in subclause 3—

- (i) by deleting the word “conspicuous” in paragraph (a) and substituting therefor the word “traceable”;
- (ii) by deleting the words “county executive committee member” appearing immediately after the phrase “the” in paragraph (c) and substituting therefor the words “county government”;

(d) by deleting subclause (4) and substituting therefor the following new subclause—
“(4) A county government may prescribe further requirements on branding taking into consideration the unique circumstance within the respective county.”

Clause 12

THAT, the Bill be amended by deleting Clause 12.

Justification

Branding ought to be permanent and identifiable whether it is visible or invisible.

Clause 13

THAT, Clause 13 of the Bill be amended—

(a) in subclause (1) deleting the words “the purpose of sale and slaughter or any other purpose” appearing immediately after word “for” and substituting therefor the words “any purpose”;

(b) in subclause (2) by deleting paragraph (h) and substituting therefor the following new paragraph—

“(h) in the case of sale, transactional market;”

Justifications

(a) To ensure that removal permit is obtain in all circumstance of livestock movement.

(b) To indicate the market where the sale is intended to take place since the seller may not know details of the purchase at the time of removal of livestock.

Clause 16

THAT, Clause 16 of the Bill be amended—

(a) in subclause (1) by deleting the words “county executive committee member” and substituting therefor the words “county government” and

(b) in subclause (2)—

(i) by deleting the words “county executive committee member” in the opening statement and substituting therefor the words “county government”; and

(ii) by deleting the words “county executive committee member” in paragraph (e) and substituting therefor the words “county government”.

Justification

The Bill being a national legislation, emphasis is on county governments and not CECMs.

Clause 17

THAT, Clause 17 of the Bill be amended by deleting the words “one year” appearing immediately after the word “exceeding” in the closing statement and substituting therefor the words “six months”.

Justification

To ensure that the penalty is commensurate to the offence.

Clause 18

THAT, Clause 18 of the Bill be amended in the closing statement—

(a) by deleting the words “of theft” appearing immediately after the word “offence”; and

(b) by deleting the word “fourteen” appearing immediately after the word “exceeding” and substituting therefor the words “one”; and

Justification

To ensure that the penalty is commensurate to the offence.

Clause 19

THAT, Clause 19 of the Bill be amended—

(a) by deleting subclause (1) and substituting therefor the following new subclause—

“(1) A person who steals livestock or livestock produce, or receives any livestock or livestock produce knowing or having reason to believe it to be stolen commits an offence and shall be liable, on conviction for, to a term of one year or a fine of twice the value of the livestock or livestock produce.

(b) in subclause (2) by deleting the word “is liable on conviction to a life term of imprisonment” appearing immediately after the word “person” and substituting therefor the words “shall be charged with the offence of robbery with violence”;

(c) by deleting subclause (3); and

(d) in subclause (4) by deleting the words “a term of imprisonment of not less than fifteen years” and substituting therefor the words “term not exceeding five years, or a fine amounting to twice the value of the livestock”.

Justification

To ensure that the penalty is commensurate to the offence.

Clause 20

THAT, Clause 20 of the Bill be amended in subclause (1)—

- (a) by deleting the words “seven years” appearing immediately after the “exceeding” and substituting therefor the word “six months”; and
- (b) by deleting the words “five” appearing immediately after the “exceeding” and substituting therefor the word “one”.

Justifications

To ensure that the penalty is commensurate to the offence.

Clause 21

THAT, Clause 21 of the Bill be amended—

- (a) in subclause (3) by deleting the words “registrar or any officer” and substituting therefor the words “county government”; and
- (b) by deleting subclause (5).

Justification

To replace the registrar with the county government because there is no registrar in the Bill.

Clause 22

THAT, Clause 22 of the Bill be amended--

- (a) by deleting the words “of three years” appearing immediately after the words “term” and substituting therefor the word “not exceeding six months”; and
- (b) by deleting the words “of one million” appearing immediately after the “exceeding” and substituting therefor the word “not exceeding one hundred thousand”.

Justification

To ensure that the penalty is commensurate to the offence.

Clause 23

THAT, the Bill be amended by deleting Clause 23.

Justification

Interfering with the movement of livestock will disrupt the markets which currently operate for 24 hours.

Clause 24

THAT, Clause 24 of the Bill be amended—

- (a) by deleting the words “may be reasonably be suspected of being stolen” and substituting therefor the words “is confirmed to be stolen”; and
- (b) by deleting the words “not less than fifteen years” and substituting therefor the words “not exceeding five years, or to a fine amounting to twice the value of the livestock”.

Justification

To ensure that the penalty is commensurate to the offence.

Clause 25

THAT, Clause 25 of the Bill be amended—

(a) in subclause (1)—

- (i) by deleting the words *“may be reasonably be suspected of being stolen”* and substituting therefor the words *“is confirmed to be stolen”*; and
- (ii) by deleting the words *“not less than ten years”* and substituting therefor the words *“not exceeding five years, or to a fine amounting to twice the value of the livestock”*.

(b) by deleting subclause (2).

Justifications

(a) To provide clarity of the offences;

(b) To ensure that the penalty is commensurate to the offence; and

(c) To delete an ambiguous clause.

Clause 26

THAT, Clause 26 of the Bill be amended by deleting the words *“of not less than ten years”* and substituting therefor the words *“not exceeding five years, or to a fine amounting to twice the value of the livestock”*.

Justification

To ensure that the penalty is commensurate to the offence.

Clause 27

THAT, Clause 27 of the Bill be amended by inserting the words *“commits and offence and shall be liable, on conviction, for a term not exceeding two years, or to a fine amounting to the value of the livestock”*.

Justification

To ensure that the penalty is commensurate to the offence.

Clause 28

THAT, Clause 28 of the Bill be amended is subclause (3) by deleting the words *“nearest livestock centre”* and substituting therefor the words *“nearest law enforcement agency”*.

Justification

To term livestock centre has not been defined hence not clear and it is more practical to hold the animals in a law enforcement agency in this context.

Clause 31

THAT, Clause 31 of the Bill be amended—

- (a) in paragraph (a) by deleting the word “*develop*” and substituting therefor the word “*promote*”; and
- (b) in paragraph (d) by deleting the word “*develop*” and substituting therefor the word “*promote*”.

Justifications

- a) To align the functions of county governments.**
- b) To assign the function to county governments and not CECMs.**

Clause 32

THAT, Clause 32 of the Bill be amended by deleting the words “*county executive committee member*” and substituting therefor the words “*county government*”.

Justifications

To place emphasis on county governments and not CECMs.

Clause 34

THAT, Clause 34 of the Bill be amended—

- (a) by deleting the words “*not less than five hundred*” and substitute therefor the words “*not exceeding one hundred*”; and
- (b) by deleting the words “*two years*” and substituting therefor the words “*six months*”.

Justification

To ensure that the penalty is commensurate to the offence.

Clause 36

THAT, Clause 36 of the Bill be amended in subclause (2) by deleting paragraph (e) and substituting therefor the following new paragraph—

- (e) “*for charges and fees to be paid to the two levels of government*”.

Justification

To ensure uniformity in the process of coming up with the fees charged by counties by enabling the CS to make regulations.

There being no other business, the meeting was adjourned at thirty minutes past one O'clock.
The next meeting will be communicated on notice.

SIGNED: DATE:


HON. (DR.) JOHN KANYUTHIA MUTUNGA, PhD, CBS, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON AGRICULTURE &
LIVESTOCK



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 22ND SITTING OF THE DEPARTMENTAL COMMITTEE ON
AGRICULTURE AND LIVESTOCK HELD ON TUESDAY, 10TH JUNE 2025 IN
BUNGE TOWER, 3RD FLOOR, COMMITTEE ROOM 18/19, PARLIAMENT AT
10.00 AM

PRESENT

- | | | |
|---|---|-------------------------|
| 1. Hon. (Dr.) John Kanyuithia Mutunga, PhD, CBS, MP | - | Chairperson |
| 2. Hon. Brighton Leonard Yegon, MP | - | Vice-Chairperson |
| 3. Hon. Sabina Wanjiru Chege, CBS, MP | | |
| 4. Hon. Justice Kipsang Kemei, MP | | |
| 5. Hon. Geoffrey Makokha Odanga, MP | | |
| 6. Hon. Jared Oduyo Okelo, MP | | |
| 7. Hon. David Kiplagat, MP | | |
| 8. Hon. Gabriel Gathuka Kagombe, MP | | |
| 9. Hon. Yussuf Mohamed Farah, MP | | |
| 10. Hon. Monicah Muthoni Marubu, MP | | |

ABSENT WITH APOLOGY

1. Hon. Ferdinand Kevin Wanyonyi, MP
2. Hon. Patrick Kibagendi Osero, MP
3. Hon. John Okwisia Makali, MP
4. Hon. Ruth Adhiambo Busia Odinga, MP
5. Hon. Lawrence Mpuru Aburi, MP

IN ATTENDANCE

COMMITTEE SECRETARIAT

- | | | |
|-------------------------|---|-----------------------------|
| 1. Mr. Nicodemus Maluki | - | Clerk Assistant I |
| 2. Mr. Ahmednoor Hassan | - | Clerk Assistant III |
| 3. Mr. Shadrack Musyoki | - | Senior Research Officer |
| 4. CPA Robert Ng'etich | - | Fiscal Analyst I |
| 5. Mr. Brigitta Mati | - | Legal Counsel I |
| 6. Ms. Edith Chepngeno | - | Media Relations Officer III |

7. Ms. Jacinta Maru - Serjeant-at-Arms
8. Ms. Rehema Jepkoech - Audio Assistant
9. Ms. Teresia Macharia - Intern

STAKEHOLDERS

Kenya Tea Development Association (KTDA)

1. Mr. Chege Kirundi - Chairperson
2. Mr. Simeon Rugutt - Finance Director
3. Mr. John Wasusana - Board Member
4. Ms. Catherine Mankura - Board Member
5. Mr. Omweno Ombasa - Board Member (Zone 2)
6. Mr. James Githinji - Board Member (Zone 2)
7. Mr. Enos Njeru - Board Member (Zone 6)
8. Mr. Arioi Vincent - Board Member (Zone 10)
9. Mr. Francis Wanjau - Board Member (Zone 12)
10. Mr. Collins Bett - Managing Director
11. Mr. Mathew Odero - Group Company Secretary

Tea Board of Kenya (TBK)

1. Ms. Peris Mudida - Director Legal Services
2. Mr. John Kariuki - Head of Finance

Kenya Tea Growers Association (KTGA)

- Ms. Linda Oluoch - Chief Executive Officer

East Africa Tea Traders Association (EATTA)

1. Mr. Abdi Hussein - Chairman
2. Mr. George Omunga - Managing Director

Kenya Agriculture and Livestock Research Organization (KALRO)

- Ms. Lilian Kerfo - Institute Director

AGENDA

1. Prayers
2. Preliminaries/Adoption of the Agenda
3. Confirmation of Minutes
4. Matters Arising
5. Confirmation of Minutes
6. **Submission of Memoranda by Stakeholders on the Tea (Amendment) Bill (Senate Bill No. 1 of 2023)**
7. Any other Business
8. Adjournment/Date of the Next Sitting

MIN. NO. NA/A&L/2025/096:

PRELIMINARIES/ADOPTION OF THE AGENDA

The Chairperson called the meeting to order at 10:22 am with a word of prayer. He thereafter requested all present to make a self- introduction.

The Agenda was adopted having being proposed and seconded by the Hon. Geoffrey Odanga, MP and the Hon. Justice Kemei, MP respectively.

MIN. NO. NA/A&L/2025/097:

CONFIRMATION OF MINUTES

The Agenda was deferred.

MIN. NO. NA/A&L/2025/098:

SUBMISSION OF MEMORANDA BY STAKEHOLDERS ON THE TEA (AMENDMENT) BILL (SENATE BILL NO. 1 OF 2023)

The Chairperson invited the stakeholders to make their submissions on the Bill in the following order;

1. Kenya Tea Development Association (KTDA)
2. Tea Board of Kenya (TBK)
3. Kenya Tea Growers' Association (KTGA)
4. East Africa Tea Traders Association (EATTA)
5. Kenya Agriculture and Livestock Research Organization (KALRO)

1. Kenya Tea Development Association (KTDA)

Mr. Chege Kirundi, the Chairperson Kenya Tea Development Association (KTDA) in the company of other Board Members appeared before the Committee and submitted that proposals of all the Zones were incorporated in the Association's memorandum as follows;

- a. Amend Section 2 of the Tea Act, 2020 to read "tea factory limited company means a tea factory company collectively owned through shares by small scale tea growers, medium scale tea growers and large-scale growers." The justification for this, was that the large-scale tea growers were not included in the definition in the Act and this led to ambiguity, regulatory loopholes and inequitable treatment among the classes of growers.
- b. Section 7 (f) be amended by deleting the words "four persons, two..." and replacing thereof with "six persons, three..." The Association stated that the representation of the small holder was inadequate compared to their areas of coverage.
- c. The Association proposed that Section 22 be deleted in its entirety. This Section provides for the maximum number of memberships of the Board to be five (5).

The justification for this is that the membership of the Board should not be limited by the Act in order to cater for considerations such as the geographical location, turn-over, flexibility in the management and shareholding in the tea factory companies.

- d. Amend the Bill by deleting Clause 34 A (2) which seeks to register tea for export markets. KTDA was of the view that this would cause delay in export of tea due to bottlenecks and that there would be duplication of roles since the registration of tea for export is currently carried out by other government institutions such as the Kenya Plant Health Inspectorate service (KEPHIS).
- e. Amend Clause 13 (2) of the Bill to read; "the prices offered for direct sales shall be sold at a price above the average price recorded at the auction within the three months preceding the sale." KTDA gave the reason that the provision, as contained in the Bill, runs the risk of limiting flexibility by tying direct sales to the highest auction prices and that direct sales offer buyers and exporters flexibility to negotiate prices based on market conditions.
- f. Delete Section 34 (9) in its entirety. The election and number of directors of a company are governed by the Companies Act of 2015.
- g. Amend Section 36 (3) to read; "The Cabinet Secretary shall, in consultation with Council of Governors, prescribe regulations for the procedure of the direct sale of tea." KTDA was of the view that the Council of Governors is the representative of all County Governments and the input provided by the Council with regard to the direct sale of tea shall suffice for purposes of uniformity.
- h. KTDA proposed the deletion of Section 36 (6) on the grounds that there would be lack of uniformity in the Sector with regards to the payment to tea growers as there will be a variation the amounts payable per factory.
- i. Amend Clause 36 (8) to have Mombasa Tea Auction as the sole auction centre. The rationale behind this is to avoid multiple auction centres that may lead to tea market segmenting and different prices.
- j. Delete Section 53 with the reason that the amount payable to the farmer is negligible compared to the amount payable as levy.

2. Tea Board of Kenya (TBK)

The Tea Board of Kenya (TBK) was in concurrence with all the amendments that were proposed by the Kenya Tea Development Association (KTDA).

3. Kenya Tea Growers Association (KTGA)

4. Ms. Lindah Ogutu, the CEO of the Association, made the submissions on the proposed Tea (Amendment) Bill (Senate Bill No. 1 of 2023) as follows:

- a. Proposal to maintain the definition of "value addition" as contained in the Principal Act in order to incentivize value addition.
- b. Amend by Inserting Clause 23 (2); 'Procedure of transfer of large-scale tea holding.' This is because additional requirements for transfer of tea enterprise without appropriate justification presents additional restrictions to the attractiveness of the industry to investors.
- c. KTGA was in support of Clause 11 that seeks to introduce Section 34 A. The justification for this is that the re-opening of direct sales will open up avenues for tea trade and sales. It will further enable establishment of long-term market linkages for sustainable supply of Kenya teas to strategic markets.

- d. Delete sub-clause (8) and maintain the clause in the Tea Act at section 36(7) which allows for competitiveness and disclosure of auction rules by the organizer to the Board. The justification provided was that the disruption of the existing auction will destabilize the sector trade and occasion loss of competitive advantages of a centralized, conveniently located auction attracting multiple buyers globally and suitably located to the regional logistics hub at the port of Mombasa.
- e. Delete Clause 14 with the reason that sufficient provisions exist in County Licensing laws and the Public Finance Management Act.
- f. Delete the prescriptiveness as provided for by Clause
- g. Delete the proposed Clause 36A (2). There already exist procedures for direct sales and disclosures.
- h. Delete 36 A (3) to avoid anti-competitive prescriptiveness as the Competition Act already provides for adequate mechanisms for monitoring of price competitiveness and consumer protection.
- i. Section 53 of the Principal Act; Delete the phrase "packed into packets or containers holding not more than ten kilograms" in the proposed sub-clause (2A) as per justifications above so that the exemption is applicable to all value-added teas. This will overall, incentivize value addition ventures.

5. East Africa Tea Traders Association (EATTA)

- a. Proposal to amend Clause 6 to exclude "Export Processing Zones" (EPZ) as it is adequately provided for under EPZ Act and its inclusion would lead to contradiction between the two pieces of legislations.
- b. EATTA supported the amendment of Section 32 of the Tea Act, 2020 by deleting the words "limited company" appearing immediately after the words "a tea factory." The justification for this is that one of this was one contentious issue that were before court and a consent upon with Tea Board of Kenya in the consent document signed in Court, the same should be deleted from the Tea (Amendment) Bill, 2023 and limited to Tea Regulations in Section 74 (b) where the issue of the registration of the tea Brokers and their remunerations should be discussed and agreed by the various parties.
- c. Section 34(3)(a) and 34(4) of the Principal Act should be deleted and addressed under the regulations in sections 74 (b) and (c) on page 15 of the Tea (Amendment) Act 2023.
- d. EATTA was in concurrence with Clause 10 (b) with the reason that a tea factory can be allowed to register with the auction organizer or participate in the auction through the management agent.
- e. EATTA also proposed that the current centralized Regional Auction system based in Mombasa be maintained so as to reap the full benefits and economies of scale and regional integration for the Tea Industry.
- f. Clause 36 A; The stipulation of a price for the direct sale of tea was anti-competition and could be unduly prejudicial to tea producers for the following reasons;
 - i. It failed to take into consideration the global market dynamics which may enable realization of better prices at any subsequent auction; and could effectively, restrict price discovery by producers through stipulating an "acceptable/ceiling price" for the teas.
 - ii. The requirement disregarded that; Some teas are produced for special orders of direct buyers overseas and therefore attract much higher, premium prices due to the customer specifications. This stipulation of

- prices would restrict price discovery for forward contracts, a critical avenue for marketing of Kenyan teas. It was unclear whether all teas could be required to be presented at the Auction floor for the assessment of the price. If so, this will increase logistical and administrative costs and occasion marketing and trade inefficiencies.
- iii. The proposal was unduly prejudicial to processors of tea as businesses that should have freedom to sell their tea at an appropriate price/set price to ensure the business remains sustainable.
 - iv. This price stipulation would restrict free trade and reduce competitiveness of Kenyan teas against other regional producers.

6. Kenya Agriculture and Livestock Research Organization (KALRO)

The Organization, through its representatives, informed the Committee of its concurrence with the memoranda submitted by other stakeholders. However, the representatives emphasized the need for the legislative process to prioritize and enhance research within the tea sector. They highlighted the role of the Kenya Agricultural and Livestock Research Organization (KALRO) in the development of various tea varieties, including the commercially viable purple tea, as a testament to the importance of sustained investment in agricultural research.

Committee Deliberations

Upon analysis of the memoranda submitted by stakeholders, the Committee identified the following key issues for consideration:

- 1. **Regulation of Board Membership:** Whether the number of members of the Board of Directors in tea companies should be regulated, particularly in light of the fact that these companies are registered under the Companies Act, 2015.
- 2. **Direct Sales Procedures:** Whether the Bill should explicitly provide for the pricing and procedures related to direct sales, or whether such details should be addressed through subsidiary legislation (regulations).
- 3. **Auction Centers:** Whether multiple auction centers should be established to decentralize tea marketing or if the existing auction centers in Mombasa should remain the sole auction facility to ensure price uniformity and stability.
- 4. **Conflict of Interest:** Whether a conflict of interest arises when a director of a tea factory concurrently serves as a director of another company that has a direct or indirect commercial relationship with the tea factory.

MIN. NO. NA/A&L/2025/095:

ADJOURNMENT/DATE OF THE NEXT MEETING

There being no other business, the Chairperson adjourned the meeting at quarter to one O'clock. The next meeting will be held on notice.

SIGNED:DATE:

**HON. (DR.) JOHN KANYUITHIA MUTUNGA, PhD, CBS, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON AGRICULTURE &
LIVESTOCK**



THIRTEENTH PARLIAMENT - FOURTH SESSION - 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 12TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK HELD ON TUESDAY, 8TH APRIL 2025 IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDING AT 9.30 AM

PRESENT

- | | | |
|---|---|-------------------------|
| 1. Hon. (Dr.) John Kanyuithia Mutunga, PhD, CBS, MP | - | Chairperson |
| 2. Hon. Brighton Leonard Yegon, MP | - | Vice-Chairperson |
| 3. Hon. Sabina Wanjiru Chege, CBS, MP | | |
| 4. Hon. Ferdinand Kevin Wanyonyi, MP | | |
| 5. Hon. Justice Kipsang Kemei, MP | | |
| 6. Hon. Lawrence Mpuru Aburi, MP | | |
| 7. Hon. Gabriel Gathuka Kagombe, MP | | |
| 8. Hon. Monicah Muthoni Marubu, MP | | |
| 9. Hon. Patrick Kibagendi Osero, MP | | |
| 10. Hon. Ruth Adhiambo Busia Odinga, MP | | |

ABSENT WITH APOLOGY

1. Hon. Geoffrey Makokha Odanga, MP
2. Hon. Jared Odoyo Okelo, MP
3. Hon. David Kiplagat, MP
4. Hon. Yussuf Mohamed Farah, MP
5. Hon. John Okwisa Makali, MP

IN ATTENDANCE

COMMITTEE SECRETARIAT

- | | | |
|-------------------------|---|-------------------------|
| 1. Mr. Victor K. Kilimo | - | Clerk Assistant III |
| 2. Mr. Shadrack Musyoki | - | Senior Research Officer |
| 3. Mr. Gerald Kadede | - | Legal Counsel II |
| 4. Ms. Jacinta Maru | - | Serjeant-at-Arms |
| 5. Dickson O. Oloo | - | Audio Assistant |

AGENDA

1. Prayers
2. Preliminaries/Adoption of the Agenda

3. Confirmation of Minutes
4. Matters Arising
5. Confirmation of Minutes
6. **Briefing on the Tea (Amendment) Bill, 2023**
7. Any other Business
8. Adjournment/Date of the Next Sitting

MIN. NO. NA/A&L/2025/053: PRELIMINARIES/ADOPTION OF THE AGENDA

The meeting was called to order at ten O'clock with prayer said by the Chairperson.

The Agenda was adopted having been proposed by Hon. Justice Kipsang Kemei, MP and seconded by Hon. Monicah Muthoni Marubu, MP.

MIN. NO. NA/A&L/2025/054: CONFIRMATION OF MINUTES

This Agenda was diffused.

MIN. NO. NA/A&L/2025/055: BRIEFING ON THE TEA (AMENDMENT) BILL, 2023

The Chairperson invited the Secretariat to brief the Committee on the Tea (Amendment) Bill, 2023.

The meeting was briefed as follows, THAT:

Legal Brief

The principal objective of the Bill is to amend certain provisions of the Tea Act, Cap. 343, to protect the tea growers' proceeds from mismanagement by factories. The Bill also seeks to incentivise value addition of tea by exempting value added tea from paying the tea levy. It further seeks to liberalize the tea industry through direct sale of tea overseas.

Merits of the Tea Amendment Bill, 2023

The Bill seeks to address several concerns raised by stakeholders in the tea industry as follows:

1. **Accumulation of unsold tea stockpiles and the need for direct tea sales by factories:** The Bill introduces provisions for direct sales of tea, allowing licensed factories or entities representing growers to engage in direct sales. Further, it allows all processed and manufactured tea for export to be offered for sale at the tea auction floor (Clauses 34A, 36(1), and 36A (1)). The CS responsible for matters relating to agriculture will be required, in consultation with county governments to prescribe regulations for the procedure of direct sales of tea.
2. **Participation of factories in direct tea sales:** The Bill hands the licensed factories the opportunity to undertake direct sales in Kenya or overseas, and also to participate in the tea auction.

3. **Minimum Reserve Price:** Section 36A (2) provides that the prices offered at the direct sales shall be competitive and shall be sold at a price above the highest price recorded at the auction within the three months preceding the sale.
4. **Tea delivery logistics that have led tea farmers to pluck their tea in the evening:** Section 37(1) is amended to ensure that commercial green leaf transporters register with county governments and not the Board. Under clause 37(3), County Assemblies will enact legislation on the procedure for registration of commercial green leaf transporters and the appeal process in case of denial of registration.
5. **Tea proceeds management to ensure a Direct Settlement system so that tea farmers are paid once the brokers have received proceeds from tea sales:** the Bill amends section 36(5) to ensure that farmers are paid within 14 days from the date of the tea auction. Direct Settlement is defined as one that supports a banking facility provided by a commercial bank regulated by the Central Bank of Kenya for the clearing and settlement of tea sales proceeds.
6. **The request for another tea auction to be opened in the West Rift or the region to be allocated equitable representation at Mombasa tea auction:** Under clause 36(8) the CS responsible for agriculture in consultation with county governments are required to prescribe regulations for the procedure for auction of sales of tea and for the establishment of auction centres in the tea growing counties.
7. **Need for scientific tea testing and Research:** 40% of the tea levy collected to be remitted directly to the Tea Research Foundation for the execution of the functions of the foundation
8. **Exemption from Tea Levy to incentivise value-addition and diversification:** the Bill amends section 53 of the Tea Act by inserting subsection (2A) so as to exempt specialty and value-added teas packed in not more than 10 kg packs from payment of the Tea Levy. It further amends section 53(5) to apportion the Tea Levy such that 60 per cent is allocated to the Tea Board of Kenya (TBK) and 40 per cent to the Tea Research Foundation, leaving out price stabilization and infrastructure.

Gaps not addressed by the Bill (Raised by the Farmers)

1. Concerns regarding high taxation by both levels of government as the Kenya Tea Development Authority (KTDA) and county governments overcharge farmers by imposing numerous charges as levies, management fees, transport fees, and consultancy fees.
2. Concerns were raised against KTDA's marketing structures and unfair trade practices that allow manual bids instead of electronic bids.
3. Issues concerning conflict of interest by management of TBK and factories, including the outsourcing of services.
4. Mechanisms for access to cheap sources of power following the reported stalling of the majority of hydroelectric power projects.
5. Continuous improvement on the energy efficiency of factory machinery and equipment through adoption of better gadgets and processes.

6. High labour rates driven by Collective Bargaining Agreements negotiated with KPAWU on behalf of the tea factories.
7. High operational costs for factories in the West Rift and reasons for the stalling of power projects have not been addressed by the Bill.
8. The need to reduce the 1.5 per cent per kilogram charge imposed by East Africa Tea Trade Association brokers, as it is much higher than the global average charged per kilogram of made tea.
9. The need to reduce the number of electoral zones and the number of directors per factory.
10. Modernization of aging machinery (processing plants becoming obsolete, causing higher operational and maintenance costs.
11. Forensic audit of factory assets and loans.
12. Tea farmers' concerns regarding payment of fertilizer suspense at (Kshs. 1.5) while the fertilizer subsidy does not benefit them.

Committee Deliberations

1. The Legal Counsel was tasked to develop a table of all fees and levies levied by the Tea Board of Kenya.
2. Stakeholder engagement on the Bill should be conducted soon to enable the Committee make an informed decision.
3. Further amendments to the Bill may be made from the report collected during field visits and the complains raised by farmers to cure challenges in the sector.
4. KTDA to be invited to shed light on the use of money raised by farmers for provision of hydro power and explain why hydro power stations in the east were well constructed and maintained while those in the west were neglected.

MIN. NO. NA/A&L/2025/056:

ADJOURNMENT/DATE OF THE NEXT MEETING

There being no other business, the meeting was adjourned at sixteen minutes past eleven O'clock. The next meeting will be held on Thursday, 10th April 2025 at half past nine O'clock.

SIGNED:DATE:

**HON. (DR.) JOHN KANYUITHIA MUTUNGA, PhD, CBS, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON AGRICULTURE &
LIVESTOCK**

House approves CBK deputy governor pick

▶ Arita has served at Central Bank for 36 years having joined as management trainee in 1988.

▶ He told MPs that he was involved in decision to introduce mobile money transactions.

EDWIN NYARANGI, NAIROBI

Parliament has approved the appointment of Gerald Arita as the Deputy Governor of the Central Bank of Kenya. The House said his 36 years of experience at the bank in various capacities had prepared him to take up the position.

A report submitted to the House by the National Assembly Finance Committee Chairperson Kimani Kuria and the Senate Finance Committee Vice Chair Tabitha Mutinda indicated that the joint vetting committee had found Arita suitable for the role.

Kimani and Mutinda informed the National Assembly and the Senate, respectively, that the vetting committee had determined that Arita, who was nominated by President William Ruto, possessed the necessary experience to help reform financial institutions in the country.

Arita, who appeared before the

joint Senate and National Assembly Finance Committees chaired by Manders Senator Ali Roba and Kuria, respectively, last week, highlighted one of his greatest achievements: his role in the establishment of mobile money banking.

The nominee told the joint committees that then-Safaricom CEO Michael Joseph had approached him while he served as Director of Bank Supervision to present the idea of a system allowing money transfers via mobile phones.

Clear roles

He said he had advised then-Finance Minister John Michuki on the importance of the proposal, which was subsequently adopted.

"While I served as the Director of Bank Supervision at the Central Bank, I participated in giving Safaricom the green light to establish mobile money services by advising then-Finance Minister John Michuki on the importance of allowing this innovation. It has since revolutionised how money transactions are carried out in the country," said Arita.

Kakamega Senator Boni Khalwale asked Arita how he would avoid conflicts with Central Bank Governor Kamau Thugge, given his long career at the bank, having joined as a man-



Gerald Arita when he appeared before the joint National Assembly's Finance and Planning Committee and Senate's Budget and Finance Committee on November 25, 2024. [Elvis Ogina, Standard]

agement trainee in 1988, and whether he might adopt a know-it-all attitude.

"The Governor of the Central Bank is responsible for allocating duties to the two deputy governors based on their experience and expertise. I do not foresee any conflict since each of us has clearly defined roles," Arita responded.

Tamper-proof

Turkana South MP John Ariko asked him what new contributions he would bring to an institution he had served for over three decades and how secure the printing of Kenyan currency is, especially as it is currently done in Germany.

Arita said he would ensure improved coordination and provide more liquidity in the market.

He assured the committee that the printing of currency is secure and tamper-proof.

Arita also disclosed to the joint Senate and National Assembly vetting committee that his net worth is Sh169 million.

He noted that he had not revalued his home, built 20 years ago, at current market rates. He acquired the land for Sh5 million and constructed the house at a cost of Sh20 million.

enyarangi@standardmedia.co.ke

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5 DAYS To Go!

Dear HF Group Shareholder,
We now have 5 days to go before our Rights Issue closure on 9th December 2024 at 5pm.



In case you have not received your PAL Number to enable you take up your entitlement shares or more, or if you have any queries,

please email rightsissue@hfgroup.co.ke, call us toll free on 0800721400 or text Rightissue to 21938.



THIRTEENTH PARLIAMENT – THIRD SESSION (2024) THE NATIONAL ASSEMBLY

IN THE MATTER OF ARTICLE 118(1) (b) OF THE CONSTITUTION
AND

IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF—
(1) THE TEA (AMENDMENT) BILL (SENATE BILL NO. 1 OF 2023); AND
(2) THE MATERNAL, NEWBORN, AND CHILD HEALTH BILL (SENATE BILL NO.17 OF 2023).

INVITATION TO SUBMIT MEMORANDA

WHEREAS, Article 118(1) (b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees, and Standing Order 127(3) of the National Assembly Standing Orders requires House Committees considering Bills to facilitate public participation;

AND WHEREAS, the Tea (Amendment) Bill (Senate Bill No. 1 of 2023) and the Maternal, Newborn and Child Health Bill (Senate Bill No. 17 of 2023) were Read a First Time and referred to the relevant Departmental Committees for consideration and reporting to the House;

IT IS NOTIFIED that—

- (1) The Tea (Amendment) Bill (Senate Bill No. 1 of 2023) is sponsored by Sen. Hillary Sigei, MP and co-sponsored by the National Assembly by the Hon. Brighton Yegon, MP. The Bill seeks to amend the Tea Act, Cap. 343 to protect tea growers' proceeds from mismanagement by factories. The Bill also aims to incentivize the value addition of tea by exempting value-added tea from payment of the tea levy. It further seeks to liberalize the tea industry through direct sales of tea overseas.
- (2) The Maternal, Newborn, and Child Health Bill (Senate Bill No. 17 of 2023) is sponsored by Sen. Beatrix Ogeia, MP and seeks to establish a legal framework to enhance the delivery, coordination, accountability, and funding of quality maternal, newborn, and child health services while fostering engagements between national and county governments.

NOW THEREFORE, in compliance with Article 118(1) (b) of the Constitution and National Assembly Standing Order 127(3), the Clerk of the National Assembly hereby invites the public and stakeholders to submit memoranda on the Bills to the Departmental Committees specified below—

S/NO.	BILL	COMMITTEE
1.	The Tea (Amendment) Bill (Senate Bill No. 1 of 2023)	Agriculture and Livestock
2.	The Maternal, Newborn, and Child Health Bill (Senate Bill No. 17 of 2023)	Health

Copies of the Bills are available at the National Assembly Table Office, Main Parliament Buildings, and on www.parliament.go.ke/transparency-assembly/news-business/bills

The memoranda may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to cpa@parliament.go.ke to be received on or before Wednesday, 18th December, 2024 at 5:00 p.m.

S. NJOROGE, CBS
CLERK OF THE NATIONAL ASSEMBLY

4th December, 2024

"For the Welfare of Society and the just Government of the People"



REPUBLIC OF KENYA

SENATE

SENATE BILLS

(Bill No. 1 of 2023)



THE TEA (AMENDMENT) BILL, 2023

(A Bill published in the Kenya *Gazette* Supplement No. 1 of 6th January, 2023 and passed by the Senate, with amendments, on Tuesday, 8th October, 2024)

THE TEA (AMENDMENT) BILL, 2023

A Bill for

AN ACT of Parliament to amend the Tea Act to provide for direct sales of tea, the payment of tea proceeds, and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Tea (Amendment) Act, 2023. Short title.

2. Section 2 of the Tea Act, in this Act referred to as “the principal Act”, is amended—

 - (a) by deleting the definition of the word “export” and substituting therefor the following new definition—

“export” means to take tea or cause tea to be taken out of Kenya into a foreign country, a Special Economic Zone or an Export Processing Zone;

 - (b) by deleting the definition of the word “import” and substituting therefor the following new definition—

“import” means to bring tea or cause tea to be brought into Kenya from a foreign country, a Special Economic Zone or an Export Processing Zone;

 - (c) in the definition of the word “tea” by deleting the word “tea” appearing immediately after the words “whether green” and substituting therefor the word “leaf”;

 - (d) in the definition of the word “value addition” by inserting the words “into a packet or a container holding not more than ten kilograms” appearing immediately after the word “branding”;

 - (e) by inserting the following new definitions in the proper alphabetical sequence—

“direct sales” means a contractual arrangement between a factory or its management agent and an overseas buyer or local buyer for the sale of made tea based on mutually accepted terms and conditions enforceable in law;

“direct settlement system” means a banking facility provided by a commercial bank regulated by the Central Bank of Kenya for the clearing and settlement of tea sales proceeds;

“green leaf” means leaf detached from tea plants but not dried or processed in any way and includes purple leaf”;
and

“tea factory limited company” means a tea factory collectively owned through shares by small scale tea growers or medium scale tea growers.

3. Section 5 of the principal Act is amended in paragraph (e) by deleting the words “commercial green leaf transporters,” appearing immediately after the words “commercial tea nurseries”.

Amendment of section
5 of no 23 of 2020

4. The principal Act is amended in section 7 by —

Amendment of section 7
of Cap 343

- (a) (i) deleting subsection 1(d);
- (ii) inserting the following new subsection immediately after subsection (1h)—
- (ha) one person elected by the Independent Producers Association of Kenya.

(b) deleting subsection (2) and substituting therefor the following new subsection —

(2) The Cabinet Secretary shall appoint the members under subsection (1)(e), (f), (g), (h) and (ha) by notice in the *Gazette*.

(c) deleting subsection (3) and substituting therefor the following new subsection —

(3) The appointment of the chairperson or members of the Board under subsection (1)(a), (e), (f), (g), (h) and (ha) and shall take into account the gender, regional and other diversities of the people of Kenya.

5. The principal Act is amended in section 8 by —

Amendment of section 8
of Cap 343

(a) deleting subsection (1) and substituting therefor the following new subsection —

(1) The persons appointed under section 7(1)(a), (e), (f), (g), and (h), shall serve for a term of three years' renewable once on account of good performance.

(b) deleting subsection (2) and substituting therefor the following new subsection —

(2) The persons appointed under section 7(1)(a), (e), (f), (g), and (h) shall be appointed at different times so that their respective expiry of terms of office shall fall at different times but not more than six months shall lapse between one appointment and another.

6. Section 22 of the principal Act is amended in subsection (4) by inserting the word "factory" immediately after the words "their duties the".

Amendment of section
22 of Cap 343

7. Section 23 of the principal Act is amended—

Amendment of section
23 of Cap 343

(a) by inserting the following new subsection immediately after subsection (1) —

(1A) A large scale tea grower shall notify the Board of any intended sale or transfer of ownership of its holding six months before the transaction is effected.

(b) in subsection (2) by inserting the words “procedure for transfer of large scale tea holdings” immediately after the words “providing for the”.

8. Section 31 of the principal Act is amended by inserting the following new subsection immediately after subsection (1) —

Amendment of Section
31 of Cap 343

(1A) All tea brought into a Special Economic Zone or an Export Processing Zone shall be declared to the Board in the prescribed form.

9. Section 34 of the principal Act is amended in subsection (4) by deleting the words “one point five per centum” appearing immediately after the words “shall not exceed” and substituting therefor the word “two per centum”

Amendment of Section
34 of Cap 343

10. Section 34 of the principal Act is amended in -

Amendment of Section
34 of Cap 343

(a) subsection (2) by deleting the words “limited company” appearing immediately after the words “each tea factory”;

(b) subsection (7) by inserting the words “limited company” immediately after the words “A tea factory”,

(c) subsection (8) by inserting the words “limited company” immediately after the words “tea factory”;

(d) subsection (9) by inserting the words “limited company” immediately after the words “tea factory”; and

The Tea (Amendment) Bill, 2023

(e) subsection (10) by inserting the words “limited company” immediately after the words “tea factory”.

11. The principal Act is amended by inserting the following new sections immediately after section 34—

Insertion of new section
34A in Cap 343

Tea sales. 34A. (1) Kenyan tea shall be traded through —

(a) the auction; or

(b) direct sales.

(2) All tea processed and manufactured in Kenya for the export market shall be registered with the Board prior to exportation.

12. Section 36 of the principal Act is amended —

Amendment of Section
36 of Cap 343

(a) by deleting subsection (1) and substituting therefor the following new subsection —

(1) Tea processed and manufactured in Kenya for the export market may be offered for sale at the tea auction floor.

(b) by deleting subsection (2) and substituting therefor the following new subsection —

(2) A tea factory that intends to participate in a tea auction shall —

(a) register with the Board and the auction organizer; and

(b) participate in the auction directly or through a management agent approved under section 34.

(c) in subsection (5) by inserting the words “ and paid to the tea growers” immediately after the words “tea factory accounts”

(d) by deleting subsection (6)

(e) by inserting the following new subsection immediately after subsection (7) —

(8) The Cabinet Secretary shall, in consultation with the county governments prescribe regulations

for the procedure for auction sales of tea and for the establishment of auction centres in the tea growing counties.

13. The principal Act is amended by inserting the following new sections immediately after section 36 —

Insertion of new section
36A in Cap 343

Direct sales of tea.

36A. (1) A licensed factory or a management agent approved under section 34 may undertake direct sales.

(2) The prices offered at the direct sales shall be competitive and shall be sold at a price above the highest price recorded at the auction within the three months preceding the sale.

(3) The Cabinet Secretary shall, in consultation with county governments, prescribe regulations for the procedure of direct sales of tea.

Amendment of Section
37 of Cap 343

14. Section 37 of the principal Act is amended—

- (a) in subsection (1) by deleting the word “Board” appearing immediately after the words “register with the” and substituting therefor the words “respective county government”; and
- (b) by deleting subsection (3) and substituting therefor the following new subsection—

(3) A county Assembly shall enact county legislation to provide for the procedure for registration of commercial green leaf transporters and the appeal process in case of denial of registration.

15. Section 53 of the principal Act is amended by —

Amendment of Section
53 of Cap 343

- (a) inserting the following new subsection immediately after subsection (2)—

(2A) Specialty tea and value added tea packed into packets or containers holding not more than ten kilograms” shall be exempted from tea levy.

- (b) deleting subsection (5) and substituting therefor the following new subsection—

(5) The tea levy collected under subsection (2) shall be apportioned as follows —

(a) sixty per centum shall be applied by the Board in the furtherance or exercise of any function or power of the Board; and

(b) forty per centum shall be remitted directly to the Tea Research Foundation for execution of the function of the Foundation.

16. Section 74 of the principal Act is amended in subsection (1) by deleting the word "if" appearing immediately after the words "carrying out" and replacing with the word "of".

Amendment of Section
74 of Cap 343

17. Section 76 of the principal Act is amended by –

Amendment of Section
76 of Cap 343

(a) numbering the existing provision as subsection (1); and

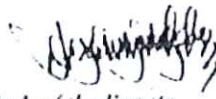
(b) inserting the following new subsection (2)—

(2) All assets of the former Tea Board of Kenya and the former Tea Research Foundation of Kenya which were vested in the Agriculture and Food Authority and Kenya Agricultural and Livestock Research Organization upon the commencement of the Crops Act and the Kenya Agricultural and Livestock Research Act shall by virtue of this paragraph vest in the Board and the Foundation respectively."


Cap 318
Cap 319

The Tea (Amendment) Bill, 2023

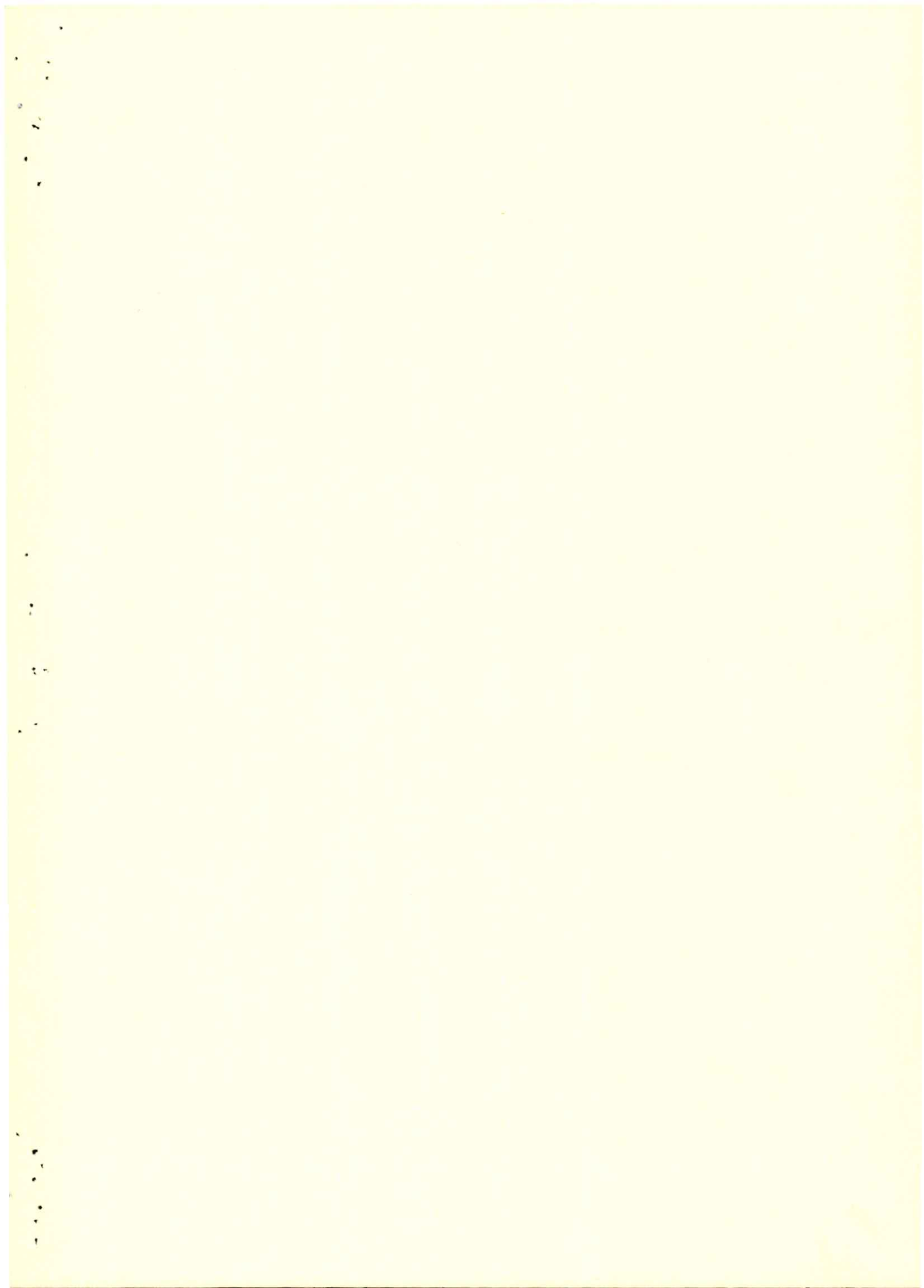
I certify that this printed impression is a true copy of the Bill as passed by the Senate on
Tuesday, 8th October, 2024.

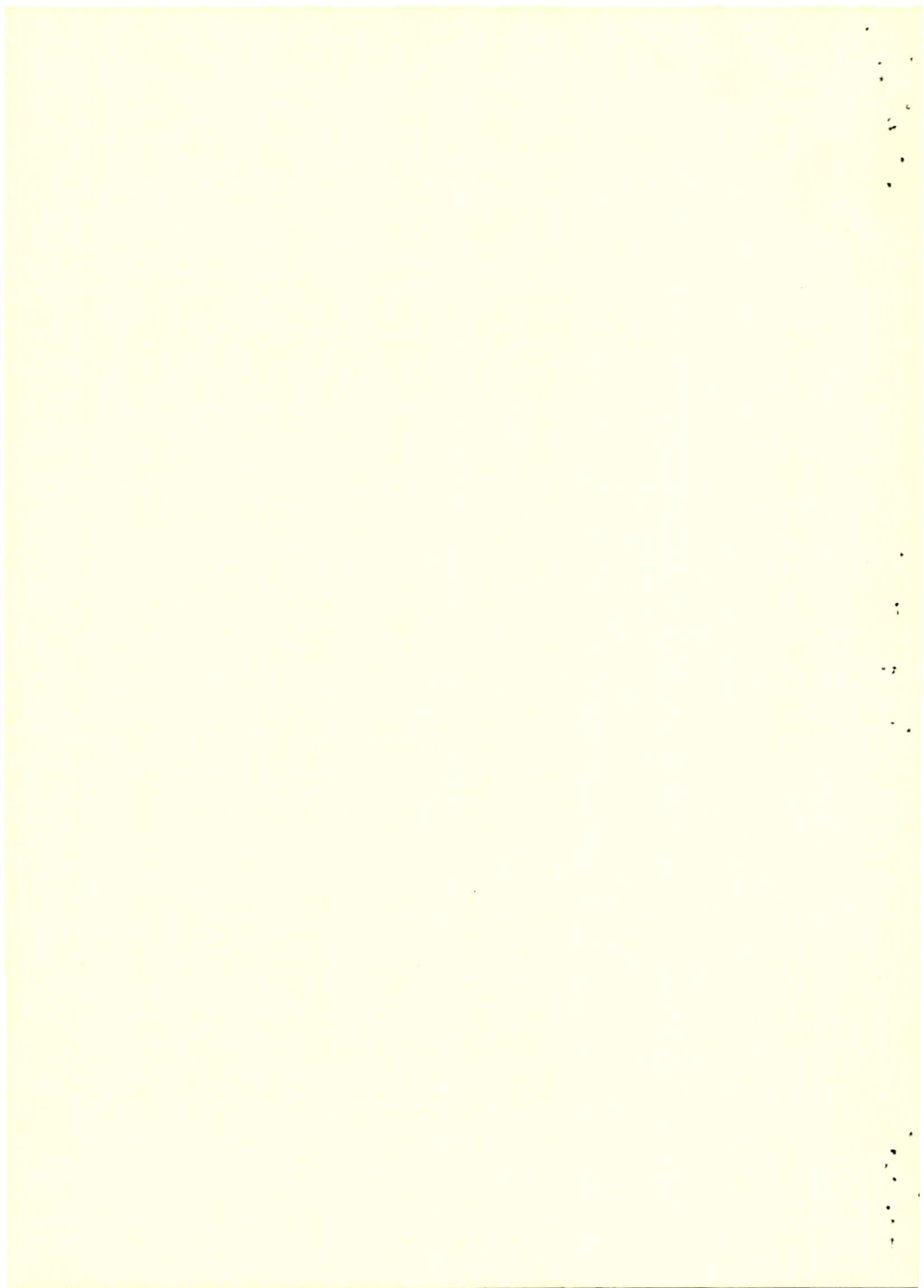

Clerk of the Senate

Endorsed for presentation to the National Assembly in accordance with the provisions of
standing order 161 of the Senate Standing Orders.


Speaker of the Senate

PRINTED BY THE CLERK OF THE SENATE





MEMORANDUM ON TEA (AMENDMENT) BILL, 2023
PROPOSED AMENDMENT TO THE TEA ACT, 2020 / Cap 343

By KALRO - TRI TOP MANAGEMENT TEAM

10th June, 2025

1. BACKGROUND

Research on tea was first initiated in 1949 by Brooke Bond Ltd who constructed a bigger proportion of the existing laboratory facility. The initiative later evolved to become the Tea Research Institute of East Africa (TRIEA). Following the breakup of the East African Community in 1977, TRIEA wound up and the Government of Kenya established the Tea Research Foundation of Kenya (TRFK) in 1980. Later government structuring saw the formation of the Kenya Agricultural and Livestock Research Organization (KALRO), a premier national research organization, which brought together the former Tea Research Foundation of Kenya (TRFK), Kenya Agricultural Research Institute (KARI), Kenya Sugar Research Foundation (KESREF) and Coffee Research Foundation (CRF), through an Act of Parliament namely KALR Act No. 17 of 2013. Tea Research Institute (TRI) is one of the 17 research institutes created under KALRO. However, its mandate "*to promote research and investigate problems related to tea and such other crops and systems of husbandry as are associated with tea throughout Kenya including the productivity (yield), quality and suitability of land in relation to tea planting; and matters ancillary thereto*" remained the same.

In order to meet its mandate and be responsive to its stakeholders' research needs as well as guide the Kenya tea industry in overcoming the global challenge of climate change, high cost of inputs, low returns from her popular and most consumed product of black Crush, Tear and Curl (CTC) tea, the reengineered tea research agenda on product diversification and value addition, had, until June 2016 when tea levies were abolished, been receiving support directly from the tea industry.

From 1950's to 2007, tea research was financed by a manufacturing cess charged at KES 0.46 per kilo of made tea. In 2007, the Minister for Agriculture formed a Task Force to look into the challenges facing the tea industry and to offer solutions to the same. The task force among other recommendations proposed to introduce a tea promotion levy to fund the Tea Board of Kenya marketing and Tea Research Foundation of Kenya research functions. The levy was to be charged at KES 0.54 per kilogram of made tea in addition to the manufacturing cess. Further amendment namely; The Tea (Amendment) Act, 2011 and Tea (Amendment) Regulations 2012, under the Ministry of Agriculture renamed the cess as the Tea *Ad Valorem* Levy, which became operation in April 2012. With the enactment of the Tea Act 2011 and the regulations thereof, the funding regime changed from tea

cess to Tea Ad valorem Levy. The Tea ad valorem Levy of 1% of tea sales was collected by the Tea Board of Kenya of which 40% was remitted to TRI on a monthly basis. Consequently, Tea Research Institute started getting Ad valorem Levy funds from April 2012. This was received until the revocation of regulations as of 24th June 2016. Since then, the Institute has been relying on internally generated revenue such as sale of green leaf, planting materials and publications, analytical services, conducting training and consultancies, which in total constitute about 27% of the institute's annual budget of over 500 million and support from KALRO HQ through salary transfers. Currently, nearly all research operations have stalled except a few that are funded by agrochemical companies testing their products as well as externally-funded postgraduate studies. The effort by the GoK to comprehensively reform the tea industry through the enacted Tea Act 2020, through which the yet to be established Tea Research Foundation, is expected to receive 20% of the levy is yet to be operationalised due to instituted litigations, which are yet to be concluded.

The Institute stands on a 572.3 ha piece of land, of which 215 ha is under tea at her headquarters in Kericho County and another 8 ha leased from the Kenya Forest Service (KFS) at her only Centre in Kirinyaga County. The tea farm has both experimental and commercial tea fields, although the bigger portion, equivalent to 70%, comprises commercial teas. The adaptive research activities are concentrated around the Institute's stations in Timbilil in Kericho and Kangaita in Kirinyaga Counties. The two sites are not representative of all the 21 tea growing counties in the country. Further, KALRO-TRI is the only Centre of Excellence in training in tea science in Africa and therefore the envisioned Tea Science Academy in addition to adequate modern conference facilities would be a game-changer in the region. The limited testing sites are a major constraint in the development and adoption of technologies. In this case, TRI will collaborate with other KALRO Centres and stakeholders (such as Kenya Tea Development Agency (KTDA), Kenya Tea Growers Association (KTGA) & Nyayo Tea Zone Development Corporation (NTZDC)) situated in or adjacent to areas suitable for tea growing to establish collaborative trials, technology transfer activities and hosting some of its key personnel. Already, established clonal adaptability trials whose evaluation has been suspended due to funding constraints, were established under this arrangement.

Considering the foregoing and in order for tea research activities to be fully aligned with global tea industry that demand more efforts in **value addition, product diversification and adoption of low to zero/neutral carbon tea production practices so as to mitigate and adapt to adverse effects of climate change**, thus ensuring a sustainable tea industry, the KALRO-TRI Senior Management proposes the following amendments to the Tea Act, 2020 or further review of **The Tea (Amendment) Bill, 2023**, which if considered, would create a governance structure thereby facilitating full operationalization of a reinvigorated TRF.

CLAUSE	SUB-TITLES	AMENDMENT	JUSTIFICATION
	A Bill for	Amend the overall purpose to read “AN ACT of Parliament to amend the Tea Act to provide for direct sales of tea, the payment of tea proceeds, governance of Tea Research Foundation, and for connected purposes”	TRF yet to be reformed due to structural inadequacy in the principal Act
55	Headquarters	THAT , Clause 55 is amended by inserting subclauses (3) and (4) – (3) The headquarters of the Foundation shall be in Kericho County. (4) The Foundation may establish such Centres in Kenya as it may consider necessary for the efficient performance of its functions.	This key item is missing in the principal act
56	Composition of the Foundation	THAT , Clause 56 is amended by inserting therefor the following subclauses – (1) The Foundation shall consist of the following organs— a) the Board of Tea Research Foundation under section 58; b) the staff under Section 69; c) the research centers specified in the first Schedule to the amended Act; and d) Associate centers, provided for under subsection (2). (2) Any organization /institution which undertakes tea research or similar research, may apply to the Board to join the Foundation, and if the Board grants the application, the organization shall be an associate institute of the Foundation	Insertion/amendment of Clauses 57 to 90 shall facilitate formation, creation of governance structure and operationalization of Tea Research Foundation
57	Functions of the Foundation	THAT , Clause 56 in principal act is amended without altering its contents by substituting it with Clause 57.	
		THAT , a new PART VII — BOARD OF THE FOUNDATION and accompanying Clauses	
58	Board of the Foundation	THAT , a new Clause 58 is inserted as follows: 58 (1) The management of the Foundation shall vest in a Board which shall consist of - (a) a Chairperson appointed by the President by notice in the Gazette; (b) the Principal Secretary responsible for Agriculture or a representative nominated by the Principal Secretary in writing; (c) the Secretary to the Science Commission appointed under paragraph 6 of the Second Schedule of Science and Technology Act or a representative nominated by the Secretary in writing; (d) the Principal Secretary responsible for National Treasury or a representative nominated by the Principal Secretary in writing (e) one person of either gender each who shall have knowledge and experience in the tea sector and be from the smallholder subsector in the East and West tea blocks as in Second Schedule nominated by the Cabinet Secretary; (f) One person representing Council of Governors nominated by the Cabinet Secretary; (g) one person elected and representing large scale tea growers nominated by the Cabinet Secretary;	

CLAUSE	SUB-TITLES	AMENDMENT	JUSTIFICATION
		<p>(h) Chief Executive officer appointed in accordance with section 64 who shall be an ex-officio member of the Board.</p> <p>(2) The Cabinet Secretary shall appoint the members under subsection (1) (d), (e), (f) and (g) by notice in the Gazette.</p> <p>(3) A person shall not be appointed to be a chairperson of the Board of Foundation unless that person holds at least a degree or its equivalent in any discipline from an institution recognized in Kenya and has relevant experience in the tea sector.</p>	
	Term of office	(4) The Chairperson and members appointed under section 6 (1)(e)(f) and (g) shall serve for a term of three years renewable for one further term.	
	Vacation of office	<p>(5) A person shall cease to be a member of the Board if such person—</p> <p>a. is unable to perform the functions of his office by reason of mental or physical infirmity;</p> <p>b. is adjudged bankrupt;</p> <p>c. is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;</p> <p>d. is absent from three consecutive meetings of the Board without the permission of the Board;</p> <p>e. resigns in writing, addressed, in the case of the Chairman to the President, and in the case of any other member, to the Cabinet Secretary;</p> <p>f. fails to declare his interest in any matter being considered or to be considered by the Board; or</p> <p>g. violates Chapter Six of the Constitution.</p>	
59	Functions of the Board of the Foundation	<p>THAT, a new Clause 59 is inserted as follows:</p> <p>59.The functions of the Board of the Foundation shall be to -</p> <p>a) carry out the objects and functions of the Foundation;</p> <p>b) advise the Cabinet Secretary on matters of policy relating to tea research;</p> <p>c) oversee the effective co-ordination of the operations of the Foundation;</p> <p>d) ensure that the activities of the Foundation are consistent with the policy and objectives Of the Government, and the national priorities relating to agriculture and agricultural research;</p> <p>e) approve, oversee and evaluate on a continuing basis the programs being implemented by the Foundation;</p> <p>f) direct strategic research and policy and prioritise and determine the research agenda;</p> <p>g) co-operation with other lead agencies and Foundations in carrying out tea research;</p> <p>h) development of an economic, efficient and cost effective internal management structure, strategic and annual plan of the Foundation;</p>	

CLAUSE	SUB-TITLES	AMENDMENT	JUSTIFICATION
		<ul style="list-style-type: none"> i) implementation and fulfilment of the polices and agreed objectives, performance targets and service standards of the Foundation; j) provision of advice as required on all matters within the responsibility of the Foundation; and k) perform such other functions as may be necessary for the exercise of its powers and functions under this Act. 	
60	Powers of the Board	<p>THAT, a new Clause 60 is inserted as follows: 60. The Board shall have all the powers necessary for the proper performance of its functions under this Act and subject to the provisions of this Act, the Board shall have the power to-</p> <ul style="list-style-type: none"> a) enter into contracts b) manage, control and administer the assets of the Foundation in such manner and for such purposes as best promotes the purpose for which the Foundation is established; c) receive gifts, grants, donations or endowments made to the Foundation and make disbursement therefrom; d) open such bank accounts as may be necessary for the funds of the Foundation into which all moneys received by the Foundation shall be paid in the first instance and out of which all payments made by the Foundation shall be made; e) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Foundation; and f) subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the Foundation's funds not immediately required for the purposes of this Act, as it may determine. 	
61	Committees of the Board	<p>THAT, a new Clause 61 is inserted as follows: 61. (1) The Board may, from time to time, establish such committees as it considers necessary for the better carrying out of its functions under this Act. (2)The Board may co-opt into the membership of a committee established under subsection (1), such other persons whose knowledge and skills are found necessary for the functions of the Foundation.</p>	
62	Delegation of powers by the Board	<p>THAT, a new Clause 62 is inserted as follows: 62. The Board may by resolution either generally or in any particular case, delegate to any committee of the Board or to any member, officer, employee or agent of the Board, the exercise of any, of the powers or the performance of any of the functions or duties of the Board under this Act or under any other written law.</p>	
63	Conduct of business affairs of the Board	<p>THAT, a new Clause 63 is inserted as follows:</p>	

CLAUSE	SUB-TITLES	AMENDMENT	JUSTIFICATION
		63. The Board shall conduct its affairs in accordance with the provisions of the third Schedule, but subject thereto, the Board may regulate its own procedure.	
64	Appointment of Chief Executive Officer	THAT , a new Clause 64 is inserted as follows: 64. (1) There shall be a Chief Executive Officer of the Foundation who shall be competitively recruited by the Board and appointed by the Cabinet Secretary. (2) The Chief Executive Officer shall be appointed on 'such terms and conditions of service as the Board shall determine, with approval of the Cabinet Secretary, for a term of five years renewable for one further term. (3) The Chief Executive Officer shall be an <i>ex-officio</i> member of the Board and shall have no right to vote at any meeting of the Board. (4)The Chief Executive Officer r shall be responsible to the Board for all the activities of the Foundation.	
65	Qualifications of Chief Executive Officer	THAT , a new Clause 65 is inserted as follows: 65. A person shall qualify for appointment as Chief Executive Officer if that person (a) holds a doctor of 'philosophy degree in agricultural related fields from a recognized university; (b) is a citizen of Kenya; (c) has experience in — i. agricultural science; ii. policy formulation; iii. policy oriented research and analysis; and iv. management of human resource and finance. v. meets the requirements of chapter six of the Constitution. vi. has at least ten years' experience in leadership	
66	Qualifications of Deputy Director	THAT , a new Clause 66 is inserted as follows: 66. There shall be a Deputy Director of the Foundation. The Deputy Director shall be appointed by the Board to deputize the CEO on 'such terms and conditions of service as the Board shall determine. A person shall be qualified for appointment as the Deputy Director, if the person – (a) is a citizen of Kenya; (b) holds a doctor of philosophy degree from a university recognised in Kenya; (c) has at least ten years' experience in leadership or at senior management level in research; and (d) meets the requirements of chapter six	
67	Functions of the Chief Executive Officer	THAT , a new Clause 67 is inserted as follows: 67(1) The Chief Executive Officer of the Foundation and shall be under the general supervision and control of the Board. (2) Subject to sub-section (1), the Chief Executive Officer shall be responsible for the- a day-to-day operations of the Foundation; b administration of the Foundation and control of the staff of the Foundation;	

CLAUSE	SUB-TITLES	AMENDMENT	JUSTIFICATION
		<p>c management of funds, property and affairs of the Foundation;</p> <p>d implementation of the policies and programs of the Foundation and reporting thereon to the Board;</p> <p>e development of an operations plan for achieving the Foundation objects; and</p> <p>f performance of any other duty necessary for the implementation of this Act as may be assigned to him by the Board.</p> <p>(3) The Chief Executive Officer shall submit to the Board for approval, not later than three months before the commencement of each financial year, a programme of activities of the Foundation in respect of that financial year.</p>	
68	Removal of Chief Executive Officer	<p>THAT, a new Clause 68 is inserted as follows: 68 The Board may remove the Chief Executive Officer from office in accordance with his terms and conditions of service for"</p> <p>a) inability to perform the functions of the office arising out of physical or mental incapacity;</p> <p>b) gross misconduct or misbehaviour;</p> <p>c) incompetence or neglect of duty; or</p> <p>any other ground that would justify removal from office under the terms and conditions of service.</p>	
69	Staff of the Foundation	<p>THAT, a new Clause 69 is inserted as follows: 69.(1) The staff of the Tea Research Institute employed by the Kenya Agricultural and Livestock Research Organization prior to the commencement of this Act, shall be the staff of the Foundation</p> <p>(2) The Board may appoint such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Foundation under this Act upon such terms and conditions of service as the Board may determine.</p> <p>(3) The Board may, on the advice of the Chief Executive Officer engage, on behalf of the Foundation, the services of such experts in respect of any of the functions of the Foundation in connection with which they are considered to have special competence.</p>	
70	Remuneration of staff of the Foundation	<p>THAT, a new Clause 70 is inserted as follows: 70.(1) The officers, agents and staff of the Foundation shall be paid such remuneration and allowances as the Cabinet Secretary shall, in consultation with the Salaries and Remuneration Commission determine.</p>	
71	Common Seal of the Foundation	<p>THAT, a new Clause 71 is inserted as follows: 71.(1) The common seal of the Foundation shall be kept in the custody of the Chief Executive Officer or such other person as the Board may direct, and shall not be used except upon the order of the Board.</p> <p>(2) The common seal of the Foundation shall, when affixed to a document and authenticated, be judicially and officially noticed and unless the contrary is proved any order or authorization by the Foundation under this section shall be presumed to have been duly given.</p>	

CLAUSE	SUB-TITLES	AMENDMENT	JUSTIFICATION
		<p>(3) The affixing of the common seal of the Foundation shall be authenticated by the signatures of the chairperson and the Chief Executive Officer: Provided that the Board shall, in the absence of the chairperson or the Chief Executive Officer, in any particular matter, nominate one member of the Board to authenticate the common seal of the Foundation on behalf of either the chairperson of the Board or the Director.</p>	
72	Protection from personal Liability	<p>THAT, a new Clause 72 is inserted as follows: 72 (1) No matter or thing done by a member of the Board or any officer, employee, or agent of the Foundation shall, if the matter or thing is done in good faith for executing the functions, powers or duties of the Foundation render the member, officer, employee or agent personally liable to any actions claim or demand whatsoever. (2) Any expenses incurred by any person in any suit or prosecution brought against him in any court, in respect of any act which is done or purported to be done by him under the direction of the Foundation, shall, if the court holds that such act was done in good faith, be paid out of the general funds of the Foundation, unless such expenses are recovered by him in such suit or prosecution.</p>	
73	Liability for damages	<p>THAT, a new Clause 73 is inserted as follows: 73 The provision of section 72 shall not relieve the Foundation of the liability to compensate or pay damages to any person for any injury to him, his property or any of his interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially of any work.</p>	
		<p>THAT, a new PART VIII — ESTABLISHMENT OF RESEARCH ADVISORY COMMITTEE and accompanying Clauses are inserted as follows:</p>	
74	Establishment of Research Advisory Committee	<p>THAT, a new Clause 74 is inserted as follows: 74 (1) There is established a committee to be known as the Research Advisory Committee. (2) The Committee shall consist of- (a) Chairperson; and (b) such persons with such knowledge and expertise as the Board may consider necessary for the performance of its functions under this Act. (3) The Chairperson and members of the Committee shall be appointed by the Board, from amongst persons who are not necessarily members of the Board, on such terms and conditions as the Board may determine with approval of the Board.</p>	
75	Functions of the Research Advisory Committee	<p>THAT, a new Clause 75 is inserted as follows: 75 (I) The Committee shall— a. make recommendations to the Board on Strategic and policy issues related to tea research and research program infrastructure; b. oversee the implementation of policies and programs of the research and recommendations of the program review committee; c. advice the Board on the status of programs and projects undertaken by Foundation and make</p>	

CLAUSE	SUB-TITLES	AMENDMENT	JUSTIFICATION
		<p>recommendations on the improvements that may be undertaken;</p> <p>d. make recommendations to the Board on mechanisms for partnering and integrating basic and translational research programs and for the adoption of research findings within the tea sector;</p> <p>e. evaluate and make recommendations to the Board on areas of strategic investment and collaborations with other research organizations or individuals undertaking tea research;</p> <p>f. Provide advice and capacity building to research centres and individuals undertaking tea research and programmes pursuant to this Act.</p> <p>g. review bi-annually the operations of the Foundation and budgets of tea research in relation to the programs and initiatives undertaken by the Foundation;</p> <p>h. provide a forum for feedback and through which individuals undertaking tea research in the relevant area of research, can submit their proposals and recommendations to the Foundation; and</p> <p>i. perform such other functions as shall be assigned to it by the Board.</p>	
76	Conduct of business affairs of the Committee	<p>THAT, a new Clause 76 is inserted as follows: 76. (1) The provisions of the first Schedule shall apply <i>mutatis mutandis</i> with respect to the conduct of the business and affairs of the committee but subject thereto the Committee, may regulate its own procedure.</p>	
		<p>THAT, a new PART IX - OPERATIONS OF THE FOUNDATION and corresponding clauses are inserted as follows:</p>	
77	Operational units	<p>THAT, a new Clause 77 is inserted as follows: 77. (1) The Board shall, for the effective co-ordination of tea research and development activities in Kenya by the Foundation and individuals conducting tea research, establish operational units within the Foundation in the following sectors—</p> <ol style="list-style-type: none"> a. Crop improvement and management; b. Sustainable ecosystem management and conservation; c. Tea processing and value addition; d. Policy and institutional development; e. Partnership and business development; f. Planning, resource mobilization and quality control; g. Knowledge management and information communication; and h. Administration and finances. <p>(2) Each operational unit shall consist of such members of the staff and such other persons as the Board shall determine. (3) Each operational unit shall perform such functions as the Chief Executive Officer shall determine.</p>	

CLAUSE	SUB-TITLES	AMENDMENT	JUSTIFICATION
		(4)The Board may create such other operational units or reconstitute, merge or dissolve an operational unit as it shall consider necessary.	
	Establishment of Centres	The Foundation may establish such centers or units as it may consider necessary for the performance of its functions under this Act.	
78	Centre Director	THAT , a new Clause 78 is inserted as follows: 78. (1) The Chief Executive Officer shall competitively recruit and appoint a Centre Director for each tea research center on such terms and conditions as the Board shall determine. (2) The Centre Director shall, subject to the directions of the Chief Executive Officer, be responsible for the day to day management of a research Centre.	
		THAT , a new PART X — FINANCIAL PROVISIONS and corresponding clauses are inserted as follows:	
79	Funds of the Foundation	THAT , a new Clause 79 is inserted as follow: 79 (1) The funds and assets of the Foundation shall comprise of— (a) such moneys or assets as may accrue to or vest in the Foundation in the course of the exercise of its power or the performance of it functions under this Act, including proceeds from Patents and Plant Breeders' Rights; (b) the National Research Fund; (c) such moneys as may be payable to the Foundation pursuant to this Act or any other written law; (d) monies from the tea levy (As per sections 53(5)(c) and 54(3)(b) of Tea Act, 2020) (e) such gifts as may be donated to the Foundation; (f) such moneys as may be appropriated by Parliament for the purposes of the Foundation; and (g) moneys from any other source granted, donated, or lent to the Foundation.	
	No. 22 of 2022	2. The Public Finance Management Act, 2015 (2022) , shall be applicable in the management of financial resources in the sectors at all levels.	
80	Powers to raise or borrow money	THAT , a new Clause 80 is inserted as follow: 81. The Board may upon consultation with the Cabinet Secretary and from time to time, raise or borrow, either by way of mortgage, charge or overdraft from a bank or in such other ways as may be appropriate, such sums of money as it may consider necessary for or in connection with the exercise of its powers or performance of its functions and duties under this Act.	
81	Power to invest	THAT , a new Clause 81 is inserted as follow: 81. The Foundation may, from time to time and, subject to the provisions of this Act, invest any sums standing to the credit of the Foundation, whether in any fund established by it, in securities or in any form of property in which the Trustees are authorized to invest under the Trustee Act, and in such other securities or property as may be approved for the purpose by the Cabinet Secretary for the time being responsible for finance.	

CLAUSE	SUB-TITLES	AMENDMENT	JUSTIFICATION
82	Accounts and Audit	<p>THAT, a new Clause 82 is inserted as follow:</p> <p>82.(1) The Foundation through Board shall cause to be kept such books of accounts and other books in relation thereto of all its undertakings, funds, activities and property as the Cabinet Secretary may from time to time approve and shall, within a period of three months after the end of the financial year, or within such a longer period as the Cabinet Secretary may approve, cause to be prepared, signed and forwarded to the Auditor-General—</p> <p>(a) a statement of income and expenditure of the Foundation during that year; and</p> <p>(b) a statement of the financial position of the Foundation on the last day of that year.</p>	
	No. 34 of 2015	(2) The accounts of the Foundation shall be examined, audited and reported upon annually in accordance with the provisions of the Public Audit Act, 2015.	
83	Annual report and publication	<p>THAT, a new Clause 83 is inserted as follow:</p> <p>83.(1) The Foundation shall, within a period of three months after the end of the financial year or within such longer period as the Cabinet Secretary may approve, submit to the Cabinet Secretary a report of the operations of the Foundation during such year, and the yearly Financial position and such other statements of account as the Cabinet Secretary shall require, together with the Auditor-General's report thereon.</p> <p>(2) The Foundation shall, if the Cabinet Secretary so requires, publish the reports, Financial position and statements of income and expenditure submitted to him under subsection (1) in such manner as the Cabinet Secretary may specify.</p> <p>(3) The Cabinet Secretary shall cause to be tabled before Parliament the reports, Financial position and statements of income and expenditure submitted to him under sub-section (1), and such statements of accounts as he may approve, within a period of fourteen days of the receipt of the reports and statements by him, or, if Parliament is not sitting, within fourteen days of the commencement of its next sitting.</p>	
84	Financial year of the Foundation	<p>THAT, a new Clause 84 is inserted as follow:</p> <p>84. The financial year of the Foundation shall be the period of twelve months ending on the thirtieth of June in each year.</p>	
		THAT , a new PART XI — MISCELLANEOUS PROVISIONS and corresponding clauses are inserted as follows:	
85	Request for information	<p>THAT, a new Clause 85 is inserted as follow:</p> <p>85. (1) The ' Chief Executive Officer may, in writing, request any person to furnish the Foundation with such information or to produce such documents or records as he deems necessary and relevant for the performance of the functions of the Foundation.</p> <p>(2) A person who—</p> <p>(a) refuses or fails, without reasonable cause, to comply with a request under subsection (1) to furnish any information or to produce any documents or records; or</p> <p>(b) in furnishing such information, makes a statement, which he knows to be false, commits an offence and shall be liable, on conviction, to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding two years, or to both.</p>	

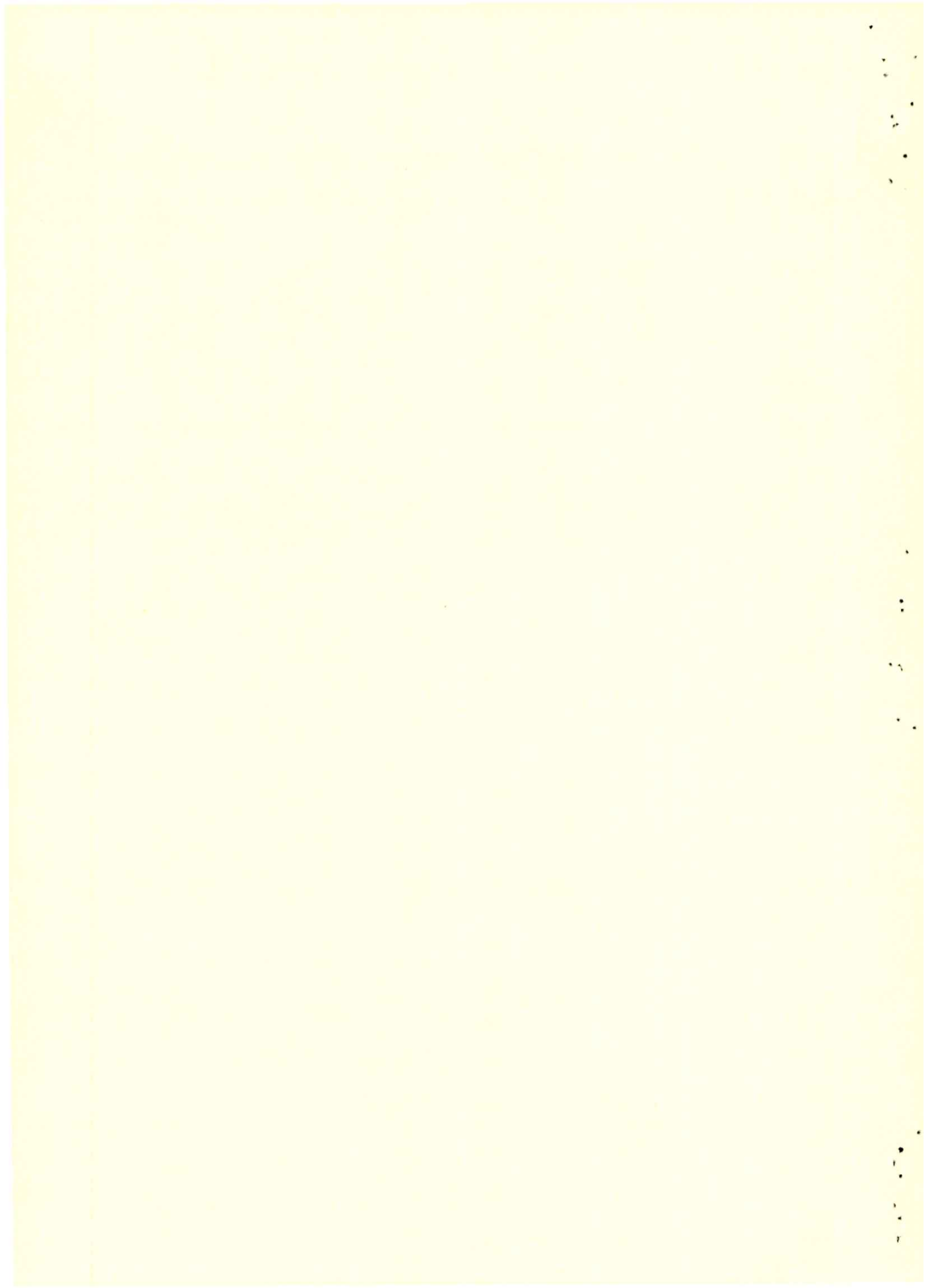
CLAUSE	SUB-TITLES	AMENDMENT	JUSTIFICATION
86	Board to keep information confidential	THAT , a new Clause 86 is inserted as follow: 86. The Board shall keep information acquired for purposes of the Foundation confidential and shall disclose such information only to the extent it considers necessary for the proper performance of the functions of the Foundation.	
87	Limitation of the right to access information	THAT , a new Clause 87 is inserted as follow: 87 (1) The right of access to information guaranteed under Article 35 of the Constitution is hereby limited under Article 24 of the Constitution to the nature and extent specified under subsection (2). The Foundation, being a public entity, shall be under no obligation as contemplated under Article 35 of the Constitution to give any information that would, in the opinion of the Foundation, compromise the integrity of research, patent and other related rights.	
88	Offences-Improper disclosure of information	THAT , a new Clause 88 is inserted as follow: 88(1) No officer, member of staff, or agent of the Foundation shall disclose information acquired under this Act except— <p style="margin-left: 40px;">(a) in the course of his duties under this Act; or (b) with the written consent of the Board.</p> (2) No person who receives information in contravention of subsection (1) shall disclose or publish the information. (3) A person who contravenes subsection (1) or (2) commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.	
89	Exemption	THAT , a new Clause 89 is inserted as follow: 89. Subject to other applicable laws, the Foundation shall be exempted from such taxes, duties, fees, levy, cess or other charges as the Cabinet Secretary for the time being responsible for finance may by, notice in the Gazette, specify.	
90	Regulations	THAT , a new Clause 90 is inserted as follow: 90. The Cabinet Secretary may, on the recommendation of the Foundation, make regulations generally for the better carrying into effect the provisions of this Act.	
		That, Amend the FIRST SCHEDULE to include: CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD OF THE FOUNDATION	
	Tenure of office	1. Any member of the Board of Directors, other than an ex-officio member shall, subject to the provisions of this Schedule, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for re-appointment, subject to a maximum of two terms of office.	
	Meetings	2. The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting. (1) Notwithstanding the provisions of subparagraph (1), the Chairman may, and upon requisition in writing by at least six members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.	

CLAUSE	SUB-TITLES	AMENDMENT	JUSTIFICATION
		<p>(2) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.</p> <p>(3) The quorum for the conduct of the business of the Board shall be seven members including the chairperson or</p> <p>(4) The chairperson shall preside at every meeting of the Board at which he is present but, in his absence, the members present shall elect one of their numbers to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.</p> <p>(5) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.</p> <p>(6) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof interest by Board members.</p>	
	Disclosure of interest by Board members	<p>3. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter: Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Board may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.</p> <p>(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.</p> <p>(3) A member of the Board who contravenes subparagraph (1) commits an offence and is liable to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both.</p>	
	Execution of instrument	<p>4. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.</p>	
	Minutes	<p>5. The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.</p>	

CLAUSE	SUB-TITLES	AMENDMENT	JUSTIFICATION
		THAT, SECOND SCHEDULE ON CRITERIA FOR ASSESSING PROFESSIONAL OR MORAL SUITABILITY is amended to include the interests of the Foundation	
PROPOSED RENUMBERING IN THE PRINCIPAL ACT FOLLOWING INSERTION OF NEW PARTS AND CLAUSES ON TRF			
		THAT, PART VII – FINANCIAL PROVISIONS, is renumbered PART XII	
57		Clause 57 in the Principal Act is renumbered Clause 90	Renumbering Clauses 57 to 81 in the Principal Act is occasioned by insertion of 34 new clauses for enabling formation and operationalization of Tea Research Foundation
58		Clause 58 in the Principal Act is renumbered Clause 91	
59		Clause 59 in the Principal Act is renumbered Clause 92	
60		Clause 60 in the Principal Act is renumbered Clause 93	
61		Clause 61 in the Principal Act is renumbered Clause 94	
		THAT, PART VIII – COMPLAINTS AND INVESTIGATION PROCEDURE, is renumbered PART XIII	
62		Clause 62 in the Principal Act is renumbered Clause 95	
63		Clause 63 in the Principal Act is renumbered Clause 96	
64		Clause 64 in the Principal Act is renumbered Clause 97	
65		Clause 65 in the Principal Act is renumbered Clause 98	
66		Clause 66 in the Principal Act is renumbered Clause 99	
67		Clause 67 in the Principal Act is renumbered Clause 100	
68		Clause 68 in the Principal Act is renumbered Clause 101	
		THAT, PART IX – MISCELLANEOUS PROVISIONS, is renumbered PART XIV	
69		Clause 69 in the Principal Act is renumbered Clause 102	
70		Clause 70 in the Principal Act is renumbered Clause 103	
71		Clause 71 in the Principal Act is renumbered Clause 104	
72		Clause 72 in the Principal Act is renumbered Clause 105	
73		Clause 73 in the Principal Act is renumbered Clause 106	
74		Clause 74 in the Principal Act and succeeding Amendment of Section 74 in Tea (Amendment) Bill, 2023, is renumbered Clause 107	
75		Clause 75 in the Principal Act is renumbered Clause 108	
		THAT, PART X – TRANSITIONAL PROVISIONS, is renumbered PART XV	
76		Clause 76 in the Principal Act and succeeding Amendment of Section 76 in Tea (Amendment) Bill, 2023, is renumbered Clause 109	
77		Clause 77 in the Principal Act is renumbered Clause 110	
78		Clause 78 in the Principal Act is renumbered Clause 111	
79		Clause 79 in the Principal Act is renumbered Clause 112	
80		Clause 80 in the Principal Act is renumbered Clause 113	
81		Clause 81 in the Principal Act is renumbered Clause 114	

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COUNCIL OF GOVERNORS

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Ref: COG/6/48 Vol.68

5th June, 2025

Samuel Njoroge, CBS
Clerk of the National Assembly
Parliament Building
NAIROBI

Dear Mr. Njoroge,

SUBMISSIONS ON THE TEA (AMENDMENT) BILL, 2023 (SENATE BILL NO. 1 OF 2023)

Reference is made to your letter referenced **NA/DDC/A&L/2025/014** dated 27th May, 2025 inviting comments and submissions on the referenced Bill.

The Council appreciates the opportunity to engage and present its views on these important legislation which seeks to provide for direct sales of tea, the payment of tea proceeds among other issues.

In view of the above, the Council wishes to forward for your consideration the attached legislative memorandum on the referenced Bill.

Please accept assurance of our highest esteem and consideration.

Yours sincerely,

Mary Mwiti, EBS
Chief Executive Officer

Copy to: **All Excellency Governors**

 All CECMs in charge of Agriculture

 All County Attorneys



COUNCIL OF GOVERNORS

**LEGISLATIVE MEMORANDUM ON THE TEA (AMENDMENT) BILL, 2023
(SENATE BILL NO. 1 OF 2023)**

TO

**THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON
AGRICULTURE AND LIVESTOCK**

FROM

**THE COUNCIL OF GOVERNORS
AGRICULTURE AND LIVESTOCK COMMITTEE**

A. INTRODUCTION

THE COUNCIL OF GOVERNORS,

In recognition of the fact that sovereign power of the state is exercised at two levels of government, that is, the National Government and the County Governments, whose distinctness is recognized by Articles 6 (2) and 189 of the Constitution;

In further recognition of the need to ensure that all legislation is cognizant of devolved functions as stipulated under the Fourth Schedule of the Constitutions; and

Aware of the need for coordinated action between the National and County Governments to ensure that these legislations properly respond to the salient issues in the sector, and further reflects the objectives and purpose of the devolution.

Therefore, the Council commends the Parliament for starting the process of the review of the Tea Act, 2020 through this amendment with a few to aligning to the Constitution while addressing all the salient issues in the tea sector.

Having reviewed the **Tea (Amendment) Bill, 2023** and the **Tea Act No. 23 of 2020** in its entirety, the Council of Governors on behalf of the 47 County Governments welcomes the Bill which seeks to amend the Tea Act to provide for direct sales of tea, the payment of tea proceeds. This is an issue which some Counties have sought the interventions of the courts to declare the Act unconstitutional.

While the Council supports the overall intent of the Bill, we note with concern that it does not address the equitable sharing of the **tea levy** with **tea-growing County Governments**. The Constitution of Kenya, particularly the Fourth Schedule, assigns agriculture as a fully devolved function. Therefore, it is imperative that the law recognizes the role of County Governments in supporting the tea value chain and provides for the **allocation of a portion of the tea levy to the counties on a pro rata basis**, commensurate with their contribution to national tea production.

We therefore urge the National Assembly to amend the Bill to include a provision ensuring that a defined share of **60%** tea levy is **remitted directly to tea-growing counties**, thereby supporting localized investments in extension services, infrastructure, and value addition.

We also opine that there are other salient issues in the Act that needs to be addressed through the amendment Bill. Thus, we recommend the following further amendments for better implementation of the Act.

B. SPECIFIC RECOMMENDATIONS ON THE BILL

CLAUSE	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
<p>3. Amendment of section 5 of No. 23 of 2020</p>	<p>Section 5 of the principal Act is amended in paragraph (e) by deleting the words “commercial green leaf transporters” appearing immediately after the words “commercial tea nurseries”</p>	<p>Amend the section to read as follows:</p> <p>Section 5 of the principal Act is amended in paragraph (e) by deleting the words “commercial tea nurseries, commercial green leaf transporters,” appearing immediately after the words “tea auction organizers,”</p>	<p>To align to the provision of section 38 of the Act which mandates the County Governments to register commercial tea nurseries</p>
<p>15(b). Amendment of Section 53 of No. 23 of 2020</p>	<p>15(b) deleting subsection (5) and substituting therefor the following new subsection—</p> <p>(5) The tea levy collected under subsection (2) shall be apportioned as follows —</p> <p>(a) sixty per centum shall be applied by the Board in the furtherance or exercise of any function or power of the Board; and</p> <p>(b) forty per centum shall be remitted directly to the Tea Research Foundation for execution of the function of the Foundation.</p>	<p>Amend by deleting clause 15(b) in its entirety and replace with the following new section 15(b) to read as follows:</p> <p>15(b) deleting subsection (5) and substituting therefor the following new subsection—</p> <p>(5) The tea levy collected under subsection (2) shall be apportioned as follows —</p> <p><u>(a) twenty per centum shall be applied by the Board in the furtherance or exercise of any function or power of the Board;</u></p> <p><u>(b) twenty per centum shall be remitted directly to the Tea Research Foundation for execution of the function of the Foundation; and</u></p> <p><u>(d) sixty per centum shall be remitted directly to the tea growing counties to be applied for development of the tea subsector on a pro rata basis.</u></p>	<p>This is to align the provisions of the Act to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the County Governments shall be responsible for development and regulation of agriculture. To achieve this, counties need to be adequately resourced, we therefore propose that 60% of the Levy is directly disbursed to counties for development of the tea sector.</p>

C. PROPOSED FURTHER AMENDMENTS TO THE TEA ACT, 2020

SECTION	PROVISION OF THE ACT	PROPOSED AMENDMENT	JUSTIFICATION
2. Interpretation		<p>Introduce the following new definition;</p> <p><u>"County Executive Committee Member" means a County Executive Member for the time being responsible for matters relating to agriculture</u></p> <p><u>"County Executive Committee" means a county executive committee as provided for under Article 179(2) of the Constitution.</u></p>	<p>To provide for the definition of the County Executive Committee Member responsible for matters relating to agriculture given that tea sector is largely devolved to the County Governments.</p>
5: Functions of the Board.	<p>5 (1) The Board shall —</p> <p>(a) develop, promote and regulate the development of the tea industry;</p> <p>(b)...</p> <p>(c) facilitate equitable access to the resources, facilities and benefits of the tea industry by all interested parties;</p> <p>(d) make recommendations to the Cabinet Secretary on the formulation of policies, plans and strategies for the regulation of the tea sector;</p> <p>(e) register tea factories, small scale tea growers, medium scale tea growers, large scale tea growers, warehouse operators, tea packers, tea buyers, exporters, importers, tea brokers,</p>	<p>Amend sections 5(1)(a)(d)(e) and (f) to read as follows;</p> <p>5(1). The Board shall-</p> <p>(a) ...</p> <p>(b)...</p> <p>(c)...</p> <p><u>(d) make recommendations to the Cabinet Secretary and County Executive Committee Members on the formulation of policies, plans and strategies for the regulation of the tea sector.</u></p> <p><u>(e) register tea buyers, exporters, importers, tea brokers, management agents and tea auction organizers;</u></p> <p><u>(f) issue certificate of conformity to manufacturers;</u></p> <p><u>(l) in consultation with the County Governments, prescribe the</u></p>	<p>Agriculture development and regulation has been fully devolved to County Governments pursuant to the Fourth Schedule of the Constitution. Further, part 2 section 7 of the Schedule gives the County Governments the mandate of Trade development and regulation including- markets and trade licensing. It is therefore imperative that the County Governments are involved in the development of the tea industry for the benefit of the farmers.</p> <p>This therefore means that registration of tea growers, licensing of tea dealers and processors as well as licensing of managing factories and their agents is a</p>

	<p>management agents, tea auction organizers, commercial tea nurseries, commercial green leaf transporters; (f) license manufacturers; (g).. (l) prescribe the maximum period and minimum amount for payment of green leaf</p>	<p>maximum period and minimum amount for payment of green leaf</p>	<p>County mandate as such it is against the Constitution for the Act to purport to assign these mandates to the Board.</p>
<p>20. Role of national and county governments in the development of tea</p>	<p>20(1) Pursuant to the Fourth Schedule of the Constitution — (a) the Board, on behalf of the national government, shall be responsible for licensing and charging of levies; (b) each county government shall implement the national government policies to the extent that the policies relate to the county and in particular shall be responsible for — (i) the development of tea grown within the county; (ii) tea disease and pest control; (iii) markets within the county; (iv) cooperative societies within the county; (v) register commercial tea nursery operators; and (vi) soil and water conservation.</p>	<p>Amend the section 20(1) to read as follows</p> <p>Functions of County Governments 20(1) Pursuant to the Fourth Schedule of the Constitution —</p> <p>(a) the Board, on behalf of the national government, shall be responsible regulation of imports, exports, development and enforcement of standards in the tea sector.</p> <p>(b) each County Government shall implement the national policies to the extent that the policies relate to the county and in particular shall be responsible for —</p> <p>(i) the development of tea grown within the county;</p> <p>(ii) register tea growers, tea factories, commercial tea nursery operators, green leaf transporters; warehouse operators, tea packers and manufacturers;</p> <p>(iv) licence tea manufacturers;</p> <p>(v) offer and coordinate of extension services on tea</p>	<p>This is to align the provisions of the Act to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the County Governments shall be responsible for development and regulation of agriculture and trade including markets, trade licenses and fair-trading practices.</p>

		<p>production and milling in the respective county;</p> <p>(vi) Inspect tea nurseries, processors and warehouses located within their respective counties;</p> <p>(vii) enforce county and national legislation on tea industry code of practice and other industry standards;</p> <p>(vii) in collaboration with the Board and law enforcement agencies, enforce regulations within the county;</p> <p>(viii) soil and water conservation;</p> <p>(ix) monitor and report of incidences of pests and disease outbreaks and taking appropriate action in collaboration with the Board and other relevant government agencies;</p> <p>(x) regulation of cooperative societies within the county; and</p> <p>(xi) soil and water conservation.</p>	
<p>21.Registration</p>	<p>21. (1) Every tea grower shall register with a processor.</p> <p>(2) Every processor shall keep or cause to be kept for statistical purposes, a register of all tea growers registered with under subsection (1) specifying-</p>	<p>Amend clause 21(2) and introduce a new clause 21(3) to read as follows:</p> <p>21. (1) Every tea grower shall register with a processor.</p> <p>(2) Every processor shall keep or cause to be kept for statistical purposes, a register of all tea growers registered with under subsection (1) specifying-</p>	<p>To provide for a framework where the processors operating in the county shares the information of the registered growers with the respective county government for purposes county statistics on tea production.</p>

	<p>(a) the name of the grower; (b) the location, size and parcel number of the land on which the tea is grown; (c) the variety of tea grown; and (d) such other information as the Board or County Government may prescribe.</p>	<p><i>(a) the name of the grower; (b) the location, size and parcel number of the land on which the tea is grown; (c) the variety of tea grown; and (d) such other information as the County Government may prescribe.</i></p> <p><i>(3) Every processor shall share the information on the registered tea growers with the respective county government.</i></p>	
<p>21. Registration of small scale tea growers and medium scale tea growers</p>	<p>21(1) A small scale tea grower and medium scale tea grower shall register with the tea factory to which the respective tea growers deliver green leaf or purple leaf using the prescribed form. (2) The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of small scale tea growers and medium scale tea growers and the appeal process in case of refusal or denial of registration; (3).. (6) The tea factory shall furnish the Board with particulars of all registered small scale tea growers or medium scale tea growers in such manner as the Board may prescribe.</p>	<p>Amend section 21(2) and (6) to read as follows:</p> <p>21(2) <u>The respective County Executive Committee Member with the approval of the County Assembly, shall prescribe regulations providing for the procedure for registration of small-scale tea growers and medium scale tea growers and the appeal process in case of refusal or denial of registration;</u></p> <p>(6) The tea factory shall furnish the <u>County Executive Committee Member</u> with particulars of all registered small scale tea growers or medium scale tea growers in such manner as the <u>County Executive Committee Member</u> may prescribe.</p> <p>6A. <u>The County Executive Committee Member shall share with the Board the particulars of all registered small scale tea growers or medium scale tea growers in the county.</u></p>	<p>To align to our proposal under section 20 above and provide for consultations in the regulatory making process.</p>

<p>23. Registration of large scale tea growers</p>	<p>23(1) A large scale tea grower shall register with the Board in a prescribed form and shall pay the prescribed fee. (2) The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of large scale tea growers and the appeal process in case of refusal or denial of registration.</p>	<p>Amend section 23(1) and (2) to read as follows:</p> <p><u>23(1) A large scale tea grower shall register with the respective County Executive Committee Member in a prescribed form and shall pay the prescribed fee.</u></p> <p><u>(1) (A). The County Executive Committee Member share the particulars of the large scale tea growers with the Board in a prescribed form.</u></p> <p><u>(2) The Cabinet Secretary in consultation with the County Governments shall prescribe regulations providing for the procedure for registration of large scale tea growers and the appeal process in case of refusal or denial of registration.</u></p>	<p>This is to align the provisions of the Act to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the County Governments shall be responsible for development and regulation of agriculture and trade including markets, trade licenses and fair trading practices.</p>
<p>25. Licencing of manufacturers</p>	<p>25 (1) A person shall not manufacture tea for sale except under and in accordance with a licence issued under this Act. (2) A person shall apply for a manufacturing licence to the Board in a prescribed form and shall pay the prescribed fee. 3) The Board may, after consultation with the Cabinet Secretary — (a) issue a manufacturing licence, in accordance with this Act; (b) refuse to issue the licence on any ground which may appear to the</p>	<p>Amend section 25 to read as follows:</p> <p><u>25 (1) A person shall not manufacture tea for sale except under and in accordance with a licence issued under this Act.</u></p> <p><u>(2) A person shall apply for a manufacturing licence to the respective County Executive Committee Member in a prescribed form and shall pay the prescribed fee.</u></p> <p><u>(3) The County Executive Committee Member may,—</u></p> <p><u>(a) issue a manufacturing licence, in accordance with this Act;</u></p>	<p>This is to align the provisions of the Act to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the County Governments shall be responsible for development and regulation of agriculture and trade including markets, trade licenses and fair trading practices.</p>

	<p>Board to be sufficient and inform the applicant in writing of the reasons thereof;</p> <p>(4)...</p> <p>(5) Before the issuance or renewal of a manufacturing licence for a tea factory limited company the Board shall satisfy itself that the applicant has a procurement policy providing for competitive procurement of goods and services</p>	<p>(b) refuse to issue the licence on any ground which may appear to the <u>County Executive Committee Member</u> to be sufficient and inform the applicant in writing of the reasons thereof;</p> <p>(5) Before the issuance or renewal of a manufacturing licence for a tea factory limited company the <u>County Executive Committee Member</u> shall satisfy itself that the applicant has <u>obtained a certificate of conformity from the Board and a procurement policy providing for competitive procurement of goods and services.</u></p>	
28. Registration of warehouse operator	<p>28(1) Every warehouse operator shall register with the Board.</p> <p>(2) A person shall not store tea unless the person is registered in accordance with this Act.</p> <p>(3) The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of warehouse operators and the appeal process in case of refusal or denial of registration.</p>	<p>Amend section 28 to read as follows:</p> <p>28(1) Every warehouse operator shall register with the respective <u>County Executive Committee Member.</u></p> <p>(2) A person shall not store tea unless the person is registered in accordance with this Act.</p> <p>(3) The Cabinet Secretary shall, in <u>consultation with the County Governments</u> prescribe regulations providing for the procedure for registration of warehouse operators</p>	<p>This is to align the provisions of the Act to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the County Governments shall be responsible for development and regulation of agriculture and trade including markets, trade licenses and fair trading practices.</p>
29. Registration of tea packer	<p>29 (1) Every tea packer shall register with the Board.</p> <p>(2) A person shall not pack tea unless the person is registered in accordance with this Act.</p> <p>(3) The Cabinet Secretary shall prescribe regulations providing for</p>	<p>Amend the section 29 to read as follows:</p> <p>29 (1) Every tea packer shall register with the respective <u>County Executive Committee Member.</u></p>	<p>This is to align the provisions of the Act to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the County Governments shall be responsible for development and regulation of agriculture and trade including markets,</p>

	the procedure for registration of tea packers and the appeal process in case of refusal or denial of registration.	<p>(2) A person shall not pack tea unless the person is registered in accordance with this Act.</p> <p>(3) The Cabinet Secretary shall, in consultation with the County Governments prescribe regulations providing for the procedure for registration of tea packers and the appeal process in case of refusal or denial of registration.</p>	trade licenses and fair trading practices.
37. Registration of commercial green leaf transporters	<p>37 (1) A person who intends to carry on the business of commercial green leaf transporter shall register with the Board.</p> <p>(2) A person shall not carry on the business of commercial green leaf transporter unless the person is registered in accordance with this Act.</p> <p>(3) The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of commercial green leaf transporters and the appeal process in case of refusal or denial of registration.</p>	<p>Amend the section 37 to read as follows:</p> <p>37 (1) A person who intends to carry on the business of commercial green leaf transporter shall register with the respective County Executive Committee Member.</p> <p>(2) A person shall not carry on the business of commercial green leaf transporter unless the person is registered in accordance with this Act.</p> <p>(3) The Cabinet Secretary shall in consultation with the County Governments prescribe regulations providing for the procedure for registration of commercial green leaf transporters and the appeal process in case of refusal or denial of registration.</p>	This is to align the provisions of the Act to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the County Governments shall be responsible for development and regulation of agriculture and trade including markets, trade licenses and fair trading practices.
38. Registration of a commercial tea nursery	38 (1) A person who intends to establish a commercial tea nursery shall register with the county government where they intend to establish a tea nursery.	<p>Amend section 38(1) to read as follows:</p> <p>38 (1) A person who intends to establish a commercial tea nursery shall register with the County Executive Committee</p>	To provide clarity as to whom the application for commercial tea nursery is to be addressed to at the county level.

		Member where they intend to establish a tea nursery.	
39. Considerations before registration and licensing and renewal	<p>39(1) The Board shall, before registering, licensing or renewing a registration or licence under this Act, satisfy itself that—</p> <p>(a) the applicant has complied with the provisions of this Act and any other relevant law; and</p> <p>(b) the applicant or the directors of the company are fit and proper for the function for which they seek a licence or registration.</p>	<p>Amend to read as follows:</p> <p>39(1) <u>The Board or County Executive Committee Member shall, before registering, licensing or renewing a registration, certificate of conformity or licence under this Act, satisfy itself that—</u></p>	To recognize the role of the County Executive Committee Members in issuance of licenses under the Act.
40. Conditions of a licence	<p>40(1) A licence issued under this Act shall be subject to such conditions as the Board may determine and as are specified in the licence and to any conditions which may be prescribed.</p> <p>(2) The Board shall consider the professional and moral suitability of a person applying for a license and satisfy itself that such a person is a fit and proper person for the grant of the license</p> <p>(3)...</p> <p>4) In considering an application for a licence, the Board may require to be satisfied as to —</p> <p>(a)...</p>	<p>Amend section 40(1),(2)(4) and (5) to read as follows:</p> <p>40(1) <u>A licence or certificate of conformity issued under this Act shall be subject to such conditions as the Board or County Executive Committee Member may determine and as are specified in the licence or certificate and to any conditions which may be prescribed.</u></p> <p>(2) <u>The Board or County Executive Committee Member shall consider the professional and moral suitability of a person applying for a license or certificate and satisfy itself that such a person is a fit and proper person for the grant of the license or certificate</u></p> <p>(3)...</p>	To recognize the role of the County Executive Committee Members in issuance of licenses under the Act.

	(5) The Board may at any time during the validity of a licence—	<p>4) In considering an application for a <u>licence or certificate of conformity</u>, the Board or County Executive Committee Member may require to be satisfied as to —</p> <p>(a)...</p> <p>(5) The Board or County Executive Committee Member may at any time during the validity of a licence—</p>	
41. Application for renewal of a licence	<p>41(1) An application for the renewal of a licence under this Act shall be made to the Board in a form prescribed not later than the first day of the month of June in which the current licence is due to expire.</p> <p>(2) Despite subsection (1), a late application may be made upon payment of a late application fee as may be prescribed by the Board.</p>	<p>Amend section 41 by deleting the “Board” and replace it with the words “ County Executive Committee Member” to read as follows:</p> <p>41(1) An application for the renewal of a licence under this Act shall be made to <u>respective County Executive Committee Member</u> in a form prescribed not later than the first day of the month of June in which the current licence is due to expire.</p> <p>(2) Despite subsection (1), a late application may be made upon payment of a late application fee as may be prescribed by the <u>County Executive Committee Member</u>.</p>	To recognize the role of the County Executive Committee Members in issuance of licenses under the Act as per the provisions of the Fourth Schedule to the Constitution.
42. Revocation or alteration of a licence	<p>42. The Board may revoke, alter or suspend a licence issued under this Act if in its opinion —</p> <p>(a) an offence under this Act, or in respect of the licensed activity under any other written law, has been committed by the licence holder or</p>	<p>Amend to read as follows:</p> <p><u>42. The County Executive Committee Member may revoke, alter or suspend a licence issued under this Act if in its opinion —</u></p> <p><u>(a) an offence under this Act, or in respect of the licensed activity under any other written law, has been committed by the licence</u></p>	To recognize the role of the County Executive Committee Members in issuance of licenses under the Act as per the provisions of the Fourth Schedule to the Constitution.

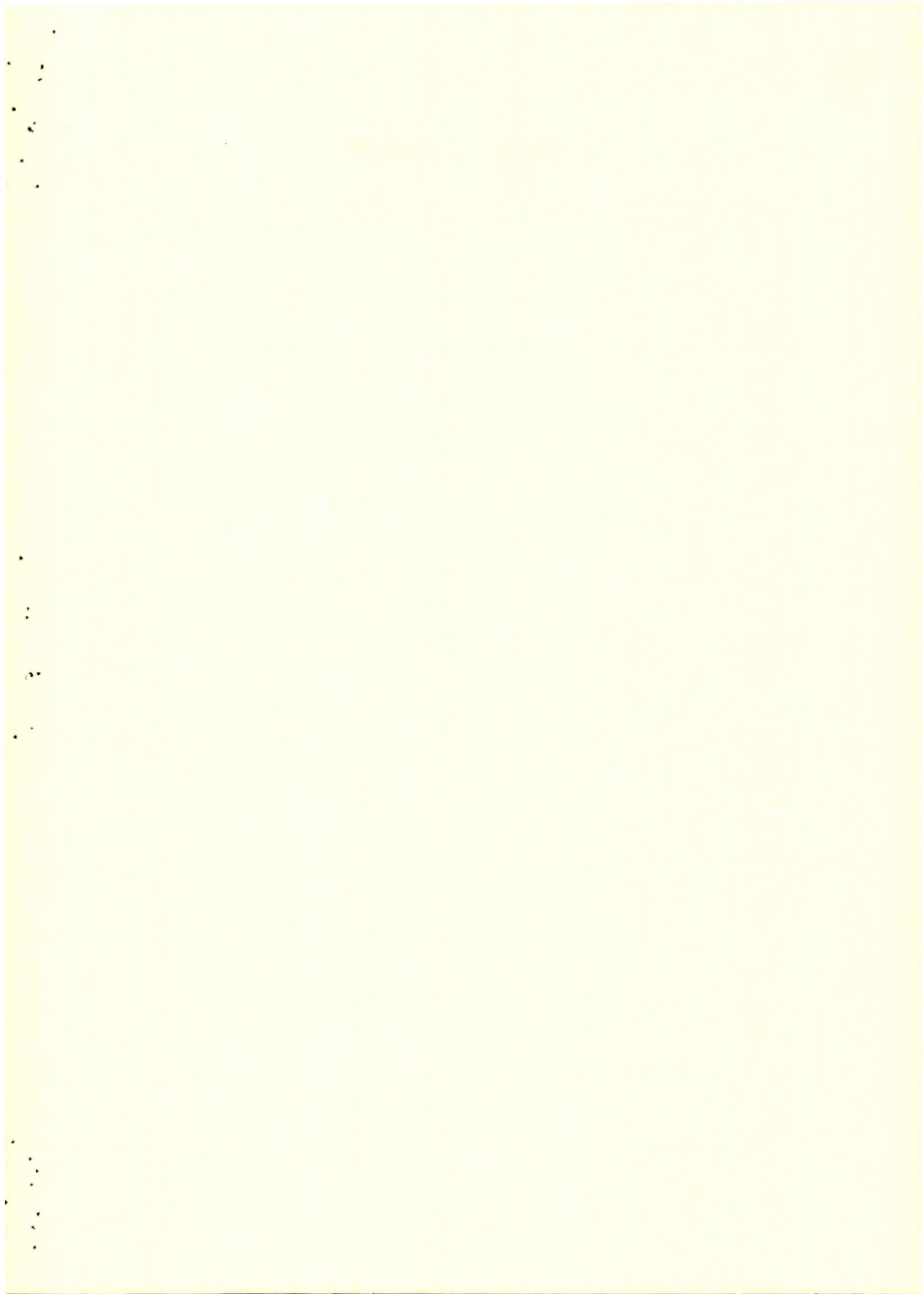
	any employee of the licence holder; or (b) a condition of the licence has been contravened or not complied with.	<u>holder or any employee of the licence holder; or</u> <u>(b) a condition of the licence has been contravened or not complied with.</u>	
43. Surrender of licence	(1) The holder of a licence which is revoked shall immediately surrender it to the Board. (2) A licence holder may at any time surrender the licence to the Board and the licence shall cease to have effect immediately.	Amend to read as follows; 43. (1) The holder of a licence which is revoked shall immediately surrender it to the County Executive Committee Member. (2) A licence holder may at any time surrender the licence to the County Executive Committee Member and the licence shall cease to have effect immediately.	To recognize the role of the County Executive Committee Members in issuance of licenses under the Act as per the provisions of the Fourth Schedule to the Constitution.
44. Appeals to the High Court	44(1) An applicant for or holder of a licence who is aggrieved by a decision of the Board may appeal to the High Court on or in respect of— (a) the grant, refusal, renewal, variation or revocation; or (b) the conditions imposed on the grant, renewal or variation, of a licence. (2) An appeal under this section shall be lodged within thirty days from the date on which the appellant first received notice of the decision.	Delete section 44 and replace with the following new section 44. 44. Appeals 44(1) An applicant for or holder of a certificate who is aggrieved by a decision of the Board may appeal to the Cabinet Secretary on or in respect of— (a) the grant, refusal, renewal, variation or revocation; or (b) the conditions imposed on the grant, renewal or variation, of a certificate. (2) An applicant for or holder of a licence who is aggrieved by a decision of the County Executive Committee Member may appeal to the County Executive Committee through office of County Secretary on or in respect of— (a) the grant, refusal, renewal, variation or revocation; or	To provide for the appeal mechanisms from the decision of the Board and County Executive Committee Members. It is our considered opinion that the High Court should be the last resort.

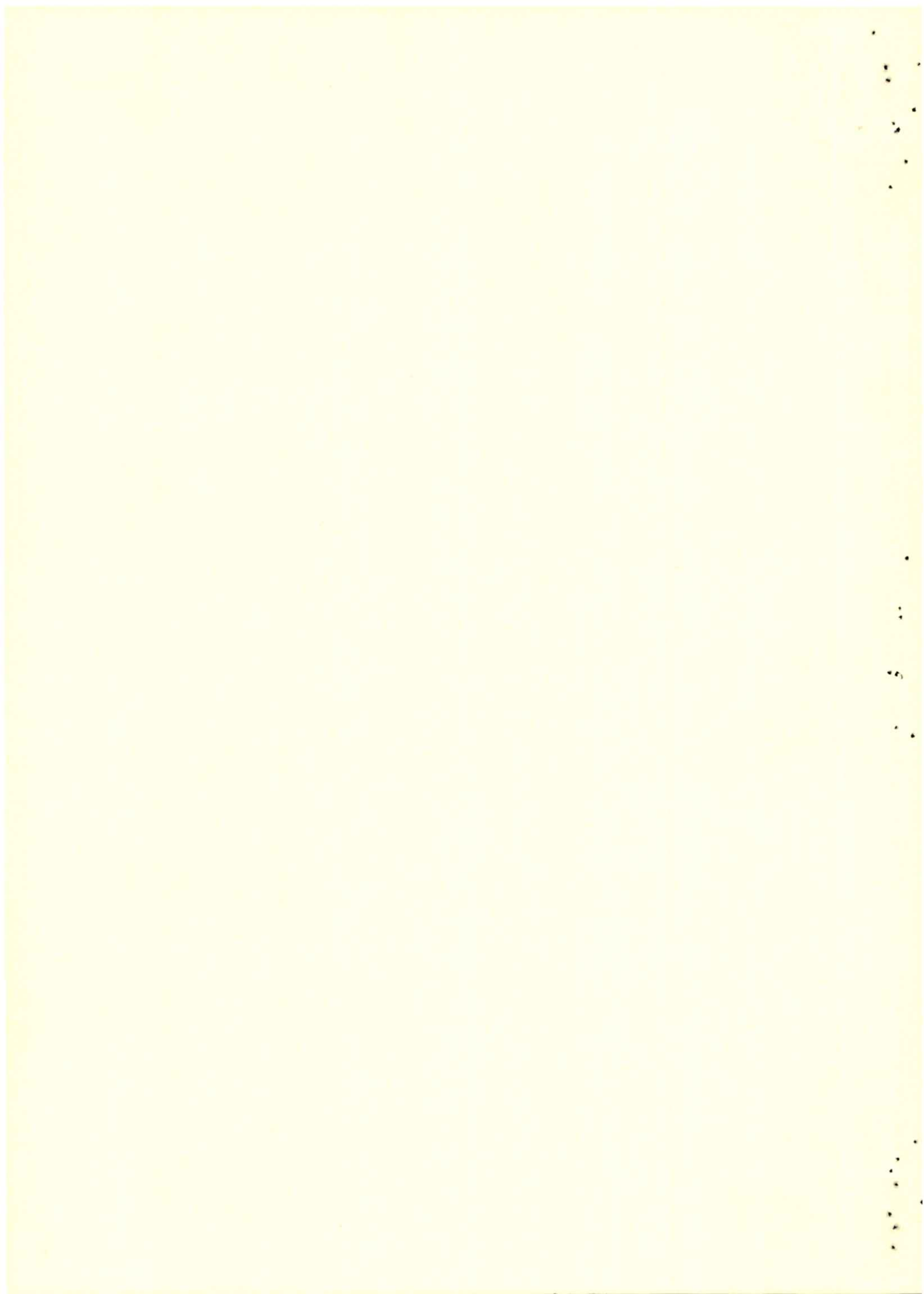
		<p>(b) <u>the conditions imposed on the grant, renewal or variation, of a licence.</u></p> <p>(3) <u>A person aggrieved by the decisions of the Cabinet Secretary or County Executive Committee under sub-section (1) and (2) may appeal to the High Court.</u></p> <p>(3) <u>An appeal under this section shall be lodged within thirty days from the date on which the appellant first received notice of the decision.</u></p>	
49. Appointment of crop inspectors	<p>49(1) The Board may appoint qualified persons to be crop inspectors for the purposes of this Act.</p> <p>(2) For purposes of subsection (1), the Board may, by regulations, prescribe the qualifications for a crop inspector</p>	<p>Amend to read as follows:</p> <p><u>49(1) The Board or County Government may appoint qualified persons to be crop inspectors for the purposes of this Act.</u></p> <p><u>(2) For purposes of subsection (1), the Board in consultation with County Governments may, by regulations, prescribe the qualifications for a crop inspector</u></p>	<p>To allow the County Governments to appoint persons qualifies as crops inspectors for purposes of assisting the county in discharging its mandates under the Act.</p>
74(1):	<p>74(1) the Cabinet Secretary, upon consultation with the Board, make regulations-</p>	<p>Amend to read as follows:</p> <p><u>74(1) The Cabinet Secretary may, in consultation with the Board and County Governments make Regulations -</u></p>	<p>Agriculture has been fully devolved under the Constitution, it is imperative that the Cabinet Secretary consults County Governments in the development of the regulation as its implementation has a direct impact on how the Counties will undertake their functions as provided for under the Fourth Schedule of the Constitution.</p>

D. CONCLUSION

Given that agricultural services are devolved under Part 2 of the Fourth Schedule of the Constitution, and that trade development and regulation (excluding the regulation of professions) is a function of County Governments, it is imperative that all legislation in the agriculture sector respects the constitutional mandate of County Governments. This ensures that counties are able to discharge their responsibilities effectively.

Noting that the Tea Act, 2020 centralizes functions that constitutionally belong to County Governments by assigning them to the Tea Board, we urge the National Assembly to consider our proposals aimed at entrenching the role of County Governments in the development, promotion, and regulation of the tea sector.





MEMORANDUM ON THE TEA (AMENDMENT) BILL, 2023

(SENATE BILL NO. 1 OF 2023)

PRESENTED TO :

**PARLIAMENTARY DEPARTMENTAL
COMMITTEE ON AGRICULTURE AND
LIVESTOCK DEVELOPMENT**

**PARLIAMENT BUILDING
NAIROBI**

PRESENTED BY



**EASTAFRICAN TEA TRADE ASSOCIATION
TEA TRADE CENTRE,
NYERERE AVENUE,
P.O. BOX 85174 - 80100
MOMBASA**

Email: info@eatta.co.ke

REVISED; 9 TH JUNE, 2025

RE: MEMORANDUM ON THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 1 OF 2023)

1.0 INTRODUCTION

East African Tea Trade Association (EATTA) is the apex body representing the Tea industry in Africa. EATTA has a membership of 288 members from 10 countries namely Kenya, Uganda, Tanzania, Rwanda, Burundi, DR Congo, Malawi, Madagascar, Mozambique and Ethiopia. The EATTA runs the Mombasa Tea Auction Centre. This is the largest Tea Auction Centre in the world. More than 90% of Tea exported from Kenya passes through the Mombasa Auction.

The EATTA membership comprises of Tea producers, buyers, brokers, warehouses, packers and Associate members from the ten member countries who trade at the Mombasa Tea Auction under agreed EATTA trading rules and regulations that are currently approved by the Tea Board of Kenya and the member country's tea boards as well as the respective Tea Associations.

EATTA has had a long and fruitful association with the Kenyan Government in general and in particular with the two houses of Parliament. The Tea Amendment Bill (The Bill) was published in January, 2023 and proposes to rectify some anomalies that were in the Tea Act 2020. The former Cabinet Secretary, Ministry of Agriculture did not adequately engage with the tea sector players and stakeholders which resulted in some provisions of the Tea Act being challenged in the High Court's Constitutional division by EATTA, KTGA, KTDA and Bomet County Government.

2.0 BACKGROUND/CONTEXT

Tea is grown in twenty-one (21) geographically dispersed counties in Kenya, Warehoused, Traded and exported through the port in Mombasa County. Small scale tea farmers account for about **48.84%** of Kenyan's Tea production through 69 KTDA managed Tea factories with the rest being produced by the plantations under Kenya Tea Growers Association (KTGA) and independent tea companies licensed by the Tea Board of Kenya (**51.16%**) from the 2023 tea performance report (TBoK, 2024). Our Tea is of such a high premium in some consuming markets that the importers keep track of the Mombasa Auction trends on a weekly basis and will make purchase orders for a specific plantations or garden marks. On average, tea is marketed through four main channels; (1)- the Mombasa Tea Auction (75 percent), (2) Direct Sales Overseas (15 percent), (3) Kenya Tea Packers (7 percent) and (4) factory gate sales (3 percent).

The East Africa Tea Trade Association (EATTA) is a voluntary, non-profit umbrella body representing the interests of the Tea industry in Africa since 1956. It has over the year undergone various improvements in line with the changing local and international tea trade dynamics.

Despite the global economic shock occasioned by the Covid 19 pandemic, Russia-Ukraine crisis and high rate of inflation, the Mombasa Auction prices to date have remained buoyant after experiencing a declining trend over the last 5 years. In 2023, Kenya earned Kshs. 180.57 Billion from tea export and Ksh 16.4 Billion from local consumption resulting to total earning from tea Ksh. of Ksh.197.1 Billion. In terms of export earnings tea is one of the leading foreign exchange earners for Kenya and the region. Prior to the passing of the Tea Act, 2020, it was unanimously agreed in the Senate that there were irregularities including conflict with existing legislation, further, it was agreed that if further amendments to the Bill will be preferred then the Agriculture Committee would ensue a Mediation

process in order to address the various contentious issues and facilitate the full implementation of the act so that the country can adequately address the issues facing the Tea Sector.

This memorandum provides observation and recommendations on selected proposed amendments contained in the Tea (Amendment) Bill 2023. Our views are informed not only by public dialogue forums that EATTA has held with tea stakeholders on various occasions. Thus, we take the position that whereas there is need to have a robust legislation to strengthen the tea industry by improving the quality and earnings, we believe that the following proposed recommendations will be an improvement to the Tea Act, 2020 and will result in a harmonious, productive and rewarding tea sector.

3.0 EATTA'S CONTENTIOUS ISSUES ON THE TEA BILL 2020

EATTA filed a Petition on **19th January 2021** seeking a review on Sections 5(L), 32, 36, 48 and 53 of the Tea Act 2020. These sections included: -

a) Section 5 (L) - Prescription of period and amount for payment of green leaf

The functions of the Board shall be to – prescribe the maximum period and the minimum amount for payment of green leaf.

The price of tea is depended on the forces of demand and supply and therefore by the Tea Board setting a minimum amount and the period of payment of Greenleaf, it does the opposite than liberalize the tea sector as intended. The provision constitutes restrictive trade practices prohibited under Section 21(3)(a) of the Competition Act and is therefore illegal. Section 21 of the Competition Act deals with “*Restrictive trade practices*” and clause (3) directs that one of the restrictive practices include “*directly or indirectly fixes purchase or selling prices or any other trading conditions*”.

Therefore, providing for price fixing by the Tea Board of Kenya on Greenleaf does not allow for private enterprise which enables the producer and buyer to engage and determine the price of tea as is the current practice.

EATTA'S Proposal

EATTA's proposal is that the maximum period and minimum amount for payment of green leaf should be negotiated by the producers/farmers and their management or management agent where this case applies. This should be captured in the green leaf supply contracts between the management agent, smallholder farmer and factories. The issue should be part of the regulations to be assigned for supervision by the Tea Board of Kenya.

b) Section 32 – Brokers' remuneration and number of factories they can serve

Section 32(3)(b),32(4) of the Tea Act provides that the cabinet secretary shall prescribe regulations providing for the procedure for registration of a tea broker, prescribe the maximum number of tea factories that shall be served by a tea broker and also prescribe the remuneration paid to a tea broker

by a tea factory limited and a tea buyer or exporter for services rendered not exceeding zero point seven five per centum of the gross sales by the broker.

(i) Brokers Remuneration

Brokerage commission is currently agreed among the three parties concerned namely Producers from East and Central Africa, Buyers and Brokers. Currently the tea brokers receive a brokerage commission of 1.25% which is distributed as follows; 0.75% by the tea producer/factory and 0.5% is paid by the tea buyer. The amount is used to fund the Auction activities, Sampling, tea evaluation, producer visits, marketing and other technical support provided by the brokers to the producers and Buyers. We note that there was no consultation when the rate was reduced. Reduction of brokers' remuneration by 40% as proposed in the act will greatly compromise the services provided and lead to closure of some brokerage organization and distort the tea trade.

EATTA's Proposal

EATTA's proposal is that this clause belongs to the regulations and be domiciled in the regulations and should be expunged from the Tea Act. It is EATTA's view that in order to ensure a smooth running of the Mombasa Auction and to meet the members obligations, like all other other payments for services, this should be negotiated by the Tea Brokers, Producers, Buyers and the Managing Agents where it's applicable and should be captured in the contracts between the Brokers and the Producers. These agreements should be deposited with the Tea Board of Kenya and other Tea Boards and country tea Associations of various member countries.

As a way forward and in order to unlock the current deadlock on the Court cases in Kenya. EATTA recommends that the brokers commission be retained at the 1.25% (0.75% from the producer and 0.5% from the Buyers) and thereafter be reviewed by all parties based on the services provided by the Brokers.

(ii) The number of factories handled by a Tea broker

The number of Tea factories handled by a Broker is negotiated and dependent on a Broker's capability, infrastructure, value proposition and individual effort. The brokers handle producer factories from the East and Central African region and the basis of factory acquisition is in the provision of good service as well as the customer client relationship.

EATTA's Proposal

EATTA's proposal is that in the spirit of liberalized business practice and growth advocated by the current government and in compliance with the Competition Authority Act of 2010, the number of factories served should be left at the discretion of the producers to negotiate and elect the Tea Brokers they would like to contract and do business with without any restrictions.

c) Section 36 – All teas processed and manufactured in Kenya for the export market to be offered for sale exclusively at the Tea Auction floor.

The provision directing that all teas to be sold at the auction exclusively, curtails competition. Currently Mombasa Auction accounts for the largest share of Kenya's tea exports at an average of 75% while direct/private sales account for 15%, tea packers represent 7% and factory gate sales represent 3%.

The Act has not considered the revenue collected through Direct Sales Overseas and Local which earns small scale tea factory companies more premiums than auction sale. As part of diversification, there are packers and buyers who deal in specific teas that are not offered in the auction such as the True Mixed Fanning's (TMF), Fair Trade certified teas, Organic Teas, vacuum packed Teas and specific garden teas that go into special blends and need to be maintained. Most of these direct sales buyers offer a premium for the teas and also support other community-based projects in the respective small-scale tea factories locations. We note that the producers right to deal with their teas as they deem fit is curtailed by this provision.

EATTA's Proposal

EATTA proposes that Regulations to be developed by the Cabinet Secretary – Ministry of Agriculture stipulating the requirements for direct sales through an engagement with the various industry players before adoption. Our view is that there should be no restrictions on the sales outlets, it should be left open so that the producers are able to take advantage of all available selling opportunities.

d) Section 48 – All tea buyers or exporters shall be required to value add at least 40% of their annual Kenya tea exports.

The value addition proclamation on the Tea Act risks destabilizing our traditional markets. There are key customers who require straight line teas from specific factories, others require single gardens for their packed tea while others have special requirements for blends, hence dictating the form of tea exports.

Multiple taxation and certificates required such as KEPHIS, Port Health and Radiation Certificates. Imported Packaging Paper attracts 35% Import duty, 25% excise duty, 3.5% IDF, 2% Railway Levy and 16% VAT impedes value addition. There is also Duty and VAT on promotional materials and Inter-County Taxes.

The effect of section 48 results to punitive financial and tax implication on large scale tea growers who are some of our members which in turn goes to the cost of production which is a great financial implication on the tea sector.

We further propose that Tea Act provisions and apportionment of the levy to Tea Board (40%), Tea Marketing (20%), Tea Research (30%) and infrastructure development (10%) respectively. The 10% infrastructure development should be administered through the County Governments in the Tea growing areas while the 20% Marketing allocation should be managed by a committee with representation from the various tea sector players and the Tea Board of Kenya with clear annual budgets and a monitoring process.

EATTA proposes the adoption of quantum based (kg) levy so that we do not punish the farmer who produces better quality. EATTA has always stated that a levy based on quantum of kilos since tea production volumes have grown over time was preferable and the position is that the amount should be at a rate of Kshs 1 per kilo. There should be further guidance provided through regulation based on budgetary requirements for TBK and TRF. We further propose the involvement of the various tea stakeholders in the budgeting, disbursement and monitoring of the usage of the funds.

EATTA Proposes

e) Section 53 – provides for a tea levy which shall be collected by the Board at a rate not exceeding 1% of the auction value for teas sold through the auction and imported teas.

We further propose that a multi-agency steering team including the Tea Stakeholders, the Tea Board of Kenya, Kenya Revenue Authority, Ministry of Agriculture, Ministry of Trade, Ministry of Foreign Affairs and the Attorney General's office to be set to review the various provisions that currently inhibit the growth of value addition as well as other support structures that will enable the country to realize this value addition target. We can borrow a leaf from Sri Lanka that developed the value addition blue print and has managed to achieve the 40% level and growing.

EATTA's proposes to have a negotiated agreement for value addition to include bespoke teas and orthodox teas; and for a 10-year period within which value addition is to reach 40% (i.e. by 2034). The inclusion of bespoke teas as value added tea, buyers and producers, will have attained the requirement over the said period, if they are not already meeting that threshold. We further propose that the Government of Kenya provides an enabling environment for value addition and benchmark value addition best practices, tariffs and government support initiatives with countries already excelling in this field like India and Sri Lanka.

EATTA's Proposal

4.0 THE DRAFT TEA (AMENDMENT) BILL 2023 – EATTA’S PROPOSALS

We would like to draw the attention of the house to the following observations and recommendations with regards to the above amendment bill 2023: -

3.0 ISSUES

3.1 Section 2 of the Act - Definitions

3.1.1 Clause 2(d) of the Bill – Page 1

In the definition of the word “value addition” by inserting the words “into a packet or a container holding not more than ten kilograms” appearing immediately after the word “branding”.

Observation and recommendation: As read together with the Tea Act upon insertion of the amendment, Value Addition is defined as “improvements on made tea through packaging, blending, flavouring, tea extracts, aroma and branding **“into a packet or a container holding not more than ten kilograms”**”. This definition restricts value-added tea as being tea packed into a container of not more than 10kg. There are value-added tea products that are packed into 25Kg packages as required by markets like Sudan and other teas as tea extracts that are packed in drums, therefore going by this definition would exclude those.

3.1.2 Clause 2(e) of the Bill – Page 1

By inserting the following new definitions in the proper alphabetical sequence— “direct sales” means a contractual arrangement between a factory and an overseas buyer or local buyer for the sale of made tea based on mutually accepted terms and conditions enforceable in law.

“direct sales overseas” means bulk tea sales exported directly by a tea factory to an export market.

Observation and recommendation: There is no need of two definitions which mean the same. The first definition is preferred as it recognizes that direct sales can either be overseas and locally.

3.2. Section 7 – Membership of Board

3.2.1. Clause 3(a) and (b)

“By deleting subsection (2) and substituting therefore the following new subsection — (2) The Cabinet Secretary shall appoint the members under subsection (1)(e), (f), (g) and (h) by notice in the Gazette.

(b) deleting subsection (3) and substituting therefor the following new subsection — (3) The appointment of the chairperson or members of the Board under subsection (1)(a), (e), (f), (g) and (h) and shall take into account the gender, regional and other diversities of the people of Kenya.

Observation and recommendation: The above amendment removes the principle Act’s position requiring the Cabinet Secretary to appoint the Principal Secretary responsible for National Treasury or a representative nominated by the Principal Secretary by notice in the Gazette and further said appointment not to be subjected to compliance with gender, regional and other diversities of Kenyan people. It is imperative that this appointment remains as so being a public appointment. There is no rationale for this amendment.

Section 7 a(ii)

EATTA supports the composition of the Board to include a representative of the Independent Tea Producers Association of Kenya. They account for almost 100 million kilos of made tea produced per year and support over 210,000 farmers.

3.2.2 Clause 4(a)

deleting subsection (1) and substituting therefor the following new subsection — “The persons appointed under section 7(1)(a), (e), (f), (g), and (h), shall serve for a term of three years’ renewable once on account of good performance.”

Observation and recommendation: The provision “on account of good performance be expunged from the clause as there exists no objective criteria to determine what constitutes good performance.

3.3. Section 31 – Tea imports – Page 3

3.3.1. Clause 6

1(A) All tea brought into a Special Economic Zone Enterprise or an Export Processing Zone shall be declared to the Board in the prescribed form.

Observation and recommendation: The EPZ Act part VIII Section 29(f) provides that EPZ enterprises enjoy exemption from quotas or other restrictions or prohibitions on importer export trade with the exception of trade in firearms, military equipment or other illegal goods;

There is a contradiction between the EPZ Act and the Tea Amendment Bill. EPZ's benefit from unrestricted imports and are therefore outside the mandate of the Tea Board. Therefore, the requirement for Tea Board to require an EPZ enterprise to declare imports of tea into the EPZ contradicts the EPZ Act and negates the benefits that EPZ are accustomed to.

EATTA recommends the removal of the inclusion of EPZ facilities from the Tea act as the EPZ objective are to increase: -

- Foreign exchange through increased exports.
- Job creation.
- Foreign direct investment (FDI) to the host country.
- The introduction of technology into the country.
- Generate backward linkages from the EPZ to the domestic economy.
- Among the benefits of operating inside an EPZ are “exemption from quotas or prohibition on import or export trade with the exemption of trade in firearms, military equipment or other illegal goods” (see attached copy of the EPZ act).
- Other Agro-manufacturing factories operating inside Export Processing Zones have exempted EPZs from their Act examples; Horticultural Crops and Nut & Oil Crops (see attached copies of their Acts).
- Kenya should strive to become the international blending floor for teas from Africa (similar to what is happening in Dubai Tea Trade Zone) which has become the largest value addition centre in the world, putting restrictions on imports of teas for blending into Kenya will make packing teas outside Kenya more attractive.

3.4. Section 32 Amendments – Registration of a Tea Broker – Page 3 and Page 12

3.4.1. Clause 7

Section 32 of the principal Act is amended in subsection (4) by deleting the words “limited company” appearing immediately after the words “a tea factory”.

Observation and recommendation: While the amendment seeks to retain the original provision in the Act save for inclusion of limited company after the word tea factory. Clause 32 (2) b of the Tea Act 2020 which states “The cabinet secretary shall proscribe regulations for the maximum number of factories served by a tea brokers”, in the same sections, Clause 32(4) of the Tea Act 2020 “The remuneration paid to the broker by a factory company and the tea buyer or exporter for services rendered shall not exceed zero point seven per centum of gross sales by the brokers”. It is worth noting that the EATTA Tea Auction in Mombasa serves more than 200 producers from the region and some of these provisions are likely to affect the performance of its Auction and lead to other Auction centers being set up in other countries to compete and take away the much-needed forex and employment opportunities for Kenya.

Recommendation: As one of the contentious issues that were before court and a consent upon with Tea Board of Kenya in the consent document signed in Court, the same should be deleted from the Tea (Amendment) Bill, 2023 and limited to Tea Regulations in Section 74 (b) where the issue of the registration of the tea Brokers and their remunerations should be discussed and agreed by the various parties.

3.5 Section 34 (3) (a) – Management agent agreements -

3.5.1 Clause 8 – Page 3

Section 34 of the principal Act is amended in –

- (a) subsection (2) by deleting the words “limited company” appearing immediately after the words “each tea factory”;*
- (b) subsection (7) by inserting the words “limited company” immediately after the words “A tea factory”;*
- (c) subsection (8) by inserting the words “limited company” immediately after the words “tea factory”;*
- (d) subsection (9) by inserting the words “limited company” immediately after the words “tea factory”; and*
- (e) subsection (10) by inserting the words “limited company” immediately after the words “tea factory”*

Observation and recommendation: The amendment seeks to only amend the provisions to refer to Tea factory as opposed to Tea factory limited referred in the Tea Act. However, it is our position as a major tea stakeholder that Section 34(3)(a) and 34(4) of the Principal Act required a further amendment as it pertains to issues of remuneration of management agents. These two provisions should be captured in the regulations. Secondly the matters of concern pertain to specific issues appropriately addressed by other laws such as the Companies Act, the Competition Act and the Law of Contracts Act; and are restricted to operations of a specific segment of industry. Further, perceived non-compliance by affected segment can be addressed through enhanced monitoring of overall compliance with the law by the Regulator without blanket stipulation of duplicated requirements to be applicable industry-wide.

In addition, the Tea Board of Kenya cannot review contracts made by companies out of their own volition. Allowing this, more specifically bylaw restricts the freedom of contracts protected under Law of Contract and the Constitution.

Recommendation: Our view is that Section 34(3)(a) and 34(4) of the Principal Act should be deleted and addressed under the regulations in sections 74 (b) and (c) on page 15 of the Tea (Amendment) Act 2023.

3.6. Section 36 – Auction process

3.6.1 Clause 10 (b)

(b) in subsection (2) by deleting subsection (1) and substituting therefor the following new subsection –

(2) A tea factory intending to participate in a tea auction shall—

- (a) register with the Board and the auction organizer; and*
- (b) participate in the auction directly and through a management agent.*

Observation and recommendation: It was the position of EATTA that a tea factory can be allowed to register with the auction organizer or participate in the auction through the

management agent. We therefore support the proposed amendment from the previous draft Tea Bill 2023.

3.6.2. Clause 10(8)

“(8) The Cabinet Secretary shall, in consultation with the county governments prescribe regulations for the procedure for auction sales of tea and for the establishment of auction centres in the tea growing counties”

Observation and recommendation: The benefits of having a consolidated auction that accommodates all the teas from the region (East and Central Africa) provides economies of scale that translate to lower auction selling costs for the Producers as well as convenience to the local and global Buyers who when blending different origin teas will need the teas to be easily accessible.

It is our recommendation that the current centralized Regional Auction system based in Mombasa be maintained so as to reap the full benefits and economies of scale and regional integration for the Tea Industry.

3.7. Amendment introducing Section 36A & 36B

3.7.1. Clause 11 – Page 4

11. The principal Act is amended by inserting the following new sections immediately after section 36 —

36A.

- (1) A licensed factory or management agent as approved under section 34 may undertake direct sales.
- (2) The prices offered at the direct sales shall be competitive and shall be sold at a price above the highest price recorded at the auction in the preceding three months preceding the sale.
- 3) The Cabinet Secretary shall, in consultation with county governments, prescribe regulations for the procedure of direct sales of tea

Observation and recommendation:

The stipulation of a price for the direct sale of tea is anti-competition and will be unduly prejudicial to tea producers for the following reasons;

- I. It fails to take into consideration the global market dynamics which may enable realisation of better prices at any subsequent auction; and will effectively, restrict price discovery by producers through stipulating an “acceptable/ceiling price” for the teas.
- II. The requirement disregards that; Some teas are produced for special orders of direct buyers overseas and therefore attract much higher, premium prices due to the customer specifications. This stipulation of prices will restrict price discovery for forward contracts, a critical avenue for marketing of Kenyan teas. It is unclear whether all teas will be required to be presented at the Auction floor for the assessment of the price. If so, this will increase logistical and administrative costs and occasion marketing and trade inefficiencies.

- III. The proposal is unduly prejudicial to processors of tea as businesses that should have freedom to sell their tea at an appropriate price/set price to ensure the business remains sustainable.
- IV. This price stipulation would restrict free trade and reduce competitiveness of Kenyan teas against other regional producers.

EATTA recommends the Adoption Clause 36A (1), deletion of the proposed Clause 36A (2) and (3) from the Bill. These stipulate price and procedure for direct sales. There exists a procedure for direct sales and related disclosures which can be monitored through regulatory oversight. Provisions in regulations whose implementation can be overseen by the Regulator would also suffice; and may easily be reviewed as appropriate based on the regulator's observations, a flexibility that a provision in the Act will not allow.

Clause 13 introducing section 36A (3) The Cabinet Secretary shall, in consultation with county governments, prescribe regulations for the procedure of direct sales of tea.

EATTA recommendation is to delete the phrase "in consultation with County Governments" from Clause 36A (4) since consultation with county governments in the stipulation of procedure for direct sales will be unconstitutional for delegating national policy development for a scheduled crop to the county government.

Requiring county government consultation for tea trading will create inefficiencies, restrict trade, and conflict with national economic policies. It discriminates against tea businesses compared to other sectors and lacks clarity on the issue it aims to address. Additionally, it is unconstitutional to delegate tea policy direction to county governments.

"36B

- 1) *The proceeds from the sale of tea whether through an auction or through a direct sale shall be deposited in a Direct Settlement System.*
- 2) *The Direct Settlement System provider shall remit tea sales proceeds to the tea growers and settle statutory charges, service provider's fees and other liabilities within five working days from the receipt of the proceeds of sale of tea.*
- 3) *The Cabinet Secretary shall make regulations to providing for the operation of a Direct Settlement System and requirements to be met by commercial banks which express an interest in the establishment of a Direct Settlement System*

Observation and recommendation: The proposal for a direct settlement scheme is not clear in terms of who it is intended for and it interferes with the freedom of contracts: -

- 1. EATTA already has a tea sales collection account with three banks Stanbic bank, Equity Bank and Diamond Trust Bank (DTB) for all teas sold through the auction across the region. Producers have a choice on whether to be paid through the bank or directly by Brokers.
- 2. Tea producers other than the Tea Factory Limited Companies have obligations that may get disrupted by the imposition of the settlement scheme
- 3. The requirement that all payments must be disbursed including statutory is impractical as tax obligations already have due dates and schedules. Also, tea companies have negotiated credit terms to suit their operations and this should not be subjected to Bills of parliament

4. Further, currently EATTA has in place minimum requirements schedule for any commercial bank that expresses interest to participate in the Tea Settlement system. Therefore, since the Cabinet Secretary shall be required to make regulations for the operation of a Direct Settlement System will this mean a closure of the current system. The intention of another payment system remains unclear and there may be a problem in implementation.
- As a key tea value chain player, EATTA needs to be consulted when the regulations for Direct Settlement System are being formulated by the Cabinet Secretary.

Section 36: Clause 8

(8) The Cabinet Secretary shall, in consultation with the county governments prescribe regulations for the procedure for auction sales of tea and for the establishment of auction centres in the tea growing counties”

EATTA view is that the proposal which envisions the setting up of auction centres within the counties, will compromise the benefits of a Centralized Multi-origin auction location and platform, currently bringing together teas from the region (East and Central Africa) and which has the convenience of accessibility to the port and attraction of many Global Tea Buyers.

We propose the deletion of sub-clause (8) and maintain the clause in the Tea Act at section 36(7) which allows for competitiveness and disclosure of auction rules by the organizer to the Board.

3.8.1. Clause 13

e) Section 53 – provides for a tea levy which shall be collected by the Board at a rate not exceeding 1% of the auction value for teas sold through the auction and imported teas.

EATTA Proposes

EATTA had proposed the adoption of quantum based (kg) levy so that you do not punish the farmer who produces better quality. EATTA has always stated that a levy based on quantum of kilos was preferable but the position is that the amount should be at a rate of Kshs 1 per kilo. There should be further guidance provided through regulation based on budgetary requirements for TBK and TRF. We further propose the involvement of the various tea stakeholders in the budgeting, disbursement and monitoring of the usage of the funds.

We further propose that Tea Act provisions and apportionment of the levy to Tea Board (40%), Tea Marketing (20%), Tea Research (30%) and infrastructure development (10%) respectively. The 10% infrastructure development should be administered through the County Governments in the Tea growing areas while the 20% Marketing allocation should be managed by a committee with representation from the various tea sector players and the Tea Board of Kenya with clear annual budgets and a monitoring process

Observation and recommendation:

Studies have shown that price stabilization as a strategy for margin compensation is not sustainable. The allocation of the tea levy to the Tea Board of Kenya should be at a rate of 40% to cover the costs of carrying out their functions. Research is an important aspect for the sustainability of the industry; therefore, the Tea Research Institute should be allocated 30% of the funds from the levy.

We are of the opinion that the Tea Research Institute should be delinked from Kenya Agricultural and Livestock Research Organization (KALRO) and given autonomy with its own governance structure as was during the Tea Research Foundation of Kenya (TRFK).

5.0. CONCLUSION

This document (Amendment Bil) is not reflective of the views of all the tea stakeholders but rather those, in our opinion, a selected minority.

Considering the above observations and recommendations on the specific amendments, EATTA appreciates the strides taken to regulate the tea industry however, several provisions in this document (Amendment Bill) are not reflective of the tea stakeholders. It is important to note that the tea stakeholders have on several occasions sought inclusion in making of these laws that ultimately affect them as stakeholders and affect the tea production returns.

We retain the position that for the tea sector to thrive even amidst the current economic times, there must be a meaningful and deliberate introduction of amendments to the principal legislation. Suffice to say, the Committee on 14th December 2020 while passing the Tea Bill welcomed amendments to the Tea Act,2020 and it is our proposal that our recommendations be considered this juncture.

---End---

Our Ref:
 JKK/LIT/EATTA-002/2021

Your Ref:
 TBK/LEG/1/2024

Date:

11th April 2024

Filed Electronically by J. K. Kibicho & Co. Advocates P. O. Box 73137 - 00200, Nairobi	
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By:.....	K(N)
Time:.....	12:10 PM
Transaction No:.....	A.1.25

The Registrar,
 Constitutional and Human Rights Division,
NAIROBI.

Dear Sir/Madam,

RE: CONSOLIDATED CONSTITUTIONAL PETITION NO. E016 OF 2021: KENYA TEA GROWERS ASSOCIATION & 55 OTHERS V THE CABINET SECRETARY MINISTRY OF AGRICULTURE, LIVESTOCK, FISHERIES AND COOPERATIVES & OTHERS

We the undersigned Advocates for the 2nd Petitioner (East Africa Tea Trade Association), the 1st and 2nd Respondents and the 3rd Respondent herein would be most obliged if the Honorable Court records the following Consent:

BY CONSENT the Petition be and is hereby marked as fully settled on the following terms:

- The parties hereby agree that the Attorney General shall cause to be tabled in the Senate within 30 days from the date of adoption of the consent by the Court, the following amendments to the Tea Act, 2020 through further amendments to the Tea Amendment Bill, 2023 for its consideration:-

Tea Act Provision		Agreed position
Section 32(4)	The remuneration paid to a tea broker by a tea factory limited company and a tea buyer or exporter for services rendered shall not exceed zero point seven five per centum of the gross sales by the broker	Amend Section 32 by deleting sub-section 4 in its entirety and substituting it with the following provisions:- (4) Prescribe regulations providing for the remuneration paid to a tea broker by a tea factory limited company and a tea buyer or exporter for services rendered".
Section 34(4)	The remuneration for services rendered by a management agent to a tea factory limited company shall not exceed one point five per centum of the net sales value of the tea sold per year	Amend Section 34 by deleting sub-section 4 in its entirety and substituting it with the following provisions:- (4) The Cabinet secretary shall prescribe regulations providing for the remuneration payable for services rendered by the management agent.

Section 36	(1) All teas processed and manufactured in Kenya for the export market with the exception of orthodox and specialty teas shall be offered for sale exclusively at the tea auction floor.	Amend Section 36 by deleting subsection 1 in its entirety and substituting it with the following provisions:- 1) All teas processed and manufactured in Kenya for the export market shall be registered with the Board prior to exportation; 2) All tea exports offered for sale through direct sales overseas and local sales by a tea producer shall be sold at prices above the prevailing auction price of the specific producer garden mark 3) The Cabinet Secretary shall prescribe regulations providing for the better carrying out of direct sales overseas.
Section 48 Tea Value Addition	(1) All tea buyers or exporters shall value add at least forty per centum of their annual Kenya tea exports within eight (8) years of the commencement of this Act	Amend Section 48(1) by deleting the phrase "eight years" and replacing it with "ten years". Add a new sub-section (2) as follows: "The Cabinet Secretary shall prescribe regulations providing for the better carrying out of this section". Amend the definition of value addition under Section 2 by adding the following words after the word "branding" " <i>orthodox and bespoke teas</i> ".
Section 53 (2) Establishment of the Tea Levy	(2) The levy imposed through a notice under subsection (1) shall be collected by the Board at a rate not exceeding one per centum of the auction value for teas sold through the auction and at such times, being not earlier than one after the date of publication of the notice, in such a manner, as is specified in the notice.	Amend Section 53 by deleting subsection (2) in its entirety and substituting with the following:- (2) The levy imposed through a notice under subsection (1) shall be collected by the Board at a rate not exceeding "one per centum" of the export value of made tea, and at such times, being not earlier than one month

		after the date of publication of the notice, in such a manner, as is specified in the notice.
Section 53(5)	<p>(5) The Tea levy collected under subsection (2) shall be apportioned as follows:-</p> <p>(a) fifty per centum shall be applied by the Board for income or price stabilization for tea growers</p> <p>(b) fifteen per centum shall be applied by the Board in the furtherance or exercise of any function or power of the Board.</p> <p>(c) twenty per centum shall be remitted directly to the Tea Research Foundation</p> <p>(d) fifteen per centum shall be applied for infrastructure development in the tea subsector on a pro rata basis</p>	<p>Amend Section 53(5) by deleting in its entirety and substituting it with the following:-</p> <p>(a) Forty per centum shall be applied by the Board for the execution of its functions;</p> <p>(b) Twenty per centum shall be applied by the Board for marketing development, branding, promotion and value addition</p> <p>(c) Thirty per centum shall be remitted directly to the Tea Research Foundation</p> <p>(d) Ten per centum shall be applied for infrastructure development in the tea subsector on a pro rata basis</p> <p>Add a new subsection (7) as follows:-</p> <p>"The Cabinet Secretary shall prescribe regulations providing for the application of the infrastructure funds".</p>


2. The provisions of Sections 5(L) be retained in the Act on condition that the 3rd Respondent (now Tea Board of Kenya) shall prescribe the actual maximum period and minimum amount for payment of green leaf in the Regulations and in the Tea Producers green leaf supply agreements.
3. The provisions of Sections 32(3)(b) be deleted in its entirety and the prescription of the number be done through regulations.
4. That upon the Attorney General tabling the agreed amendments to the Tea Act 2020, through further amendments to the Tea (Amendment) Bill, 2023, Constitutional Petition No. 334 of 2020 (formerly Mombasa Constitutional Petition No. 87 of 2020) East African Tea Trade Association v the Hon. Attorney General & others and Constitutional Petition No. E022 of 2021 East African Tea Trade Association v the Hon. Attorney General & others shall stand withdrawn.

5. That parties shall bear their own costs in these Petitions.

DATED at NAIROBI this 11th day of April 2024


.....
J.K. KIBICHO & COMPANY ADVOCATES
ADVOCATES FOR THE 2ND PETITIONER

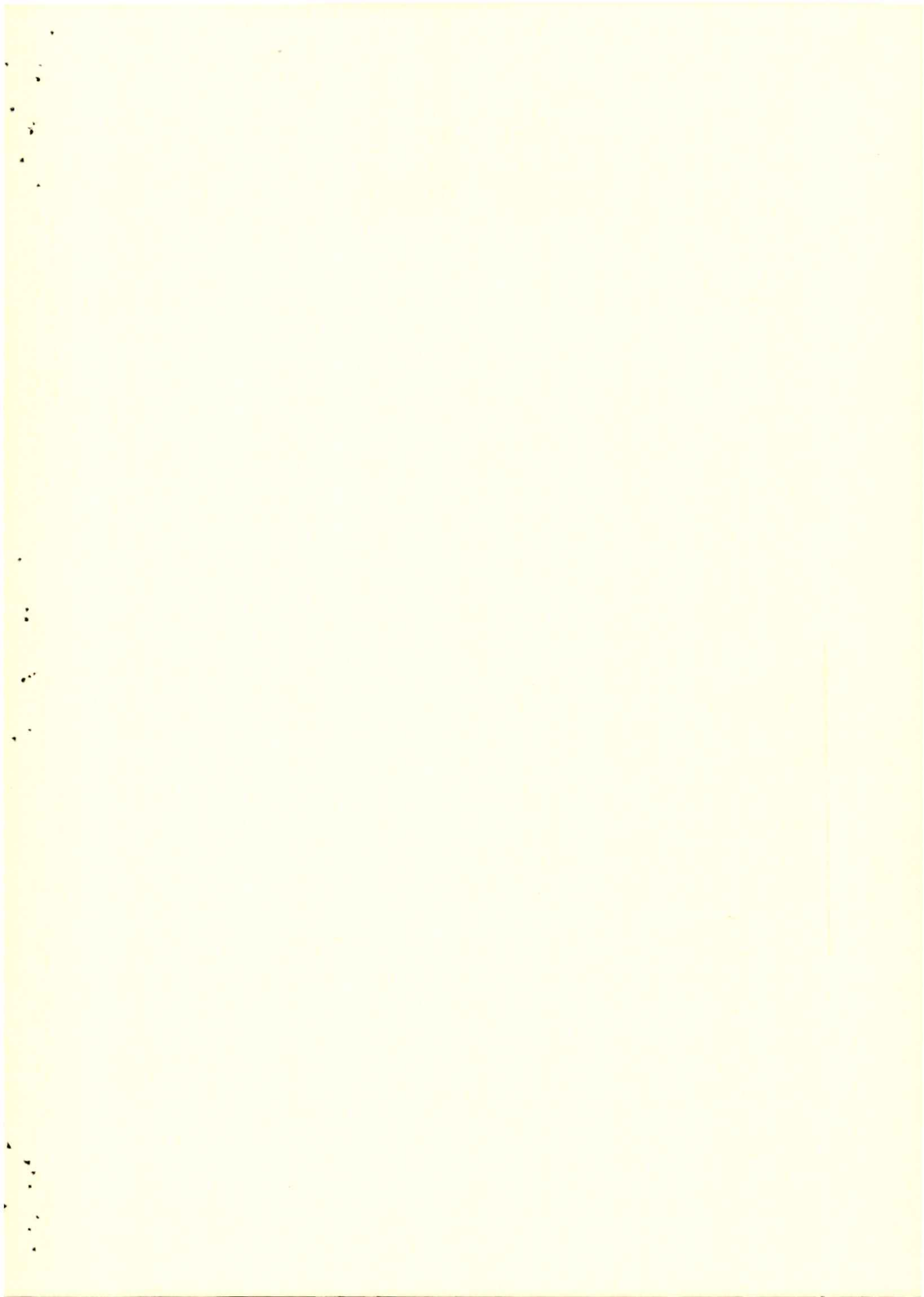

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THE ATTORNEY GENERAL

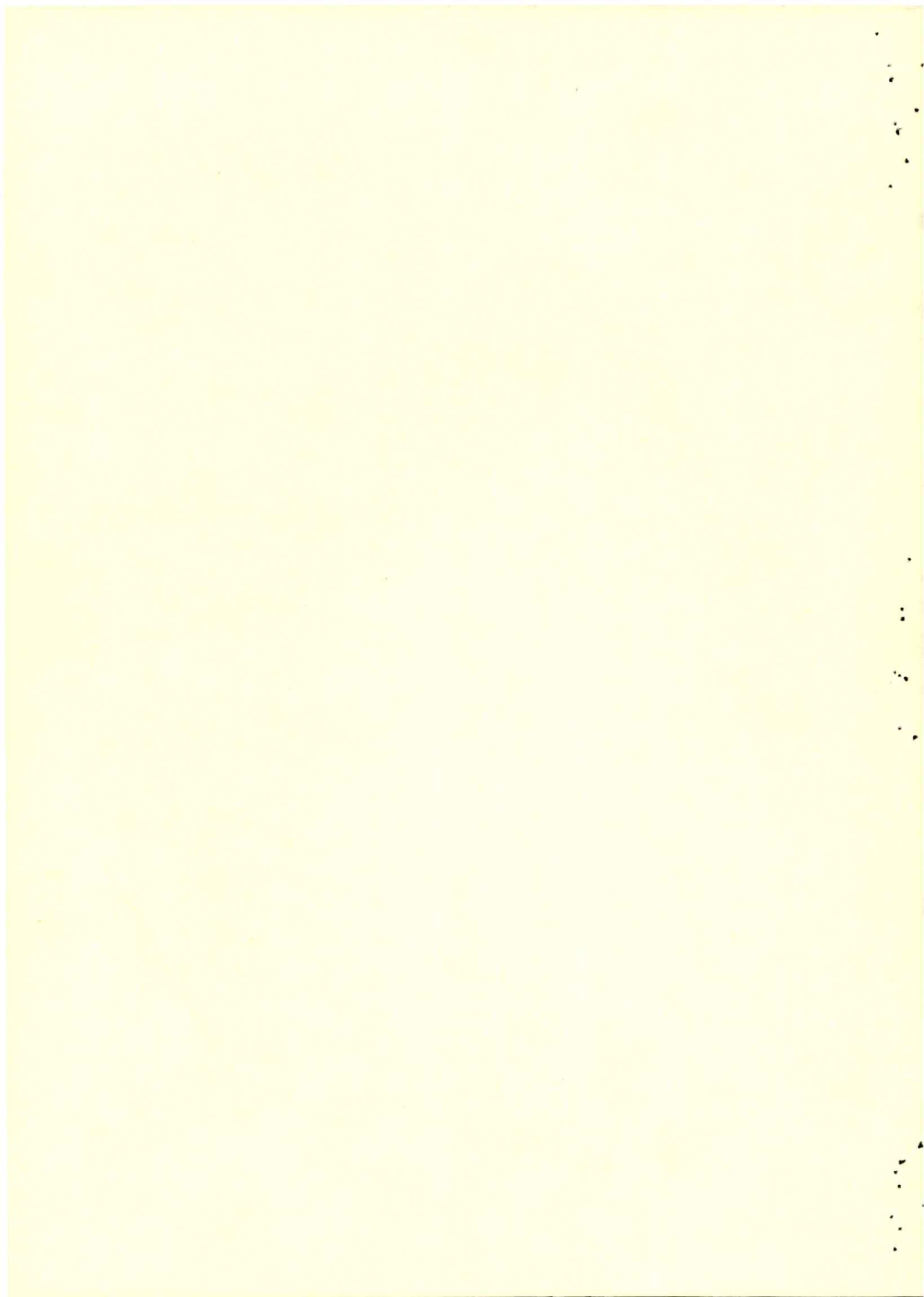

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TEA BOARD OF KENYA

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THE KENYA TEA GROWERS' ASSOCIATION

Affiliated to: Federation of Kenya Employers (FKE); East African Tea Trade Association (EATTA); Kenya Association of Manufacturers (KAM); Kenya Private Sector Alliance (KEPSA) and Agricultural Sector Network (ASNET)

P.O. Box 320,
KERICHO.

Cell – 0718 - 757342
Email: info@ktga.or.ke

Our Ref.: **KTGA-NA/TAB2023/06/2025**
Your Ref.: **NA/DDC/A&L/2025/014**

Date: **9TH JUNE, 2025**

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

Advance Copy Via Email: "cna@parliament.go.ke"

**RE: MEMORANDUM BY KTGA TO THE NATIONAL ASSEMBLY
DEPARTMENTAL COMMITTEE ON AGRICULTURE & LIVESTOCK DEVELOPMENT**

INTRODUCTION

The Kenya Tea Growers Association (KTGA) is a long-standing association representing large scale tea producers. The Association promotes the common interests of its members in the cultivation and manufacture of tea and advances good industrial relations and a sustainable Kenyan tea sub-sector.

The economic impact of the industry is substantial. Among the key contributions of the sub-sector to national development are: contribution of 24% of the national foreign exchange earnings; providing stable employment in rural areas and supporting the livelihoods and incomes of thousands of small-holder farmers. The industry has made substantial investments in rural economies and local communities where operations are situated. It is a model for sustainable agricultural practices; having mainstreamed various environmental preservation initiatives within and around the enterprises, the industry ensuring climate change mitigation through partnership with both public and private actors.

BACKGROUND

At the time of the introduction of the Tea Amendment Bill, 2023 in the Senate, there existed various court matters challenging various provisions of the Tea Act 2020. The court matters were resolved through consent between the Ministry of Agriculture, Tea Board of Kenya and the parties, consent which were entered on 11th April, 2024. Having considered the various grievances raised by the parties in court, we submit that comprehensive amendment of the Tea Act 2020 followed by regulatory review, would therefore best serve the interest of aligning sector regulation and operation and enabling its sustained growth and development.

We have however instead observed, piece-meal incorporation of provisions into the Tea Amendment Bill, 2023 of positions agreed with parties. Some of the proposals introduced piece-meal were presented at the final consideration of the Bill by the Senate on 8th October, 2024, and were not subjected to public participation. These include:

- (a) Proposed amendment of s.23 to introduce Section 23 1A requiring disclosures of transfer of ownership of large-scale tea growers to the exclusion of any other category of enterprise

(b) Insertion of new section 36 A (2) which proposes to regulate prices of tea. This proposal is contrary to the Constitution and the Competition Act and in disregard of the negative impact that introduction of similar price restrictive directives have recently had on the industry, leading to indicatively, over 40million kilos of Kenya tea remaining unsold as at October, 2024. The accumulation of volumes has led to a sustained price decline which have been exacerbated by the optimised tea production which the sector has sustained presently.

A simultaneous development of the Draft Tea Regulations 2024 has been initiated while the instant amendments to the Act are pending. We urge that the amendment of the Act be completed followed by a structured regulatory development process that substantively aligns with the Act. This will meet the dictates of Article 48 of the Constitution of expeditiousness and cost-effective administrative action.

OUR SUBMISSION TO THE ASSEMBLY

We appreciate this engagement opportunity with the Committee. As industry, the strategic recognition of tea as a priority commodity under the Bottom-Up Economic Transformation Agenda is an acknowledgement of the potential that the sector has to continue to grow income and livelihoods. The contributions of tea are significant and we wish to urge the Committee to specially consider the following:

- Tea is a top foreign exchange earner for the Country, a critical revenue source for the Government. Further, tea producers are among the highest tax-payers contributing through both corporate tax, employment related tax revenues and economic activation in rural areas.
- Industry provides rural employment and sustains livelihoods of over 600,000 directly and a higher number indirectly Kenyans
- Tea industry has sustained community investment and support from tea producers enables access by underserved areas to quality healthcare, education, safe drinking water among other social amenities.
- Environmental stewardship towards meeting the national determined contributions and global commitments of Kenya towards climate change mitigation and adaptation
- Tea supports incomes for small-holder farmers whose tea is processed and marketed by large-scale as well as small-scale tea factory managements. The partnership between large-scale producers is beneficial not just for sustaining direct incomes, but also enabling technology transfer and economic empowerment through financial awareness and mainstreaming of sustainable practices amongst farmers.

We urge for your kind consideration of the following impacts that are likely to arise from the proposals in the Tea Amendment Bill, 2023 even as the Committee considers enacting the law:

<i>Provision of the Bill</i>	
<p>Clause 1 amending S. 2 of the Tea Act 2020</p> <p>Definitions:</p>	<p>Issue: Definition of “<i>value addition</i>” restricted to tea packaging of not more than 10kilogrames and disregards other value-added teas which are not packaged as specified</p> <p>Proposals</p>

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**RE: MEMORANDUM BY KTGA TO THE NATIONAL ASSEMBLY
DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK & FISHERIES**

INTRODUCTION

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We have however instead observed, piece-meal incorporation of provisions into the Tea Amendment Bill, 2023 of positions agreed with parties. Some of the proposals introduced piece-meal were presented at the final consideration of the Bill by the Senate on 8th October, 2024, and were not subjected to public participation. These include:

- (a) Proposed amendment of s.23 to introduce Section 23 1A requiring disclosures of transfer of ownership of large-scale tea growers to the exclusion of any other category of enterprise

<p><i>“Value addition” as “improvements on made tea through packaging, blending, flavouring, tea extracts, aroma and branding “into a packet or a container holding not more than ten kilograms”</i></p>	<p>Maintain definition of “<i>value addition</i>” as in Tea Act 2020 as it is appropriate.</p> <p>Justification: This will incentivize value addition, a current priority of the Government through clear, unrestrictive definition.</p>
<p>Clause 7 introducing section 23 1A</p> <p><i>A large-scale grower shall notify the Board of any intended sale or transfer of ownership of its holding six months before the transfer is effected.</i></p> <p>23 (2) providing for the</p> <p><i>“procedure for transfer of large-scale tea holdings”</i></p>	<p>Issue: As intended to apply exclusively to large-scale tea enterprises, the provision is partial and unduly prejudicial to large-scale tea enterprises. The Companies Act, Transfer of Business Act, Income Tax Act, Capital Markets Regulations and Finance Act 2020 provide adequate and justifiable grounds for disclosure of transfers of business enterprises.</p> <p>The proposal duplicates measures in other legislations without sufficient basis or justification of the interest intended to be preserved; it further falls short of constitutional requirements for equity, equality and freedom from discrimination of a person, legal or juristic. It is contrary to Article 48 on fair administrative action. It will unjustifiably prejudice large-scale tea enterprises in seeking to attract investment despite the existence of less restrictive means to monitor transfer of business enterprises and attaching interests provided in the above-named legislations within the current laws of Kenya.</p> <p>Proposal: A clarification of the interest sought to be protected that requires disclosure to the Board of large-scale tea grower transactions to the exclusion of other agricultural enterprises or tea enterprises will advise the purpose of the disclosure</p> <p>Justification: As a strategic sub-sector to Government, additional requirements for transfer of tea enterprise without appropriate justification presents additional restrictions to the attractiveness of the industry to investors.</p>
<p>Clause 11 introducing Section 34A</p> <p>Tea sales</p> <p><i>“(1) Kenyan tea shall be traded through:</i></p>	<p>Issue/Benefit: The provision re-opens direct sale of tea overseas which was banned by the Tea Act 2020.</p> <p>Proposals: Adoption of the proposal will be favourable to the marketing of Kenya teas.</p>

<p>(a) the auction; or</p> <p>(b) direct sales.</p> <p>(2) All tea processed and manufactured in Kenya for the export market shall be registered with the Board prior to exportation”</p>	<p>Justification: The re-opening of direct sales will open up avenues for tea trade and sales. It will further enable establishment of long-term market linkages for sustainable supply of Kenya teas to strategic markets</p>
<p>Clause 12</p> <p>“(8) The Cabinet Secretary shall, in consultation with the county governments prescribe regulations for the procedure for auction sales of tea and for the establishment of auction centres in the tea growing counties”</p>	<p>Issue: The proposal which envisions the setting up of auction centres within the counties, will compromise the benefits of a centralized auction location and platform, currently bringing together teas from the region and which has the convenience of accessibility to the port critical for logistical ease in the shipment of exports.</p> <p>Proposal/s: Delete sub-clause (8) and maintain the clause in the Tea Act at section 36(7) which allows for competitiveness and disclosure of auction rules by the organizer to the Board.</p> <p>Justification: The disruption of the existing auction will destabilize the sector trade and occasion loss of competitive advantages of a centralized, conveniently located auction attracting multiple buyers globally and suitably located to the regional logistics hub at the port of Mombasa.</p>
<p>Clause 14 amending section 37</p> <p>New subsection:</p> <p>(3) A County assembly shall enact county legislation to provide for procedure of registration of commercial green leaf transporter and the appeal process in case of denial of registration.</p>	<p>Issue: There exist adequate provisions for transporter licensing in law. A separate procedure for tea transporter registration stands to increase financial and administrative costs of doing business and will create administrative barriers to efficiency of the operations of the sector.</p> <p>Proposal: Delete Clause. Sufficient provisions exist in County Licensing laws and the Public Finance Management Act.</p> <p>Justification: As indicated above, the tea sector is strategic to Government and has been prioritized under the Bottom-Up Economic Transformation Agenda (BETA). As such proposals that introduce administrative bottlenecks at county level for the sector go counter to the Government’s commitment to support the growth of the sector.</p>
<p>Clause 13 introducing Section 36A (2)</p>	<p>Issues:</p>

<p>Direct sales of tea</p> <p><i>“36A. (1) A licensed factory or management agent as approved under section 34 may undertake direct sales.</i></p> <p><i>(2) The prices offered at the direct sales shall be competitive and shall be sold at a price above the highest price recorded at the auction in the preceding three months preceding the sale</i></p>	<p>The stipulation of a price for the direct sale of tea is anti-competitive and will be unduly prejudicial to tea processors for the following reasons:</p> <ol style="list-style-type: none"> i) It fails to take into consideration the global market dynamics which may enable realisation of better prices at any subsequent auction; and will effectively, restrict price discovery by producers through stipulating an “acceptable/ceiling price” for the teas. ii) The requirement disregards that: <ul style="list-style-type: none"> • Some teas are produced for special orders of direct buyers overseas and therefore attract much higher, premium prices due to the customer specifications • This stipulation of prices will restrict price discovery for forward contracts, a critical avenue for marketing of Kenyan teas. • It is unclear whether all teas will be required to be presented at the Auction floor for the assessment of the price. If so, this will increase logistical and administrative costs and occasion marketing and trade inefficiencies. iii) The proposal is unduly prejudicial to processors of tea as businesses that should have freedom to sell their tea at an appropriate price/set price to ensure the business remains sustainable. iv) This stipulation would restrict free trade and reduce competitiveness of Kenyan teas against other regional producers. <p>Proposal/s: Adopt Clause 36A (1)</p> <p>Proposal/s: Delete the proposed Clause 36A (2) and (3) from the Bill. These stipulate price and procedure for direct sales.</p> <p>There exists a procedure for direct sales and related disclosures which can be monitored through regulatory oversight, and enhanced through digitization of data collection from industry. Provisions in regulations whose implementation can be overseen by the Regulator would also suffice; and may easily be reviewed as appropriate based on the regulator’s observations, a flexibility that a provision in the Act will not allow.</p> <p>Delete the phrase “in consultation with County Governments” from Clause 36A (4)</p> <p>Justification/s: As indicated above, allowing direct sales is advantageous to industry as it opens up avenues for tea marketing and sales.</p>
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	<p>Stipulate procedures that are not restrictive of trade through Regulations and not in the Act.</p> <p>Stipulation of price and procedure in the Act presents the risk of overregulation; and will disrupt business efficiencies and competitiveness.</p>
<p>Clause 13 introducing section 36A</p> <p><i>(3) The Cabinet Secretary shall, in consultation with county governments, prescribe regulations for the procedure of direct sales of tea."</i></p>	<p>Issue: Overly prescriptive requirement in restriction of trade</p> <p>Proposal: Delete the requirement for its anti-competitive prescriptiveness. The Competition Act provides adequate mechanisms for monitoring of price competitiveness and consumer protection. Further, the stipulation in consultation with county governments in governing tea trading will create inefficiencies, restrict trade, and conflict with national economic policies. It discriminates against tea businesses compared to other sectors and lacks clarity on the issue it aims to address.</p>
<p>Clause 13 amending Section 53</p> <p>Tea Levy</p> <p><i>"(2A) Specialty tea and value-added tea packed into packets or containers holding not more than ten kilograms" shall be exempted from tea levy."</i></p>	<p>Issue: Exemption of specialty or value-added teas from tea levy restricted to 10kgs packaging disregards needed incentives for all value-added teas such as instant teas, special manufacture teas unique to Kenya's geographical location and tea character. Some of these are not packaged in 10kilograms</p> <p>Proposal: <u>Delete</u> the phrase <i>"packed into packets or containers holding not more than ten kilograms"</i> in the proposed sub-clause (2A) as per justifications above so that the exemption is applicable to all value-added teas. This will overall, incentivize value addition ventures.</p>
<p>Clause 15 amending Section 53</p> <p>Tea Levy</p> <p><i>"(5) The tea levy collected under subsection (2) shall be apportioned as follows —</i></p> <p><i>(a) Sixty per centum shall be applied by the...."</i></p> <p><i>(b) Forty per centum shall be applied by the...."</i></p>	<p>Issue: The establishment of the levy at a time when high volumes of tea are being produced and prices from the market are below the cost of production threatens the viability of the sector.</p> <p>Proposal/s and Justification: Following the change of Government Policy in the Medium-Term Budget Policy Statement 2024, measures for enhancement of regulatory fees have been introduced by the various regulatory bodies in the period since January, 2024. The impact of these increases has been substantial rise in the cost of production of tea and an additional levy would further raise the cost. Although proposed to be charged at the point of export, the buyers will offset the additional cost from the price. As at May, 2025, tea prices have declined to below cost of production. A new levy will further drop the prices being offered by the market. The</p>

	<p>implementation of similar measures in Malawi lead to a drop in prices commensurate to the levy introduced.</p> <p>In the alternative, should a levy be charged, an inclusive framework should be put in place for industry engagement in market expansion, data analysis to guide investment and to secure a stable tax and regulatory environment. KTGA supports the apportionment of any such levy to the TBK and Tea Research Foundation as critical institutions that support the sector and are key for sector development</p>
<p>Clause 15 amending Section 76.</p> <p>Assets of TBK, TRF</p> <p><i>“(2) All immovable assets of the former Tea Board of Kenya and the former Tea Research Foundation of Kenya which were vested in the Agriculture and Food Authority and Kenya Agricultural and Livestock Research Organization upon the commencement of the Crops Act and the Kenya Agricultural and Livestock Research Organization Act shall by virtue of this paragraph vest in the Board and the Foundation respectively.”</i></p>	<p>Benefit/Issue:</p> <p>Reversion of assets of TBK and TRF from AFA and KALRO back to TBK</p> <p>Proposal & Justification:</p> <p>KTGA supports the proposal as it will strengthen the institutional framework for industry research and development.</p>

We look forward to positive consideration by the Committee of our proposals above to support the efforts by large-scale tea producers to preserve the competitiveness and business viability of Kenyan tea.

For Kenya Tea Growers' Association



Lindah Oluoch

CHIEF EXECUTIVE OFFICER



KENYA TEA DEVELOPMENT AGENCY HOLDINGS LIMITED

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Tel: +254 722 952 402/7 | 722 203 451/2

E-mail: info@ktdateas.com | Site: www.ktdateas.com.

OUR REF: LEG//HLRA

DATE: 9th June 2025

YOUR REF: TBA

The Clerk of the National Assembly
Parliament Buildings
P.O. Box 41842 - 00100
Nairobi, Kenya

Dear Sirs,

RE: SUBMISSIONS ON THE TEA ACT (AMENDMENT) BILL, 2024

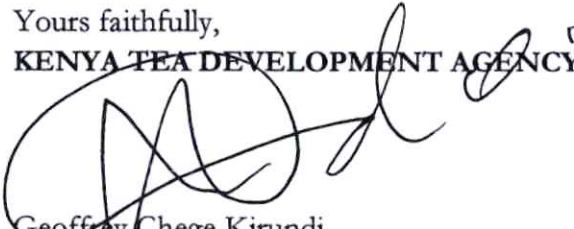
We refer to the call for public participation on the Tea Act (Amendment) Bill, 2024, and are pleased to submit the Kenya Tea Development Agency Holdings Ltd (KTDA)'s views and recommendations on the proposed amendments.

Please find attached a consolidated memorandum of submissions representing the views and concerns of stakeholders across the twelve (12) KTDA factory zones. These submissions reflect the perspectives of tea farmers, factory directors, and other key actors in the smallholder tea subsector who are directly affected by the proposed legislative changes.

KTDA appreciates the opportunity to contribute to the legislative process and remains committed to engaging constructively in matters that affect the tea industry and the livelihoods of its farmers.

Yours faithfully,

KENYA TEA DEVELOPMENT AGENCY (HOLDINGS) LIMITED


Geoffrey Chege Kirundi

NATIONAL CHAIRMAN

Directors:

Geoffrey Chege Kirundi – National Chairman, Wilson Muthaura – GCEO, Hon. Gabriel Gathuka Kagombe, James Githinji Mwangi, David Ndungu Wanjohi, John Mithamo Wasusana, Enos Njiru Njeru, Baptista Muriki Kanyaru, Philip Kipkemoi Langat, James Ombasa Omweno, Vincent Atei Arisi, Francis Wanjau Kimotho, Catherine Mankura (Ms.) * Mathews Odero - Company Secretary, Simeon Rugutt (Finance & Strategy), *(Independent)

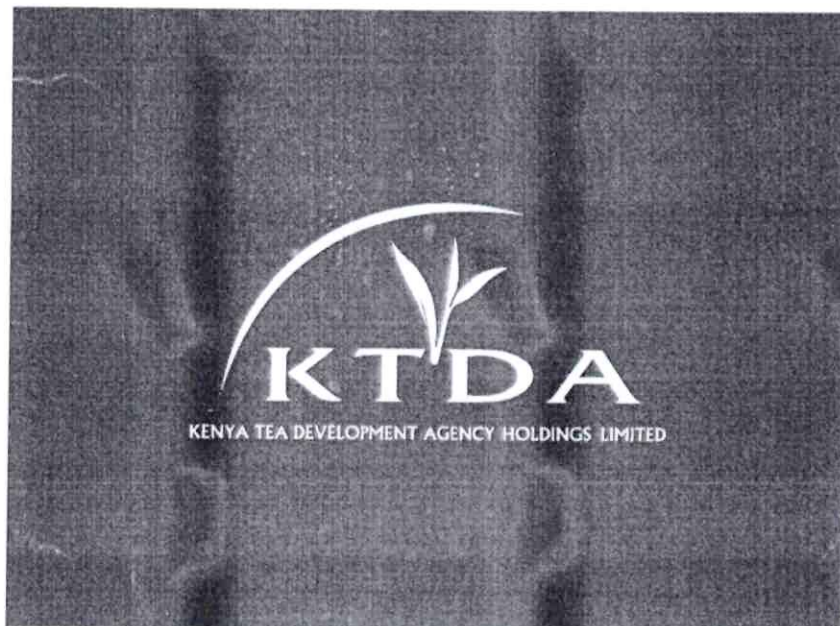
AMENDED MEMORANDUM ON THE TEA (AMENDMENT) BILL 2023

(SENATE BILL NO. 1 OF 2023)

PRESENTED TO:
THIRTEENTH PARLIAMENT | SECOND SESSION
THE NATIONAL ASSEMBLY

SUBMITTED TO
CLERK OF THE NATIONAL ASSEMBLY
PARLIAMENT BUILDING
NAIROBI

PRESENTED BY



KENYA TEA DEVELOPMENT AGENCY HOLDINGS LIMITED
MAJANI PLAZA, KOINANGE STREET
P.O. BOX 30213-00100
NAIROBI, KENYA
9TH JUNE, 2025

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**RE: AMENDED MEMORANDUM ON THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS
NO. 1 OF 2023)**

1. **INTRODUCTION**

Kenya Tea Development Agency Holdings Limited (KTDA (H) LTD) is a public company limited by shares and owned by about 600,000 smallholder tea farmers spread across 16 tea growing counties in Kenya being Kiambu, Murang'a, Nyeri, Kirinyaga, Embu, Tharaka-Nithi, Meru, Kericho, Bomet, Nakuru, Kisii, Nyamira, Nandi, Kakamega, Vihiga and Trans- Nzoia. The farmers are shareholders to 54 tea companies that own KTDA (H) and its 9 subsidiary companies. KTDA Holdings Limited is the Leading Management agency for the small -scale tea farmers in Kenya.

KTDA provides management and other services through its various subsidiary companies under a management agreement with the factory companies. The Agency is contracted by the tea factory companies to; manage tea cultivation, develop and maintain tea husbandry, collect, weigh, handle and pay farmers for green leaf delivered, manufacture green leaf into tea, market the manufactured tea, develop and provide sound technical, financial and managerial infrastructure, provide services in procurement, ICT, Human Resources and other support services. In order to address core business activities and exploit economies of scale and scope, KTDA (H) Ltd established subsidiary companies for specific roles and responsibilities.

The nine subsidiary companies owned by KTDA (H) Ltd add value to the tea value chain. These companies include

1. **KTDA (Management Services)** manages all processing companies through management agreements with the respective factories.
2. **Chai Trading Company Limited** deals in warehousing, blending, trading and export of tea.
3. **Majani Insurance Brokers** provides a wide range of insurance brokerage services for all types of insurance covers.
4. **Kenya Tea Packers Limited** (Ketepa) is the leading tea blending and packaging company in Kenya with over 50 products including black tea, flavoured tea, green tea, purple tea, white tea, orthodox tea and herbal infusions.

5. **Greenland Fedha Limited** a non-deposit taking micro finance institution, that provides a variety of affordable financial services to the low-income households in the teas sub sector.
6. **KTDA Foundation** is a non-profit affiliate that champions the CSR activities of the Group Company.
7. **Tea Machinery and Engineering Company Ltd (TEMEC)** deals with the supply, erection and commissioning of all kinds of equipment required for tea processing for tea factories.
8. **KTDA Power Company Limited** invests in the energy sector and manages small hydro-power projects owned by factory companies.
9. **Chai Logistics Centre** Is one of the business divisions of Chai Trading Company Limited.

2.0 BACKGROUND/CONTEXT

Tea is grown in twenty-one (21) geographically dispersed counties. Small scale tea farmers account for over 60% of Kenya's tea production through 54 KTDA managed tea factories with the rest being produced by the independent tea companies and plantation. For over a century tea has been a major cash crop and the leading foreign exchange earner for the country. The third largest tea producer in the world, the Kenyan tea industry supports the livelihood of millions of its citizens.

This memorandum provides observations and recommendations on select proposed amendments contained in the Amendment Bill. Our views are informed not only by public dialogue forums that KTDA (H) Limited has held with tea stakeholders on various occasions. Thus, we take the position that whereas there is need to have robust legislation to strengthen the tea industry by improving the quality and earnings, we take the position that the following proposed recommendations will be an improvement to the Tea Act, 2020 and will go into a harmonious sector.

DRAW THE ATTENTION OF THE HOUSE TO THE FOLLOWING:-

3.0 ISSUES

- i. Definition of Tea Factory Limited
- ii. Registration of tea for the export market with Tea Board of Kenya.
- iii. Establishment of tea auction centres in counties
- iv. Direct sales to be sold at a price above the highest price recorded at the auction

- v. Regulations on direct sales of tea to be made in consultation with county governments.

No.	Section	Observation	Recommendation
1.	<p>Section 2 of the Act-Definitions</p> <p>By inserting the following new definitions "tea factory limited company" means a tea factory collectively owned through shares by small scale tea growers or medium scale tea growers"</p>	<p>The large-scale tea growers and independent factories have been left out of the factory definition.</p> <p>Leaving out the large-scale tea growers from the definition could lead to:</p> <ol style="list-style-type: none"> 1. Ambiguity in the application of the law to large-scale tea growers. 2. Regulatory loopholes, as large-scale growers play a significant role in the tea value chain. 3. Inequitable treatment between small-scale tea growers and large-scale producers, which could disrupt market dynamics. 	<p>Include the large-scale tea growers in the definition of the tea factory limited company.</p> <p>Amend the provision to:</p> <p>"tea factory limited company" means a tea factory collectively owned through shares by small scale tea growers, medium scale tea growers and large scale growers.</p>
2.	<p>Section 7 (f) of the Principal Act in respect to the representation of the Board is provides as follows:</p> <p>four persons, two of either gender, representing and</p>	<p>This representation of the small holder is in adequate as compared to the area they represent.</p>	<p>Amend section 7 (f) by deletion of the following words "four persons, two..." and replacing thereof with the words "six persons, three....."</p>

	elected by the small holder		
3.	<p>Section 22 (1)</p> <p>The Principal Act provides for a maximum of five (5) members of the board of directors where as the number of the board should be left to the Articles of Association.</p>	<p>The justification for leaving the number of directors open to the Articles is because of the various factors such as</p> <ul style="list-style-type: none"> -the turnover of the Tea Factory Company, -the shareholding of the Tea Factory Company -The geographical administration of the various Tea Factory Companies Limited -The flexibility in the management of the tea factory 	Delete Section 22 (1)
4	<p>11. The principal Act is amended by inserting the following new sections immediately after Section 34-</p> <p>34 A. (2) All tea processed and manufactured in Kenya for the export market shall be registered with the Board prior to exportation.</p>	<p>This will create bottlenecks as there will be delay in exportation of the tea.</p> <p>The requirement also duplicates duties undertaken by different government bodies in registering tea for the export market such as KEPHIS.</p>	Delete Section 34 A.2
5	<p>13. The principal Act is amended by inserting the following new sections immediately after Section 36-</p> <p>(2)The prices offered at the direct sales shall be sold at a price above the highest price</p>	<p>Direct sales offer exporters and buyers the flexibility to negotiate prices based on market conditions, demand, and tea quality. Tying direct sales to the highest</p>	<p>Amend the provision to:</p> <p>"The prices offered at the direct sales shall be sold at a price above the average price recorded at the auction within the</p>

	<p>recorded at the auction within the three months preceding the sale.</p>	<p>auction prices will limit this flexibility.</p> <p>Requiring prices to exceed auction highs could make Kenyan tea less competitive in the international market, as buyers may shift to other tea-producing countries offering better pricing flexibility.</p> <p>Direct buyers may avoid Kenyan tea due to the artificial price floor, reducing demand and potentially leading to an oversupply in the market, which could depress overall prices.</p>	<p>three months preceding the sale."</p>
<p>66</p>	<p>36 (3) The Cabinet Secretary shall, in consultation with county governments, prescribe regulations for the procedure of direct sale of tea.</p>	<p>Engaging with the county governments individually may lead to delays and inconsistencies in the formulation of regulations.</p> <p>Different counties may prioritize their unique interests, complicating the development of cohesive national-level policies for the tea sector.</p> <p>The Council of Governors serves as a collective representative body for all counties, providing a single platform for</p>	<p>Amend the provision to read:</p> <p>"The Cabinet Secretary shall, in consultation with the Council of Governors, prescribe regulations for the procedure of direct sale of tea."</p>

		<p>engagement with the national government.</p> <p>Consulting the Council of Governors will ensure that county-level interests are uniformly represented while maintaining a national perspective.</p>	
7	<p>Section 36 (6) of the principal Act provides as follows: -</p> <p>(6) A tea factory shall within thirty days of receipt of the proceeds of the sale of tea, pay tea growers—</p> <p>(a) at least fifty per centum of payment due for green leaf delivered every month;</p> <p>(b) the balance due to the tea grower within three months from the end of financial year.</p>	<p>The reason for this is that the implementation will pose a challenge as the amounts payable per Factory Company Limited will vary, thereby taking away from the uniformity of payment within the sector</p>	<p>Deletion of 36 (6)</p>
8	<p>12. Section 36 of the principal Act is amended -</p> <p>8 The Cabinet Secretary shall in consultation with the county governments prescribe regulations for the procedure for auction sales of tea and for the establishment of auction centres in tea growing counties.</p>	<p>Establishing multiple auction centers in tea-growing counties risks segmenting the tea market, leading to difference in pricing. This could dilute Kenya's competitive edge in the global tea market, which benefits from a centralised pricing system.</p> <p>The benefits of having a consolidated auction that accommodates all the teas from the country provides economies of scale that translate to</p>	<p>Delete this provision and retain the Mombasa Tea Auction as the sole auction centre.</p>

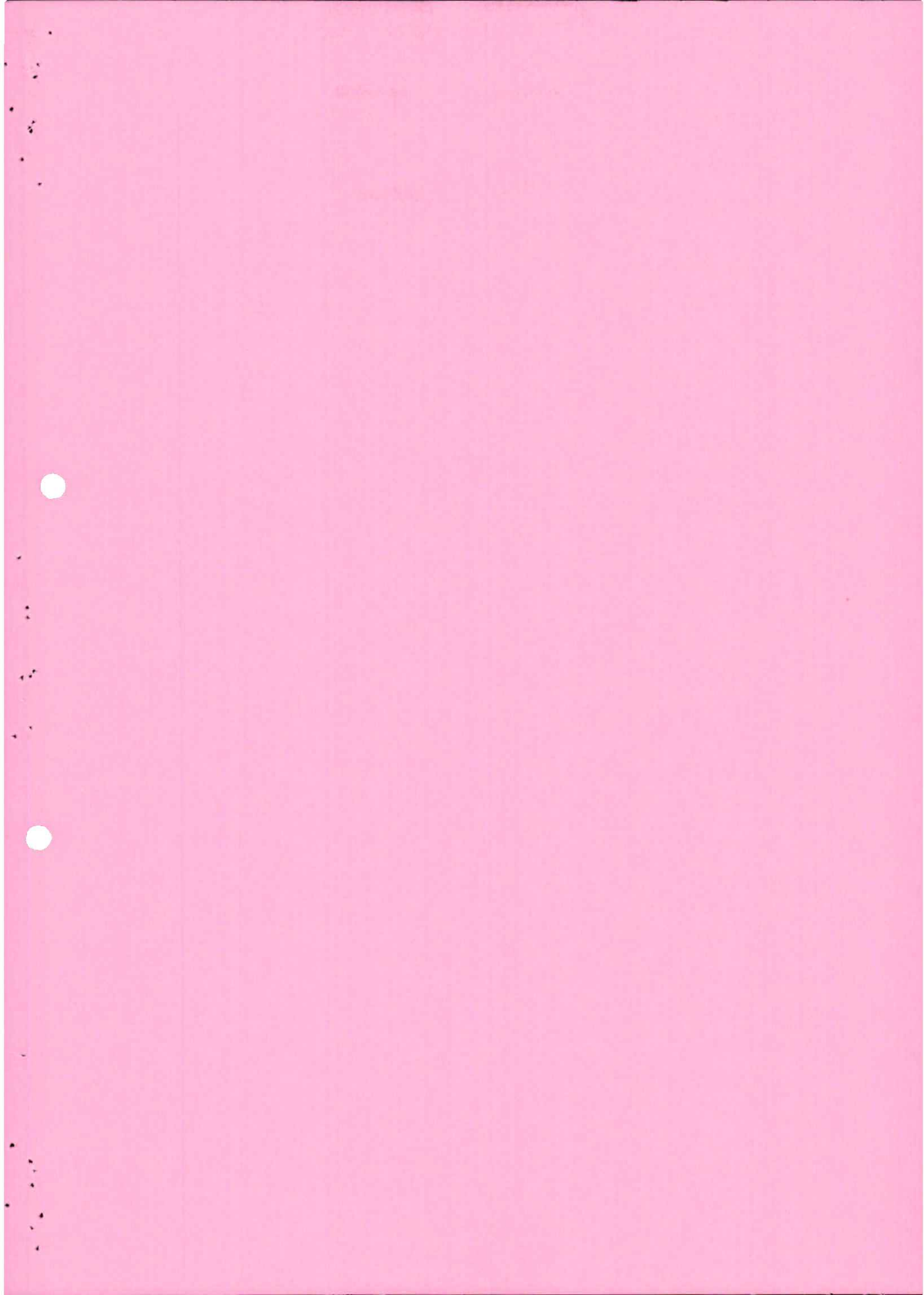
		lower auction selling costs for the Producer as well as convenience to the Buyer who when blending different origin teas will need the teas to be easily accessible.	
9	<p>Section 34 (9) of the principal Act provides as follows:-</p> <p><i>Section "(9) A director of a tea factory shall not serve as a director in another company having a direct or indirect commercial relationship with the tea factory where the person is serving as a director"</i></p> <p>This goes against the interest of the Shareholders who may be owning the related companies</p>	<p>The Companies Act stipulates how directors of a company are to be elected, number of directors as well as their tenure, and how to deal with conflict of interest which should be in line with the Tea Factory Articles of Association. The Tea Act should therefore not impose the manner in which the directors should engage once elected by farmers. The Companies are owned by related parties and as shareholders they have a right to appoint a director to represent them in the Board.</p>	Delete Section 34(9)
10	<p>Section 53 of the principle Act is amended by deletion of the entire section</p>	<p>The amount payable to the farmer is negligible owing to the amount payable as levy</p>	Deletion of Section 53

4.0. CONCLUSION

Considering the above observations and recommendations on the specific amendments, KTDA Holdings Limited appreciates the strides taken to regulate the tea industry. Several provisions in the Tea (Amendment) Bill, 2023, align with stakeholder interests. It is important to note that the tea stakeholders have sought inclusion in making these laws that ultimately affect them as stakeholders and affect the tea production returns.

For the tea sector to thrive even amidst the current economic times, there must be a meaningful and deliberate introduction of amendments to the principal legislation. It is our proposal that our recommendations be considered at this juncture.

---End---



THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY
58 CHEMISTRY BUILDING
CHICAGO, ILLINOIS 60637

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TO: [Illegible]

SUBJECT: [Illegible]

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**MEMORANDUM ON PROPOSED AMENDMENTS TO THE TEA
(AMENDMENT) BILL – SENATE BILLS NO. 1 OF 2023**

**TO: THE CLERK OF THE NATIONAL ASSEMBLY
PARLIAMENT OF KENYA**
**FROM: ZONE 2 & 3 KTDA TEA MANAGED TEA
FACTORIES**
DATE: 3RD JUNE 2025

1. PREAMBLE

This memorandum is submitted pursuant to Article 118(1)(b) of the Constitution of Kenya, which mandates Parliament to facilitate public participation and involvement in legislative processes. As stakeholders representing smallholder tea farmers in the ten (10) factories in Murang'a County under the Kenya Tea Development Agency (KTDA) Management, we present our considered views and recommendations on the Tea (Amendment) Bill – Senate Bills No. 1 of 2023.

Our proposals aim to align the Bill with the Constitution of Kenya, the Companies Act, CAP 486, and global best practices in Corporate Governance. We emphasize the importance of preserving the autonomy of tea farmers and factory companies, ensuring equitable representation, and promoting efficiency and accountability within the tea value chain.

2. GENERAL OBSERVATIONS

While the Bill seeks to address critical aspects of the Tea Act No. 23 of 2020, certain provisions raise concerns:

- (a) **Centralization of Functions:** The Tea Board of Kenya (TBK) retains excessive control over both regulatory and commercial functions, potentially leading to conflicts of interest and inefficiencies.
- (b) **Erosion of Autonomy:** Provisions that override the Memoranda and Articles of Association (MEMARTS) of tea factory companies undermine the autonomy granted under the Companies Act, Cap 486.
- (c) **Inadequate Representation at the Tea Board of Kenya:** The current structure limits equitable and inclusive representation, particularly for smallholder farmers who contribute significantly to tea production.
- (d) **Market Restrictions:** Mandatory auction requirements and overregulation of exports impede free market principles and the ability of farmers to seek better market opportunities.



3. SPECIFIC PROPOSALS FOR AMENDMENT

No.	Provision	Issue	Proposed Amendment
1	Section 2	Outdated definitions hinder innovation and clarity.	Amend as per proposed definitions in the attached document, including "direct sales," "direct settlement system," "tea factory unit," and "direct marketing agent."
2	Section 5(1)(b) & (j), (l)	Conflicting roles and distortion of market dynamics.	Delete (b) & (j); amend (l) to remove minimum payment. Retain maximum payment period.
3	Section 7(1)(f), (2), (3)	Underrepresentation of smallholders at the Tea Board of Kenya;	Replace with a minimum of seven (7) directors representing the smallholders from East and West regional block.
4	Section 8(2)	Potential board vacuum and governance risks.	Amend to stagger board tenures within one quarter and prohibit board meetings during lapses.
5	Section 22(1), (2), (4)	Interference with Company Governance.	Delete (2); amend (4). Appointment should be as per the respective factories MEMARTS.
6	Section 30-32	Export and brokerage overregulation.	Remove "exporting" from registration; brokers to submit brokerage agreements and appointed by the tea factories boards.
7	Section 34-36	Restrictive marketing regulations.	Allow both auction and direct sales; permit appointed marketing agents; remove auction exclusivity; restore direct factory control.
8	Sections 34A, 36A, 36B	Direct sales and settlement system unclear.	Amend to empower factories, include pricing flexibility, and allow factory-approved disbursement instructions. Delete auction price reference as binding for direct sales.
9.	Section 47(1)	County Fees - Lacks safeguards against double taxation / economic barriers	Harmonize and make fee structures transparent across all counties
10.	Section 48	Misplaced value addition responsibilities.	Assign to manufacturers and producers instead of exporters.
10	Section 53	Unjustified levies and allocation.	Cap levy at KShs. 1/kg, of made tea; exempt specialty/value-added tea; revise allocation to 70% marketing, 10% TBK functions, 20% research. Delete infrastructure provision.
11	Section 74	Broad regulatory powers and potential overreach.	Amend as per highlighted changes to emphasize fair governance, remove duplication, and safeguard innovation.

(Handwritten signature)

4. ADDITIONAL RECOMMENDATIONS NOT ADDRESSED IN THE BILL

a) **Appeals and Dispute Resolution:**

Establish an independent Tea Industry Appeals Tribunal to provide accessible and cost-effective dispute resolution mechanisms, reducing the burden on Court cases to the factory companies.

b) **Audit and Transparency of the Tea Board:**

Introduce mandatory annual public disclosure of TBK's audited accounts, licensing activities, and regulatory impact assessments to enhance transparency and accountability.

5. LEGAL JUSTIFICATIONS AND ALIGNMENT WITH EXISTING LAWS

a) **Companies Act, Cap 486:**

Sections 142 and 143 underscore director accountabilities to company constitutions and member interests. The Bill should reinforce—not override—this autonomy.

b) **Constitution of Kenya:**

- i. *Article 10*: Upholds public participation, integrity, and good governance.
- ii. *Article 36*: Guarantees freedom of association, supporting farmer-owned factory governance.
- iii. *Article 118(1)(b)*: Ensures public participation in legislative processes, reinforcing the need for stakeholder consultations before imposing levies or significant regulatory changes.

6. CONCLUSION

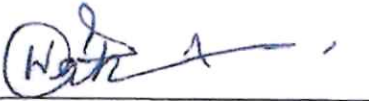
The Tea (Amendment) Bill must reflect the realities and aspirations of smallholder tea farmers, who form the backbone of Kenya's tea economy. We respectfully urge Parliament to adopt our proposed amendments to:

- Preserve factory company autonomy
- Foster fair representation
- Promote innovation in marketing and value addition
- Enhance regulatory accountability

We remain committed to engaging further in this process and to upholding the integrity and prosperity of the tea sector.

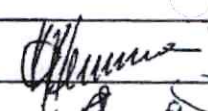

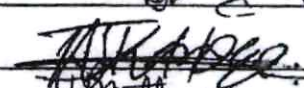
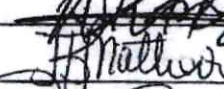
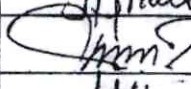
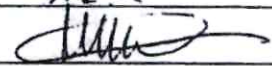


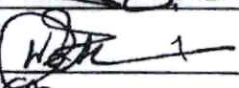


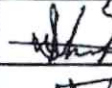
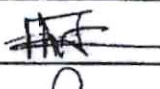
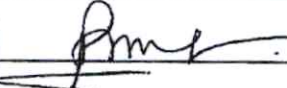
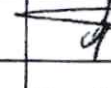
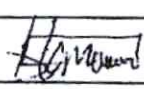
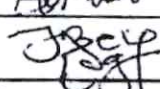
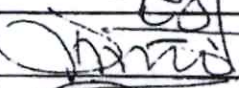
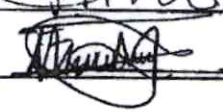
Submitted by: Wilfred Gathitu Karau - Chairman
On behalf of Murang'a KTDA Tea Managed Tea Factories

Signed: _____



Date: 3rd June 2025

**KTDA GROUP
REGISTRATION FORM
3RD JUNE, 2025**

NO.	NAME.	CONTACT.	SIGN.
1			
2			
3	Alex N. Khenanen	0712 ^{Kawanya-ini} 040510	
4	Joseph Mwangi Thuo	0721 846603 ^{Makeni Baki} - ¹⁵¹ P.O. Box	
5	John K. Mwangi	0712 516289 (Mogera)	
6	John K. Mathari	0722 501493 - Njuru	
7	John N. Karuri	0722 797552 (KIRU)	
8	Mrs. Kimani	01153 3070	
9	Lancy Ndungu	0721 177842 (NDUJI)	
10	Prosimus Kibuna	0722 770 022 636 025	
11	Wilfred G. Karani	078 262685	
12	Kamari Dickson	CS	
13	Caroline N Mburu	0722 801574	
14	David G. WAI THAKA	0723 902967	
15	FLORENCE W WANDERI	0725 277151	
16	Stephen Wajana	0721 454824	
17	Joseph Gathungu	0723 506482	
18	JOHN K. KARUTHI	0723 2236953	
19	FRANK NGUMBA	0723 812056 ^{IKUMAI} - T. F	
20	DANIEL M. NURIAIRU	0700 682508	
21	ELIJAH M. NJORGE	0700 899606	

48	John R. M. Kagira	0722960885	<i>[Signature]</i>
49	JAMES Kimani	0722-177372	<i>[Signature]</i>
50	Henry Komemia	0725599639	<i>[Signature]</i>
51	John Kimani	0722165462	<i>[Signature]</i>
52	Joseph Mwangi	0725682824	<i>[Signature]</i>
53	Cylius Mwangi	} Driver	
54	Samuel Kuria		
55			

TEAM LEADER

SIGN.....

TGL.....

SIGN.....

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To: **National Assembly of Kenya**
C/O The Clerk of the Senate
Parliament Buildings P.O Box 41842 - 00100, Nairobi, Kenya

**SUBMISSION OF MEMORANDUM UNDER STANDING ORDER 127 OF THE
NATIONAL ASSEMBLY ON THE PROPOSED AMENDMENT OF THE TEA ACT, 2020 (Act
No 23 of 2020)**

WE, the undersigned,

Citizens of Kenya, Small Scale Tea Farmers in Zone 5 (**KIRINYAGA COUNTY**),
through our Factory Company and Zonal directors;

DRAW the attention of the House to the following:

WHEREAS the Tea Act , 2020 (**Act No 23 of 2020**) ushered a raft of Tea reforms with
the aim of benefiting the Tea Farmers in the Republic of Kenya;

AND WHEREAS the farmers acknowledge and appreciate the benefits that have
accrued to them by some of the reforms ushered by the Tea Act,2020;

AND WHEREAS the farmers are aware that there are ongoing proposals and
engagements to amend the Tea Act to maximize the benefits for the Tea farmers;

NOW WE, small scale tea farmers from **KIRINYAGA COUNTY (ZONE 5)** present this
memorandum to the Senate Committee on Agriculture, Livestock and Fisheries which
in our opinion need to be critically considered and implemented to enable the tea
farmer to reap maximum benefit from their Tea Crop;

PROPOSED AMENDMENTS TO THE TEA ACT, 2020 (Act No.23 of 2020)

1. Section 22 caps the number of directors in a Tea Factory Company Limited to a maximum of five members. We propose the amendments as follows:

Amend **SECTION 22 (1)** by removing "maximum of five" and replace with "**Minimum of six and maximum of nine members**".

Amend **SECTION 22 (2)** by inserting the words '**shall co-opt such directors to achieve gender parity in conformity with Section 22(1) above**".

The amended Section 22 (1) and (2) should thus read as follows:

22. Board of directors of tea factory limited companies

(1) The Board of Directors of tea factory limited companies shall be a minimum of six members and a maximum of nine members

(2) The Board shall co-opt such directors in conformity with clause 22(1) above to achieve gender parity to ensure that not more than two-thirds of the Board of Directors of tea factory limited companies elected or appointed are of the same gender.

2. Amend Section 36 Clause (6) subclause (a) by replacing 50% with One Third as follows:

SECTION 36

(6) A tea factory shall within thirty days of receipt of the proceeds of the sale of tea, pay tea growers—

(a) at least **One third** of payment due for green leaf delivered every month;

3. SECTION 53 clause (2) and (5): Remove/delete the clauses

THEREFORE, we our humble prayers are that:

- a) You amend the above flagged Sections of the Tea act, 2020 listed above to;
- i. ensure overall representation of all tea zones in the factory boards;
 - ii. Harmonize the Tea Sector with other key agriculture sectors whereby the government organs regulating the industry are funded from the exchequer and not from the proceeds of sales/deductions from farmers.
 - iii. Please bear in mind that the poor small scale tea farmers through the Factory Companies are already saddled with very many **taxes, levies** and other **outgoing payments** that are made to the National and county Governments and other bodies to the tune of over **Forty (40) taxes and levies**
NB.See the **Schedule of TAXES, CHARGES and LEVIES** annexed to this petition which the poor farmers are already paying
 - iv. Ensure delivery of key mandates and **PESA MFUKONI** to farmers;

And your petitioners will ever pray.

Dated at KERUGOYA this 8th day of May, 2023

Signed.....

SUBMISSION OF MEMORANDUM UNDER STANDING ORDER 127 OF THE NATIONAL ASSEMBLY STANDING
ORDERS ON THE PROPOSED AMENDMENT TO TEA ACT, 2020

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To: **National Assembly of Kenya**

C/O The Clerk of the Senate

Parliament Buildings P.O Box 41842 - 00100, Nairobi, Kenya

The Chairman,

National Assembly Committee on Agriculture, Livestock and Fisheries,

Nairobi

**SUBMISSION OF MEMORANDUM UNDER STANDING ORDER 127 OF THE
NATIONAL ASSEMBLY ON THE PROPOSED AMENDMENT OF THE TEA ACT, 2020 (Act
No 23 of 2020)**

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Citizens of Kenya, Small Scale Tea Farmers in Zone 6 (**EMBU COUNTY**), through our Factory Company and Zonal directors;

DRAW the attention of the House to the following:

WHEREAS the Tea Act, 2020 (**Act No 23 of 2020**) ushered a raft of Tea reforms with the aim of benefiting the Tea Farmers in the Republic of Kenya;

AND WHEREAS the farmers acknowledge and appreciate the benefits that have accrued to them by some of the reforms ushered by the Tea Act,2020;

AND WHEREAS the farmers are aware that there are ongoing proposals and engagements to amend the Tea Act to maximize the benefits for the Tea farmers;

NOW WE, small scale tea farmers from **EMBU COUNTY (ZONE 6)** present this memorandum to the National Assembly Committee on Agriculture, Livestock and

Fisheries which in our opinion need to be critically considered and implemented to enable the tea farmer to reap maximum benefit from their Tea Crop;

PROPOSED AMENDEMENTS TO THE TEA ACT, 2020 (Act No.23 of 2020)

1. Section 22 caps the number of directors in a Tea Factory Company Limited to a maximum of five members. We propose the amendments as follows:

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(6) A tea factory shall within thirty days of receipt of the proceeds of the sale of

tea, pay tea growers—

(a) at least **One third** of payment due for green leaf delivered every month;

3. SECTION 53 clause (2) and (5): Remove/delete the clauses

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i. ensure overall representation of all tea zones in the factory boards;

ii. Harmonize the Tea Sector with other key agriculture sectors whereby the government organs regulating the industry are funded from the exchequer and not from the proceeds of sales/deductions from farmers.

iii. Please bear in mind that the poor small scale tea farmers through the Factory Companies are already saddled with very many **taxes, levies** and other **outgoing payments** that are made to the National and county Governments and other bodies to the tune of over **Forty (40) taxes and levies**

NB.See the **Schedule of TAXES, CHARGES and LEVIES** annexed to this petition which the poor farmers are already paying

iv. Ensure delivery of key mandates and **PESA MFUKONI** to farmers;

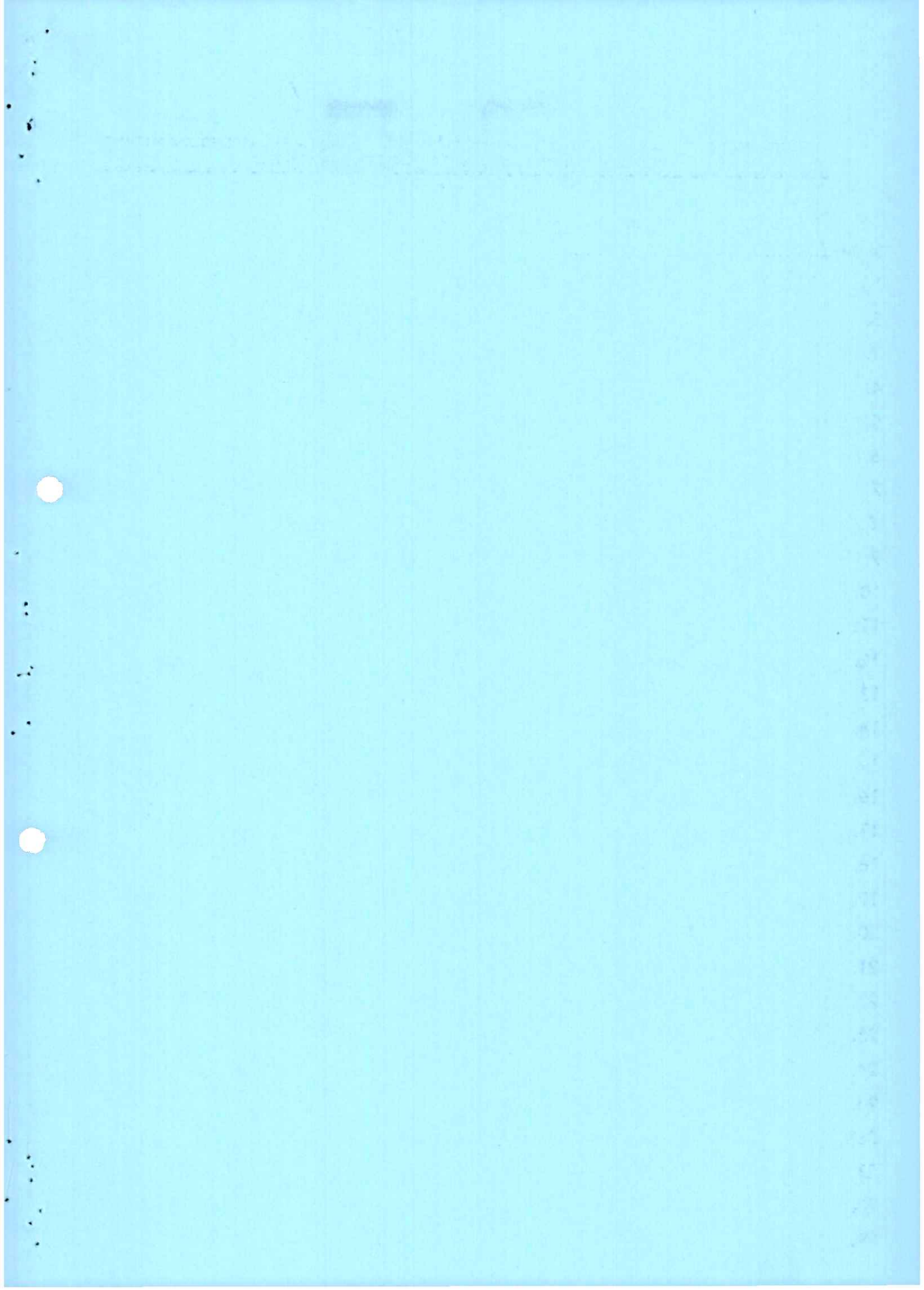
And your petitioners will ever pray.

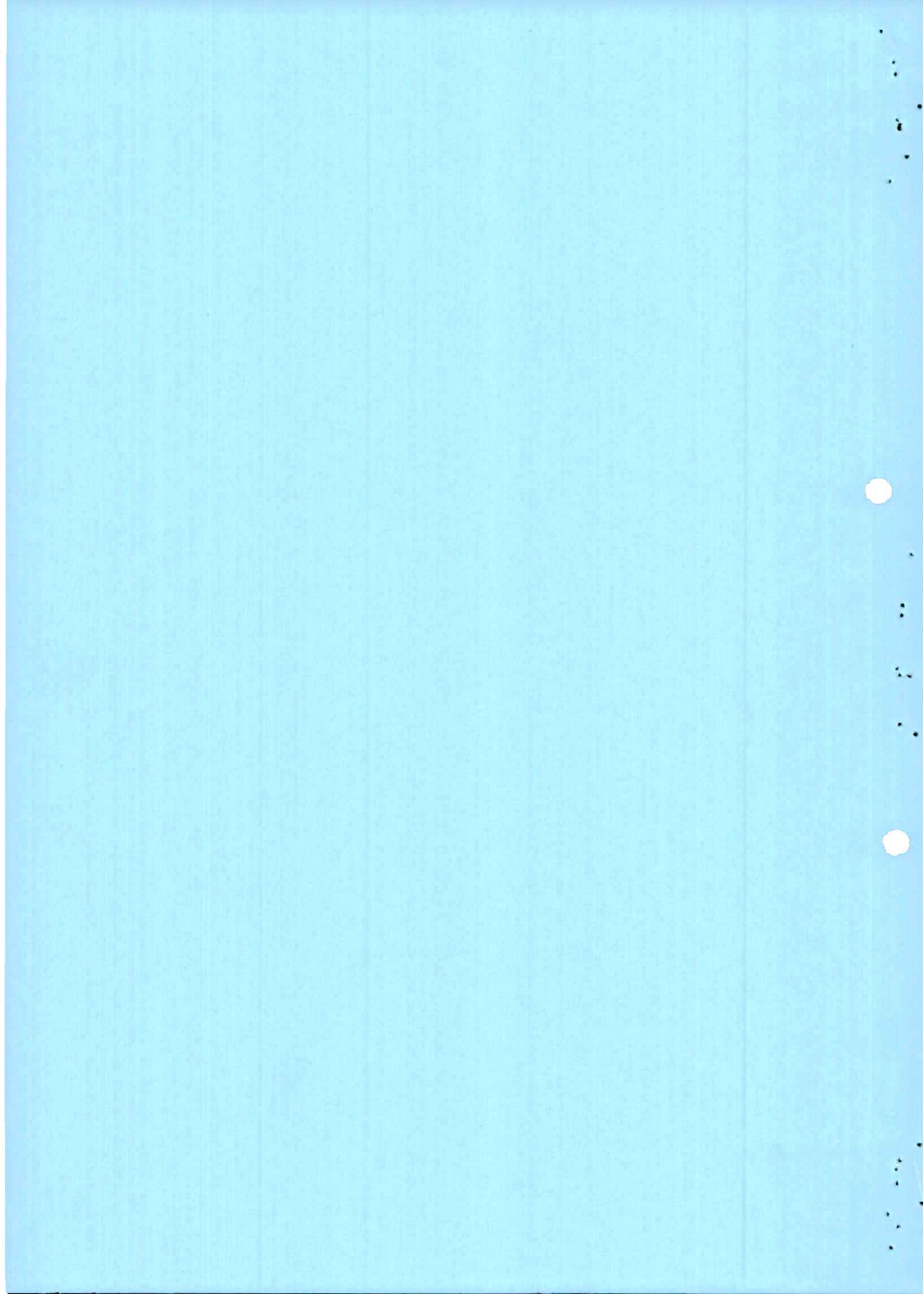
Dated at EMBU thisday of..... 2025

SUBMISSION OF MEMORANDUM UNDER STANDING ORDER 127 OF THE NATIONAL ASSEMBLY STANDING
ORDERS ON THE PROPOSED AMENDMENT TO TEA ACT, 2020

Signed.....

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MEMORANDUM ON THE TEA (AMENDMENT) BILL, 2023

Submitted by: Zone 7 Tea Factory Boards

Subject: Proposals for review of the Tea (Amendment) Bill, 2023

Date: 3rd June, 2025

To: The Senate of the Republic of Kenya

	Clause	Proposed Amendment	Recommendation
1.	Section 2 (definition of "tea factory limited company")	The current definition limits tea factory ownership to small- and medium-scale own by shareholding.	Expand this provision to include all tea factories regardless of ownership structure, to ensure inclusivity and avoid discrimination.
2.	Section 34A(1)	The opening up of DSO is a good direction in diversifying the market access for tea growers.	The Boards appreciate the opening up of direct sales but recommend establishing clear regulations and support mechanisms that will enable factories to engage in direct sales effectively.
3.	Section 22	Proposes changes to the composition of the Board to 5 out of which 3 will be elected directors	Leave the composition and size of the Factory Boards to the memorandum and articles of association of each factory. Maintain existing zones and six elected directors to preserve fair representation.
4.	Section 53	A 1% Tea levy would place a financial burden on tea growers.	Delete the tea levy entirely. Recommend that funding for the tea sector be sourced from the government exchequer, like other crop sectors.
5.	Section 36(6)(a)	Requires 50% payment to growers of tea proceeds within 30 days of receipt of tea proceeds	Remove the mandatory 30-day 50% payment requirement. Let factory boards determine payment timelines.

MEMORANDUM ON THE TEA (AMENDMENT) BILL, 2023 PROPOSALS BY KTD MANAGED TEA FACTORIES ZONE 11 DIRECTORS PRESENTED TO THE SENATE

Date: 6th JUNE, 2025

TEA ACT, 2020 & TEA (AMENDMENT) BILL, 2023 COMPARATIVE TABLE

No.	Tea Act, 2020 Section	Tea Bill, 2023 Section	Zone 11 Proposal	Remarks
1.	Section 22(1) The Board of Directors of the tea factory limited shall be a maximum of five Directors.	Silent.	Zone 11 Directors recommend that the maximum number of elected Directors be retained at six.	
2.	Section 34(4) The remuneration for the services rendered by a management agent to a tea factory company limited shall not exceed one point five per centum of the net sales value of the tea sold per year	The remuneration for the services rendered by a management to a tea factory company limited shall no exceed two per centum of the net sales value of the tea sold per year	The proposal be and is hereby rejected.	
3.	-	Section 34A (1) Kenyan tea shall be traded through- (a) the auction or (b) direct sales. Section 34A (2) All tea processed and manufactured in Kenya for the export market shall be registered with the Board prior to exportation.	Supported. The proposal in the Bill be replaced by Section 34A (2) The Board shall be notified of all tea processed and manufactured and sold in Kenya for the export market.	
4.	Section 36 (1) All teas processed and manufactured in Kenya for the export market with the exception of orthodox and specialty teas shall be offered for sale exclusively at the tea auction floor.	Section 36 (1) Tea processed and manufactured in Kenya for the export market may be offered for sale at the auction floor.	Supported.	
5.	Section 36(2) All tea factory limited companies shall register with the Board and the auction organizer to participate in the tea auction directly and not through management agents.	Section 36(2) A tea factory that intends to participate in a tea auction shall- (a) register with the Board and	Supported.	

**MEMORANDUM ON THE TEA
(AMENDMENT) BILL, 2023 PROPOSALS BY
KTD MANAGED TEA FACTORIES ZONE 11
DIRECTORS PRESENTED TO THE SENATE**

		the auction organiser; and (b) participate in the action directly or through a management agent approved under section 34.		
6.	Section 36(5) Tea brokers, buyers and the auction organizers shall ensure that the proceeds from the sale of tea are remitted to the tea factories accounts within fourteen days from the date of the auction.	Section 36(5) Tea brokers, buyers and the auction organizers shall ensure that the proceeds from the sale of tea are remitted to the tea factories accounts and paid to the growers' accounts within fourteen days from the date of the auction.	Section 36(5) Tea brokers, buyers and the auction organizers shall ensure that the proceeds from the sale of tea are remitted to the tea factories accounts within fourteen days.	
7.	Section 36(6) A tea factory shall within thirty days of receipt of the proceeds of the sale of tea, pay tea growers— (a) at least fifty per centum of payment due for green leaf delivered every month; (b) the balance due to the tea grower within three months from the end of financial year.	Section 36(6) be and is hereby deleted in its entirety.	Section 36(6) be and is hereby retained as currently is as Per the current Act.	
8.	-	Section 36(8) The cabinet Secretary, in consultation with the County Governments,	This proposal be and is hereby rejected. We refer the	

**MEMORANDUM ON THE TEA
(AMENDMENT) BILL, 2023 PROPOSALS BY
KTD MANAGED TEA FACTORIES ZONE 11
DIRECTORS PRESENTED TO THE SENATE**

		prescribe regulations for the procedure for auction sales of tea and for the establishment of action centres in the tea growing counties.	Senate to Section 5 of the Tea Act. Nothing under the current legislation stops the Board from introducing auction centres in the Counties without involving the County Governments.	
9.	-	<p>Section 36A (1) A licensed factory or a management agent approved under Section 34, may undertake direct sales.</p> <p>Section 36A (2) The prices offered at the direct sales shall be competitive and shall be sold at a price above the highest price recorded at the auction within the three months preceding the sale.</p> <p>Section 36A (3) The Cabinet Secretary shall, in consultation with the County Government, prescribe regulations for the procedure of direct sales of tea.</p>	<p>Supported.</p> <p>Supported.</p> <p>Section 36A (3) The Cabinet Secretary shall, in consultation with the Board, prescribe regulations for the procedure of direct sales of tea.</p>	
10.	37(1) A person who intends to carry on the business of commercial green leaf transporter shall register with the Board.	37(1) A person who intends to carry on the business of commercial green leaf transporter shall register with the County Governments.	The Proposal be and is hereby is rejected. Retain as per the current Act.	
12.	Section 37(3) The Cabinet	Section 37(3) A	The Proposal be	

**MEMORANDUM ON THE TEA
(AMENDMENT) BILL, 2023 PROPOSALS BY
KTD MANAGED TEA FACTORIES ZONE 11
DIRECTORS PRESENTED TO THE SENATE**

	Secretary shall prescribe regulations providing for procedure for registration of commercial green leaf transporters and the appeal process in case of refusal or denial of registration.	County Assembly shall enact County legislation to provide for the procedure for registration of commercial green leaf transporters and appeal process in of refusal or denial of registration.	and hereby is rejected. Retain as per the current Act.	
13.	-	Section 53(2A) (a) Specialty tea and value added tea packed into packets or containers holding not more than ten kilograms shall be exempted from tea levy.	Supported.	
14.	Section 53(5)	Section 53(5) The tea levy collected under sub section (2) shall be apportioned as follows- (a) Sixty per centum shall be applied by the Board in the furtherance of exercise of any function or power of the Board; and (b) Forty per centum shall be remitted directly to the Tea Research Foundation for	We reject the This proposal be and is hereby rejected. The Tea Board of Kenya and the Tea Research Foundation are Government institutions, which institutions should be funded by the ex-chequer and NOT the poor tea grower.	

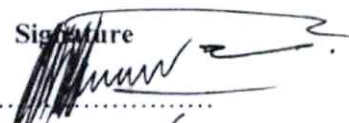


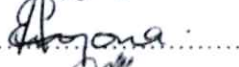







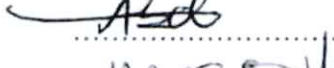

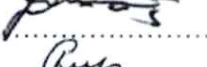
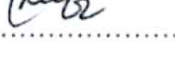

**MEMORANDUM ON THE TEA
(AMENDMENT) BILL, 2023 PROPOSALS BY
KTD MANAGED TEA FACTORIES ZONE 11
DIRECTORS PRESENTED TO THE SENATE**

		execution the function of the Foundation.		
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MEMORANDUM ON THE TEA (AMENDMENT) BILL, 2023 PROPOSALS BY KTD MANAGED TEA FACTORIES ZONE 11 DIRECTORS PRESENTED TO THE SENATE

ZONE 11 DIRECTORS PRESENT:

Name	Factory
James Omweno Ombasa	Ogembo
Mary Kwamboka Jacob	Ogembo
Fred Martin Mokua	Ogembo
Enosh Okiagera Anyona	Ogembo
Enoch Riendo	Ogembo
Maxwell Nyaanga Magoma	Nyamache
Job Ndarera	Nyamache
Mang'ana Barongo	Nyamache
Bernard Oirere Nyang'au	Nyamache
Solomon Morang'a Choti	Nyamache
Richard Obino Nyagwachi	Kiamokama
Abel Morang'a Obonyo	Kiamokama
Geoffrey Mogire Otiambo	Kiamokama
Richard Obino Gitemba	Kiamokama
Chrisanthus Moindi	Kiamokama
James Kwamesa Nyakagwa	Kiamokama

Signature

















Secretaries present
CS Joel Ochiako
CS Amota Nyasari
CS Evans Omutari

THE TEA BOARD OF KENYA
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P. O. Box 20064 - 00200
NAIROBI, KENYA



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When replying, please quote

Ref: NA/DDC/A&L/2025/014

3rd June, 2025

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Ministry of Agriculture &
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Dear *Mr. Mutai,*

**REF: STAKEHOLDER ENGAGEMENT ON THE TEA AMENDMENT BILL
(SENATE BILL NO. 1 OF 2023)**

The Departmental Committee on Agriculture and Livestock is established pursuant to Standing Order 216 and is mandated *inter alia* 'to study and review all legislation referred to it'.

Pursuant to the cited mandate, the Committee is in the process of considering the Tea Amendment Bill (Senate Bill No. 1 of 2023 (copy attached)).

The Bill seeks to amend the Tea Act, Cap. 343 to protect the tea growers' proceeds from mismanagement by factories. It also aims to incentivise value addition of tea by exempting value added tea from payment of the tea levy. It further seeks to liberalise the tea industry through direct sales of tea overseas.

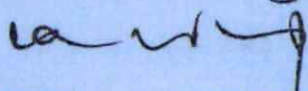
In compliance with the provisions of Article 118 (1)(b) of the Constitution, the Committee invites you for a meeting to discuss the said Bill. The meeting will be held on **Tuesday, 10th June, 2025** at a venue to be specified in the precincts of Parliament from **10.00 am**.

You are requested to submit electronic copies of your reports to the Committee through the email cna@parliament.go.ke by **Monday, 9th June, 2025** and appear before the Committee with twenty (20) hard copies of the reports.

The Kenya Tea Development Agency (KTDA) is requested to inform Chief Executive Officers of tea factories from the twelve (12) regions of the meeting and request them to attend.

The liaison officers for this activity are **Ms. Laureen Omusa Wesonga** who may be contacted on tel. no. **0710820442** or email: laureen.wesonga@parliament.go.ke and **Mr. Victor Kilimo** on tel. no. **0724587091** or email: kilimo.simon@parliament.go.ke.

Yours *Sincerely,*



PETER K. CHEMWENO
For: CLERK OF THE NATIONAL ASSEMBLY



TEA BOARD OF KENYA

Realizing the Tea Promise

SUBMISSIONS ON THE TEA (AMENDMENT) BILL, (SENATE BILL NO 1 OF 2023)

COMMENTS BY THE TEA BOARD OF KENYA ON THE THE TEA (AMENDMENT) BILL, 2023

This submission is in response to invitation for stakeholder engagement on the Tea (Amendment) Bill (Senate Bill No. 1 of 2023) by the Departmental Committee on Agriculture and Livestock of the National Assembly a meeting scheduled to be held on 10th June 2025.

NO.	SECTION	PROPOSED AMENDMENTS	TBK COMMENTS	JUSTIFICATION
1.	<p>PART I— PRELIMINARY 2. Interpretation.</p>	<p>(a) By deleting the definition of the word “export” and substituting therefor the following new definition –</p> <p>“export” means to take tea or cause tea to be taken out of Kenya into a foreign country, a Special Economic Zone or an Export Processing Zone;</p> <p>(b) By deleting the definition of the word “import” and substituting therefor the following new definition-</p> <p>“import” means to bring tea or cause tea to be brought into Kenya from a foreign country, a Special Economic Zone or an Export Processing Zone;</p> <p>(C) in the definition of the word “tea” by deleting the word “tea” appearing immediately after the words “whether green” and substituting thereof the word “leaf”;</p> <p>(d) in the definition of the word “value addition” by inserting the words “into a packet or a container holding not more than ten kilograms” appearing immediately after the word “branding”;</p>	<p>Concur</p> <p>Concur</p> <p>Concur</p> <p>Concur but amend the definition of the word “value addition” to read as follows:</p> <p>“Value addition means”</p>	<p>To align the definition with other relevant legislation's.</p> <p>To align the definition with other relevant legislation's.</p> <p>To correct the definition of the word tea</p> <p>To provide the correct definition of the word value addition and differentiate value added teas from bulk teas</p>

		<p>(e) by inserting the following new definitions in the proper alphabetical sequence-</p> <p>“direct sales” means a contractual arrangement between a factory or its management agent and an overseas buyer or local buyer for the sale of made tea based on mutually accepted terms and conditions enforceable in law;</p> <p>“direct settlement system” means a banking facility provided by a commercial bank regulated by the Central Bank of Kenya for the clearing and settlement of tea sales proceeds;</p> <p>“green leaf” means leaf detached from tea plants but not dried or processed in any way and includes purple leaf;</p> <p>“tea factory limited company” means a tea factory collectively owned through shares by small scale tea growers and medium scale tea growers.</p> <p>The principal Act be amended under Section 2 by inserting the following new definition</p>	<p><i>improvement on made tea through blending or flavouring or branding and packaging into a retail packet or a container holding not more than ten kilograms, or tea extracts, tea aroma and decaffeinated tea;</i></p> <p>Concur</p> <p>Delete</p> <p>Concur</p> <p>Concur</p> <p>New definition</p>	<p>To provide clarity as used in the context of the Tea Act, 2020.</p> <p>The terms is not used anywhere in the Tea Amendment Bill 2023 or in the Principal Act.</p> <p>To provide clarity as used in the context of the Tea Act, 2020.</p> <p>To provide clarity as used in the context of the Tea Act, 2020.</p> <p>To provide clarity following the proposal to introduce a new Section on e-</p>
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		(3) The appointment of the chairperson or members of the Board under subsection (1)(e), (f), (g), (h) and (ha) and shall take into account the gender, regional and other diversities of the people of Kenya.		appointed by the Cabinet Secretary
4.	Section 8	<p>The Principal Act is amended in Section 8 by -</p> <p>(a) deleting subsection (1) and substituting therefor the following new subsection -</p> <p>(1) The person appointed under section 7(1)(a), (e), (f), (g) and (h) shall serve for a term of three years' renewable once on account of good performance.</p> <p>(b) Deleting subsection (2) and substituting therefor the following new subsection -</p> <p>(2) The persons appointed under section 7(1)(a), (e), (f), (g) and (h) shall be appointed at different times so that their respective expiry of terms of office shall fall at different times but not more than six months shall lapse between one appointment and another.</p>	Concur	To correct the numbering typographical error on persons to be appointed by the Cabinet Secretary
5.	Section 22	The Principal Act is amended in subsection (4) by inserting the word "factory" immediately after the words "their duties the".	Concur	To clarify that the responsibility of filing a casual vacancy in a smallholder tea factory is the factory board and not Tea Board of Kenya
6.	Section 23	Section 23 of the Principal Act is amended -		

		<p>(a) by inserting the following new subsection immediately after subsection (1)-</p> <p>(1A) A large scale tea grower shall notify the Board of any intended sale for transfer of ownership of its holding six months before the transaction is affected.</p> <p>(b) in subsection (2) by inserting the word “procedure for transfer of large-scale tea holdings” immediately after the words “providing for the”.</p>	Concur	To manage significant changes in the ownership of large-scale tea growers that are likely to materially affect or impact on the operations of the tea subsector in Kenya
7.	Section 31	<p>The Principal Act is amended by inserting the following new subsection immediately after subsection (1)-</p> <p>(1A) All tea brought into a Special Economic Zone or an Export Processing Zone shall be declared to the Board in the prescribed form</p>	Concur however Section (1A) to be under a different margin note not imports	Teas destined for Special Economic Zone or Export Processing Zone are not necessarily imports.
8.	Section 34	The Principal Act is amended in subsection (4) by deleting the word “one point five per centum” appearing immediately after the words “shall not exceed” and substituting therefor the word “two per centum”.	Not concurred	It will increase the cost of production for small holder tea factories thus decreasing earnings by tea farmers.
9.	Section 34	<p>The Principal Act is amended in; -</p> <p>a) subsection (2) by deleting the words “limited company” appearing immediately after the words “each tea factory”</p> <p>b) subsection (7) by inserting the words “limited company” immediately after the words “a tea factory”</p>	Concur	To provide clarity on the application of the provisions of Section 34 (2) as being applicable to all tea factories.
			Concur	To provide clarity on the application of the provisions of Section 34 (7) as

		<p>c) subsection (8) by inserting the words “limited company” immediately after the words “tea factory”</p> <p>d) subsection (9) by inserting the words “limited company” immediately after the words “tea factory”.</p> <p>e) subsection (10) by inserting the words “limited company” immediately after the words “tea factory”.</p>	<p>Concur</p> <p>Concur</p> <p>Concur</p>	<p>being applicable to only smallholder tea factories.</p> <p>To provide clarity on the application of the provisions of Section 34 (8) as being applicable to only smallholder tea factories.</p> <p>To provide clarity on the application of the provisions of Section 34 (9) as being applicable to only smallholder tea factories.</p> <p>To provide clarity on the application of the provisions of Section 34 (10) as being applicable to only smallholder tea factories.</p>
10.	Section 34	<p>The Principal Act is amended by inserting the following new sections immediately after Section 34 –</p> <p>34A. (1) Kenyan tea shall be traded through –</p> <p>(a) the auction; or</p> <p>(b) direct sales</p>	<p>Concur but add 2 new subsections:</p> <p>– 34A(1)(c) e-commerce</p> <p>– 34A (2) The Cabinet Secretary may prescribe regulations providing for the sale of teas through the</p>	<p>To allow for sale of tea through e-commerce platform</p> <p>To ensure sale of teas through auction, direct sales and e-commerce is competitive and is not prone to abuse</p>

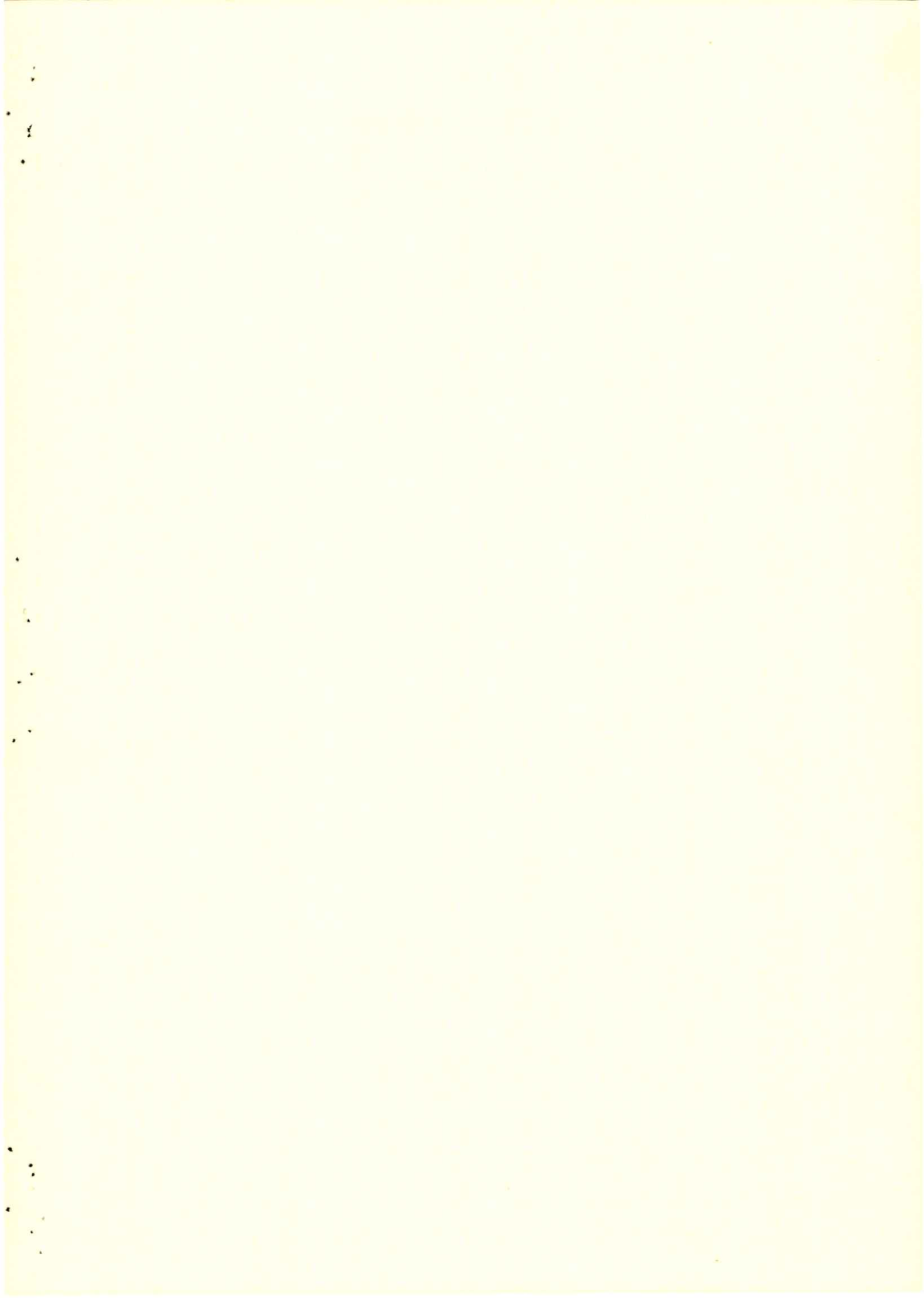
			auction, direct sales and e- commerce.	
11.	Section 34A	(2) All tea processed and manufactured in Kenya for the export market shall be registered with the Board prior to exportation.	Concur	To be introduced under section 36. Section 34 is on management agreement.
12.	Section 34B E-trader	<p>The Principal Act is amended by inserting a new section 34B –</p> <p>(1) A person who intends to establish an e-commerce platform for sale of tea shall register with the Board.</p> <p>(2) A person shall not establish an e-commerce platform for tea unless the person is registered in accordance with this Act.</p> <p>(3) The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of e-traders and the appeal process in case of refusal or denial of registration.</p> <p>(4) A person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine not exceeding five million shillings or to both.</p>	A new section to operationalize Section 34A(1)(c)	To provide the regulatory framework for sale of teas through an e-commerce platform
13.	Section 36	<p>The Principal Act is amended–</p> <p>(a) by deleting subsection (1) and substituting therefor the following new subsection –</p> <p>(1) Tea processed and manufactured in Kenya for the export market may be</p>	Concur	To provide for alternative platforms for selling Kenya tea

		offered for sale at the tea auction floor.		
14.	Section 36	<p>(b) by deleting subsection (2) therefor the following new subsection -</p> <p>(2) A tea factory intending to participate in a tea auction shall—</p> <p>(a)register with the Board and the auction organizer; and</p> <p>(b)participate in the auction directly or through a management agent approved under Section 34.</p>	<p>Concur</p> <p>Concur</p>	<p>To ensure that all factories selling tea in the auction are licensed by the Board</p> <p>To enable tea factories to have flexibility in selling their teas through the auction</p>
15.	Section 36	(c) in subsection (5) by inserting the words “and paid to the tea growers” immediately after the words “tea factory accounts”	Not Concurred	The proposed amendment will be difficult to implement as proceeds from tea sales for the entire month are aggregated in the tea factories account and then paid to the tea grower by the 5 th of the following month
16.	Section 36	(d) by deleting subsection (6)	Not concurred	Deleting Section 36 (6) will remove the safeguards in the Act meant to ensure tea growers are paid on time from the proceeds of sale
			Section 36 (6) of the Principal Act is amended by deleting the words “ receipt of proceeds of sale of tea ” before the words pay tea growers and substituting with the words “ of delivery of Greenleaf ”	

17.	Section 36	<p>(e) by inserting the following new subsection immediately after subsection (7)-</p> <p>(8) The Cabinet Secretary shall, in consultation with the county governments prescribe regulations for the procedure for auction sales of tea and for the establishment of auction centres in the tea growing counties.</p>	Concur	To allow for competition in the auctioning of teas
18.	Section 36	<p>The principal Act is amended by inserting the following new sections immediately after section 36 —</p> <p>36A. (1) A licensed factory or any other entity representing growers may undertake direct sales.</p> <p>(2) The prices offered for direct sales shall be competitive and shall be sold at a price above the highest price recorded at the auction within the three months preceding the sale</p> <p>(3) The Cabinet Secretary shall, in consultation with County Governments prescribe regulations for the procedure of direct sales of tea</p>	Concur	To ensure tea is bought at competitive prices and to mitigate against transfer pricing
19.	Section 37	<p>The principal Act is amended</p> <p>(a) in subsection (1) by deleting the word “Board” appearing immediately after the words “register with the” and substituting therefore the words “respective county government” and</p>	Concur	<p>Commercial green leaf transporters will be registered by the County Governments and not by the Board.</p> <p>To bring all green transporters within the ambit of the tea Act and not only commercial green leaf transporters</p>

		<p>(b) by deleting sub-section (3) and substituting therefore the following new subsection –</p> <p>(3A) county assembly shall enact county legislation to provide for the procedure for registration of commercial Greenleaf transporters and the appeal process in case of denial of registration</p>		
20.	Section 53	<p>The principal Act is amended by;</p> <p>(a) inserting the following new subsection immediately after subsection (2)—</p> <p>(2A) Speciality tea and Value added tea packed into packets or containers containing not more than ten kilograms shall be exempted from tea levy</p> <p>(b) deleting subsection (5) and substituting therefor the following new subsection—</p> <p>(5) The tea levy collected under subsection (2) shall be apportioned as follows —</p> <p>(a) Sixty per centum shall be applied by the Board in furtherance or exercise of any function or power of the Board; and</p>	<p>Concur but amend the Section 53 2(A) further as follows;</p> <p><i>Speciality tea Value added tea packed into packets or containers containing not more than ten kilograms, tea aroma, tea extracts and decaffeinated teas shall be exempted from tea levy</i></p> <p>Concur</p>	<p>To provide incentives for value addition of Kenya tea prior to export, brand and origin recognition of Kenya tea and include tea aroma, tea extracts and decaffeinated teas which are high value in the teas to be exempted from tea levy</p> <p>To provide for a sustainable model of funding tea industry programs including, promotion of Kenya tea in order to open new markets, incentives for value addition, research and development.</p>

		(b) Forty per centum shall be remitted directly to the Tea Research Foundation for execution of the function of the foundation;		
21.	Section 74	The principal Act is amended in subsection (1) by deleting the word "if" appearing immediately after the words "carrying out" and replacing with the word "of".	Concur	To correct the typographical error
22.	Section 76	Section 76 of the principal Act is amended by – (a) numbering the existing provision as subsection (1); and (b) inserting the following new subsection (2) (2) All assets of the former Tea Board of Kenya and the former Tea Research Foundation of Kenya which were vested in the Agriculture and Food Authority and Kenya Agricultural and Livestock Research Organization upon the commencement of the Crops Act and the Kenya Agricultural and Livestock Research Organization Act shall by virtue of this paragraph vest in the Board and the Foundation respectively."	Concur	To transit all assets of the former Tea Board of Kenya and Tea Research Foundation of Kenya, respectively to the newly established Tea Board of Kenya and Tea Research Foundation. These assets were acquired through funds contributed by tea industry players for tea industry development.







TEA BOARD OF KENYA

Realizing the Tea Promise

TEA BOARD OF KENYA

FURTHER PROPOSED AMENDMENTS TO THE TEA ACT, 2020

**PROPOSED AMENDMENTS TO SECTIONS OF THE TEA ACT SUBJECT
TO THE CONSOLIDATED HIGH COURT PETITION NO E016 OF 2021**

NO.	SECTION	PROPOSED AMMENDMENTS	JUSTIFICATION
1.	SECTION 2	<p>Amend the definitions of small scale and medium scale tea growers to read as follows; <i>"small scale tea grower"</i> means a person cultivating tea in a parcel of land of less than ten acres supplying green leaf to a tea factory limited company; <i>"medium scale tea grower"</i> means a person cultivating tea in a parcel of land supplying green leaf to a tea factory limited company;</p> <p>Add the following new definitions;</p> <p>"Bespoke teas" means special-order tea that is manufactured to stipulated customer specifications for a determined customer with the exception of straight-line teas and drier mouth teas'</p> <p>"straight-line teas" means "black cut-tear-curl teas that fall within the tea grades offered at the Mombasa Tea Auction including Pekoe Fanning One (PF1), Broken Pekoe One (BP1), Dust-1, Pekoe Dust (PD) and secondary grades"</p>	<p>To align the definitions in the context it is used in the tea industry and ascribe the correct meaning to the amendment on <i>"tea factory limited company"</i>.</p> <p>To provide for these kind of teas as used in the context of the tea industry</p> <p>To provide for these kind of teas as used in the context of the tea industry.</p>
2.	22(4)	Amend Section 22 by deleting sub-section (1) and renumbering subsections (2), (3), and (4) accordingly	Delete Section one as the size of the Board of tea factory companies is provided for under the Articles of Association.
3.	25(3)	Section 31 of the principal Act is amended by deleting "after consultation with the Cabinet Secretary"	Issuance of licenses and registrations is not a policy issue but is one of the routine functions of the Board as a semi-autonomous State

			Corporation. The requirement to consult the Cabinet Secretary during issuance of licenses be deleted. Appeals on issuance or non-issuance to be made to the Cabinet Secretary.
4.	32	Section 32 of the principal Act is amended in subsection (4) by deleting the words “limited company” appearing immediately after the words “a tea factory” Section 32 of the principal Act is amended; 1. Adding a new subsection 3(c) as follows; The remuneration paid to a tea broker by a tea factory limited company and a tea buyer or exporter for services rendered. 2. in subsection (4) by deleting the words “limited company” appearing immediately after the words “a tea factory”	To provide clarity on the application of the provisions of Section 32 (4) as being applicable to all tea factories. The rates payable for services rendered by tea broker by a tea factory or a tea buyer/exporter to be prescribed through regulations To provide clarity on the application of the provisions of Section 32 (4) as being applicable to all tea factories.
5.	48	Amend Section 48 by deleting the word “eight” after the word within and substituting it with “ten”	To enable the tea sector value chain players put in place the necessary infrastructure to do value addition.
6.	54	Amend Section 54 by deleting subsections 2(b) and 3(a)	To align to the deleted provisions under Section 53 (5)

ADDITIONAL PROPOSED AMENDMENTS BY TBK TO THE TEA ACT

NO.	SECTION	PROPOSED AMMENDMENTS	JUSTIFICATION
1.	NEW SECTION Immediately after Section 74	Section 74B (1) <i>The Cabinet Secretary may, in consultation with the Board, make Guidelines to provide for —</i>	To address the governance challenges in the tea sub-sector

	Development of Corporate Governance Guidelines, Code of Ethics and Conduct for the tea industry	<p>(a) <i>Corporate Governance Guidelines for the tea industry;</i></p> <p>(b) <i>Code of Ethics and Conduct for tea factory Director(s);</i></p>	To foster ethics and integrity among directors in the tea factories;
2.	<p>NEW SECTION immediately after Section 40</p> <p>Disclosure of Beneficial Ownership of a holder of a license or a registration certificate</p>	<p>Section 40B (1) <i>An applicant for a license or a certificate of registration shall disclose information on beneficial ownership of the company or any entity contained in the application;</i></p> <p>(2) <i>A holder of a license or a certificate of registration shall within 14 days following any amendment of beneficial ownership information, furnish the Board with a copy of the amended beneficial owners' register.</i></p> <p>(3) <i>A person who fails to comply with Section 40B commits an offence.</i></p>	<p>To promote transparency in the ownership structures of companies dealing in tea</p> <p>To comply with Section 93A of the Companies Act, 2015 which requires every company registered in Kenya to prepare and keep a register of its beneficial owners.</p>
3.	<p>SECTION 25(6)</p> <p>Sale of a tea manufacturing license holdings</p>	<p>Amend Section 25 by adding a new subsection (6) as follows:</p> <p><i>25(6) A holder of a tea manufacturing license shall notify the Board of any intended sale or transfer of ownership of its holdings 6 months before the transaction is effected.</i></p> <p><i>25(6) The Cabinet Secretary shall make</i></p>	To manage significant changes in ownership of a tea factory that may have material effects or impact on the tea value chain;

		<i>regulations to provide for transfer of holdings of a tea manufacturer.</i>	
4.	NEW SECTION 38B Registration of a Scheme owner and certification agent	SECTION 38B (1) a person shall not operate a voluntary certification scheme for tea in Kenya without being registered by the Board; (2) A voluntary certification scheme owner or certification agent operating in the tea industry in Kenya shall register with the Board and pay the prescribed fee. (3) The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of voluntary certification scheme owners and certification agents. (4) A person who operates a voluntary certification scheme for tea in Kenya without being registered by the Board commits an offence;	To control the multiplicity of various certifications in the tea sub-sector which are increasing cost of production thus reducing the profitability of tea producers and growers' earnings To ensure tea value chain players get value for services offered by standards owners who have been engaging the tea industry without the knowledge and approval of the industry regulator.
5.	THIRD SCHEDULE TEA BLOCKS	Amend the Third Schedule as follows: - 1. Deleting "Narok" from the East Block and inserting it under the West Block 2. Adding "West Pokot" under the West Block	To correct misclassification of Narok under the tea blocks To incorporate all tea growing counties



THIRTEENTH PARLIAMENT – FOURTH SESSION – 2025
DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK








WITNESS ATTENDANCE REGISTER

AGENDA: Stakeholder Engagement on the Tea (Amendment) Bill (Senate Bill No. 1 of 2023)

DATE: 25TH & 26TH JULY 2025

VENUE: ENGLISH POINT MERINA, MOMBASA

NO.	NAME	INSTITUTION	DESIGNATION IN FULL	CELLPHONE	SIGNATURE
1.	Chege Kiambu	KTDA	CHAIRMAN	0722510118	
2.	WILSON MUTHARA	KTDA	CEO	0720014625	
3.	MATHEWS ODORO	KTDA	UCS	0723411721	
4.	KIZASTA MUKI	KTDA	Board Member	0720713687	
5.	SOLOMON MAINA	KTDA	KTDA-MS CHAIRMAN	0720561201	S M M.
6.	SIMEON K RUGUTU	KTDA	GFSD	0922887449	
7.	Enos Njeri	KTDA	Board Member	0711220025	
8.	CATHERINE MUKURA	KTDA	BM	0715671662	
9.	PHILIP K. LANGAT	KTDA	BM	0721273048	
10.	WILSON ODONGO MURUGU	KTDA	BM	071574395	
11.	OMWIND OMBASA	KTDA	BM	0722756717	

NO.	NAME	INSTITUTION	DESIGNATION IN FULL	CELLPHONE	SIGNATURE
12.	Peris Muelida	TBR	Director Legal Services Corporate Services	0722182122	
13.	David Kithale	SDA	Parliamentary Liaison Off.	0726201436	
14.	Miny K Mutai	TBR	CEO Secretariat	0722150370	
15.	Peter Kibikyu	TBR	PR & Media Liaison	0722861570	
16.	DAVID N. WATSON	W.T.O.A.	BOARD MEMBER - W.T.O.A.	0725166934	
17.	VINCENT AGEI	KTDA	BM	0720691915	
18.	Francis Mwangi	KTDA	Bm	0727305070	
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THIRTEENTH PARLIAMENT – FOURTH SESSION – 2025
DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK







WITNESS ATTENDANCE REGISTER

AGENDA: Stakeholder engagement on the Tea (Amendment) Bill (Senate Bill No. 1 of 2023)

DATE: Tuesday, 10th June 2025

VENUE: Committee Room 18/19, 3rd Floor, Bunge Tower, Parliament Buildings

NO.	NAME	INSTITUTION	DESIGNATION/RELATION	CONTACT NO.	SIGNATURE
1.					
2.	Matthew Odoro	KTDA	Group Company Secretary	0722741721	
3.	COLLINS BETT	KTDA	MD KTDA (MS)	0722748445	
4.	Omwenko Ombasa	KTDA	Bm zone 11	0722736717	
5.	James Gitanyi Mwangi	KTDA	Bm Zone 2	0701544395	
6.	Abdi K. Hussein	KATTA	Chairman	0721702394	
7.	Enos Njeru	KTDA	Bm Zone 6 - Embu	0711220022	
8.	Francois Wanyam	KTDA	Bm Zone 12	0727305070	
9.	ARIOTI VINCENI	KTDA	Bm Zone 10	0720691915	

NO.	NAME	INSPECTION	DESIGNATION IN FIELD	CELLPHONE	SIGNATURE
10.	SAMSON KAMUNYA	KALRO-Bioteknologi	Centre Director CORPORATION SECRETARY	0722282741	
11.	PATRICIA A. NGUTU	KALRO	LEGAL SERVICES	0720384487	
12.	PHILIP K. LANGAJI	KITA - DIRECTOR	BOARDS MEMBER	0721223048	
13.	PROF. MARTIN BRANDA	ITEA LTD.	C.E.O.	0722170767	
14.	Caeser M. Thairu	ETA TEABROKERS UHAR.	TEA BROKER ASSO: CHAIRMAN	0722853306	
15.	DAVIS IGHOHO	KITA DIRECTOR	DIRECTOR	0722684550	
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THIRTEENTH PARLIAMENT – FOURTH SESSION – 2025
DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

WITNESS ATTENDANCE REGISTER

AGENDA: Stakeholder engagement on the Tea (Amendment) Bill (Senate Bill No. 1 of 2023)

DATE: Tuesday, 10th June 2025

VENUE: Committee Room 18/19, 3rd Floor, Bunge Tower, Parliament Buildings

NO	NAME	INSTITUTION	DESIGNATION/TITLE	CELLPHONE	SIGNATURE
1.	Chege Francis	K TDA (H) Ltd	National Chair	0722510118	
2.	SIMEON K RUGUTT	K TDA (H) Ltd	Finance Director	0422887449	
3.	GEORGE OMVETA	EATIA	Managing Director	0723792731	
4.	LINDAH OLUOCH	K.T.G.A	Chief Executive	0717587508	
5.	John Waisang	K TDA	Board member	072514944	
6.	John Karuri	TBSK	HOF	0723402043	
7.	Peris Muedida	Tea Board of Kenya	Director Legal Services/Corporate Secretary	0722783122	
8.	Lilian Kerio	KALRO-TRI	Institute Director	0721-397415	
9.	CATHERINE MANKURA	K TDA (H) Ltd	BM	0715671662	

THE PROPOSED TEA (AMENDMENT) BILL, 2023

(SENATE BILL NO. 1 OF 2023)

CLAUSE	PROPOSING ENTITY	PROVISION IN THE BILL	PROPOSED AMENDMENT	RATIONALE
LONG TITLE	KALRO-TRI	A Bill for AN ACT of Parliament to amend the Tea Act to provide for direct sales of tea, the payment of tea proceeds, and for connected purposes.	Amend the overall purpose to read as follows— <i>“AN ACT of Parliament to amend the Tea Act to provide for direct sales of tea, the payment of tea proceeds, governance of Tea Research Foundation, and for connected purposes”</i>	TRF yet to be reformed due to structural inadequacy in the principal Act.
2	TEA BOARD OF KENYA (TBK)	(d) in the definition of the word "value addition" by inserting the words "into a packet or a container holding not more than ten kilograms" appearing immediately after the word "branding";	Amend the definition of the "value addition" to read as follows— <i>“value addition” means improvement on tea through blending or flavouring or branding and packaging into a retail packet or a container holding not more than ten kilograms, or tea extracts, tea aroma and decaffeinated tea;”</i>	To provide the correct definition of the word value addition and differentiate value added teas from bulk teas.
	TBK	(Not in the Bill)	Amend the definitions of small scale and medium scale tea growers to read as follows— <i>“small scale tea grower” means a person cultivating tea in a parcel of land of less than ten acres</i>	To align the definitions in the context it is used in the tea industry and ascribe the correct meaning to the amendment on “tea factory limited company”.

			<p><i>supplying green leaf to a tea factory limited company;</i></p> <p><i>"medium scale tea grower" means a person cultivating tea in a parcel of land supplying green leaf to a tea factory limited company;</i></p>	
	EATTA		<p>Amend the definition of "value addition" by inserting the words "into a packet or a container holding not more than ten kilograms" appearing immediately after the word "branding" to read as follows—</p> <p><i>"improvements on made tea through packaging, blending, flavouring, tea extracts, aroma and branding "into a packet or a container holding not more than ten kilograms". This definition restricts value-added tea as being tea packed into a container of not more than 10kg."</i></p>	<p>There are value-added tea products that are packed into 25Kg packages as required by markets like Sudan and others as tea extracts that are packed in drums, therefore going by this definition would exclude those.</p>
	EATTA	<p>"direct sales" means a contractual arrangement between a factory or its management agent and an overseas buyer or local buyer for the sale of made tea based on mutually accepted terms and conditions enforceable in law;</p>	<p>"direct sales overseas" means bulk tea sales exported directly by a tea factory to an export market.</p>	<p>There is no need of two definitions which mean the same. The first definition is preferred as it recognizes that direct sales can either be overseas and locally.</p>

TBK	"direct settlement system" means a banking facility provided by a commercial bank regulated by the Central Bank of Kenya for the clearing and settlement of tea sales proceeds;	Delete the definition		The terms is not used anywhere in the Tea Amendment Bill 2023 or in the Principal Act.
TBK		<p>Insert the following new definitions—</p> <p><i>"bespoke teas" means special-order tea that is manufactured to stipulated customer specifications for a determined customer with the exception of straight-line teas and drier mouth teas'</i></p> <p><i>"e-trader" means a person providing a platform for buying and selling of tea through an e-commerce platform.</i></p> <p><i>"straight-line teas" means "black cut-tear-curl teas that fall within the tea grades offered at the Mombasa Tea Auction including Pekoe Fanning One (PFI), Broken Pekoe One (BPI), Dust-1, Pekoe Dust (PD) and secondary grades"</i></p>	<p>Insert the following new definitions—</p> <p><i>"bespoke teas" means special-order tea that is manufactured to stipulated customer specifications for a determined customer with the exception of straight-line teas and drier mouth teas'</i></p> <p><i>"e-trader" means a person providing a platform for buying and selling of tea through an e-commerce platform.</i></p> <p><i>"straight-line teas" means "black cut-tear-curl teas that fall within the tea grades offered at the Mombasa Tea Auction including Pekoe Fanning One (PFI), Broken Pekoe One (BPI), Dust-1, Pekoe Dust (PD) and secondary grades"</i></p>	<p>To provide for these kind of teas as used in the context of the tea industry.</p> <p>To provide clarity following the proposal to introduce a new Section on e-commerce under Section 34 of the principal Act to allow for sale of tea through e-commerce platform.</p> <p>To provide for these kinds of words as used in the context of the industry.</p>

	KENYA TEA GROWERS' ASSOCIATION (KTGA)		Maintain definition of "value addition" as in Tea Act 2020 as it is appropriate.	This will incentivize value addition, a current priority of the Government through clear, unrestrictive definition.
	COUNCIL OF GOVERNORS (CoG)		Introduce the following new definitions— <i>"County Executive Committee Member" means a County Executive Member for the time being responsible for matters relating to agriculture;</i> <i>"County Executive Committee" means a county executive committee as provided for under Article 179(2) of the Constitution."</i>	To provide for the definition of the County Executive Committee Member responsible for matters relating to agriculture given that tea sector is largely devolved to the County Governments
	KENYA TEA DEVELOPMENT AGENCY HOLDING LIMITED (KTDA)	"tea factory limited company" means a tea factory collectively owned through shares by small scale tea growers or medium scale tea growers.	Include the large-scale tea growers in the definition of the tea factory limited company. Amend the provision to read as follow— <i>"tea factory limited company" means a tea factory collectively owned through shares by small scale tea growers, medium scale tea growers and large scale growers"</i>	The large-scale tea growers and independent factories have been left out of the factory definition. Leaving out the large-scale tea growers from the definition could lead to— (1.) Ambiguity in the application of the law to large-scale tea growers. (2.) Regulatory loopholes, as large-scale growers play a significant role in the tea value chain.

				(3).Inequitable treatment between small-scale tea growers and large-scale producers, which could disrupt market dynamics
	ZONE 7	“tea factory limited company”	The current definition limits tea factory ownership to small- and medium-scale own by shareholding.	Expand this provision to include all tea factories regardless of ownership structure, to ensure inclusivity and avoid discrimination.
3 (s.5(e))	CoG	Section 5 of the principal Act is amended in paragraph (e) by deleting the words “commercial green leaf transporters” appearing immediately after the words “commercial tea nurseries”	Amend the section to read as follows— <i>“Section 5 of the principal Act is amended in paragraph (e) by deleting the words “commercial tea nurseries, commercial green leaf transporters,” appearing immediately after the words “tea auction organizers.”</i>	To align to the provision of section 38 of the Act which mandates the County Governments to register commercial tea nurseries
	KTB		Amend by deleting the word “commercial” before the words green leaf.	Commercial green leaf transporters will be registered by the County Governments and not by the Board. To bring all green transporters within the regulatory ambit of the Tea Act and not just commercial green leaf transporters.
(s.5)	CoG	(Not in the Bill)	Amend sections 5(1)(a)(d)(e) and (f) to read as follows— <i>“5(1). The Board shall-</i> <i>(a) ...</i> <i>(b)...</i> <i>(c)...</i>	Agriculture development and regulation has been fully devolved to County Governments pursuant to the Fourth Schedule of the Constitution. Further, part 2 section 7 of the Schedule gives the County Governments the mandate of Trade development and regulation

			<p><i>(d)make recommendations to the Cabinet Secretary and County Executive Committee Members on the formulation of policies, plans and strategies for the regulation of the tea sector.</i></p> <p><i>(e)register tea buyers, exporters, importers, tea brokers, management agents and tea auction organizers;</i></p> <p><i>(f)issue certificate of conformity to manufacturers;</i></p> <p><i>(l)in consultation with the County Governments, prescribe the maximum period and minimum amount for payment of green leaf”</i></p>	<p>including- markets and trade licensing. It is therefore imperative that the County Governments are involved in the development of the tea industry for the benefit of the farmers.</p> <p>This therefore means that registration of tea growers, licensing of tea dealers and processors as well as licensing of managing factories and their agents is a County mandate as such it is against the Constitution for the Act to purport to assign these mandates to the Board.</p>
(s.5)	ZONE 2 & 3	(Not in the Bill)	Delete (b) & (j); amend (l) to remove minimum payment. Retain maximum payment period.	Conflicting roles and distortion of market dynamics.
(s.5(l))	EAST AFRICA TEA TRADE ASSOCIATION (EATTA)	(Not in the Bill)	The maximum period and minimum amount for payment of green leaf should be negotiated by the producers/farmers and their management or management agent where the case applies. This should be captured in the green leaf supply contracts between the management agent, smallholder farmer and factories. The issue should be part of the regulations to be assigned for supervision by the Tea Board of Kenya.	The price of tea is depended on the forces of demand and supply and therefore by the Tea Board setting a minimum amount and the period of payment of greenleaf, it does the opposite than liberalize the tea sector as intended. The provision constitutes restrictive trade practices prohibited under Section 21(3)(a) of the Competition Act and is therefore illegal. Section 21 of the Competition Act deals with “Restrictive trade practices” and clause (3) directs that

				<p>one of the restrictive practices include “directly or indirectly fixes purchase or selling prices or any other trading conditions”.</p> <p>Therefore, providing for price fixing by the Tea Board of Kenya on greenleaf does not allow for private enterprise which enables the producer and buyer to engage and determine the price of tea as is the current practice.</p>
<p>4 (s7(1)(f),(2),(3))</p>	<p>ZONE 2 & 3</p>	<p>4.The principal Act is amended in section 7 by-</p> <p>(a) (i) deleting subsection 1(d); (ii)inserting the following new subsection immediately after subsection(1h)- (ha)one person elected by the Independent Producers Association of Kenya.</p> <p>(b)deleting subsection (2) and substituting therefor the following new subsection—</p>	<p>Replace with a minimum of seven (7) directors representing the smallholders from East and West regional block.</p>	<p>Underrepresentation of smallholders at the Tea Board of Kenya;</p>

		<p>(2)The Cabinet Secretary shall appoint the members under subsection (1)(e),(f),(g),(h)and (ha)by notice in the Gazette,</p> <p>(c)deleting subsection (3) and substituting therefor the following new subsection—</p> <p>(3)The appointment of the chairperson or members of the Board under subsection (1)(a), (e), (f),(g),(h)and (ha) and shall take into account the gender, regional and other diversities of the people of Kenya.</p>		
	EATTA	<p>(a) (i) deleting subsection 1(d);</p> <p>(ii)inserting the following new subsection immediately after subsection(1h)-</p>	EATTA supports the composition of the Board.	The Board should to include a representative of the Independent Tea Producers Association of Kenya. They account for almost 100 million kilos of made tea per year and support over 210,000 farmers.

		(ha)one person elected by the Independent Producers Association of Kenya.		
	EATTA	<p>(b)deleting subsection (2) and substituting therefor the following new subsection—</p> <p>(2)The Cabinet Secretary shall appoint the members under subsection (1)(e),(f),(g),(h)and (ha)by notice in the Gazette,</p> <p>(c)deleting subsection (3) and substituting therefor the following new subsection—</p> <p>(3)The appointment of the chairperson or members of the Board under subsection (1)(a), (e), (f),(g),(h)and (ha) and shall take into account the gender, regional and other diversities of the people of Kenya</p>	The above amendment removes the principle Act's position requiring the Cabinet Secretary to appoint the Principal Secretary responsible for National Treasury or a representative nominated by the Principal Secretary by notice in the Gazette and further the said appointment not to be subjected to compliance with gender, regional and other diversities of Kenyan people. It is imperative that this appointment remains as so being a public appointment.	There is no rationale for this amendment.

(s.7(f))	KTDA		Amend section 7(f) by deletion of the following words “four persons, two...”and replacing thereof with the words “six persons, three.....”	This representation of the small holder is in adequate as compared to the area they represent.
5 (s.8(2))		<p>5. The principal Act is amended in section 8 by—</p> <p>(a)deleting subsection (1) and substituting therefor the following new subsection—</p> <p>(1)The persons appointed under section 7(1)(a),(e),(f), (g), and (h), shall serve for a term of three years' renewable once on account of good performance.</p> <p>(b)deleting subsection (2) and substituting therefor the following new subsection-</p> <p>(2)The persons appointed under section 7(1)(a),(e), (f), (g), and (h) shall be appointed at</p>	Amend to stagger board tenures within one quarter and prohibit board meetings during lapses.	Potential board vacuum and governance risks.

		different times so that their respective expiry of terms of office shall fall at different times but not more than six months shall lapse between one appointment and another.		
(s.8(1))	EATTA	(1)The persons appointed under section 7(1)(a),(e),(f), (g), and (h), shall serve for a term of three years' renewable once on account of good performance.	The provision "on account of good performance" be expunged from the clause as there exists no objective criteria to determine what constitutes good performance.	
(s.20(1))	CoG	(Not in the Bill)	Amend the section 20(1) to read as follows— <i>“Functions of County Governments 20(1)Pursuant to the Fourth Schedule of the Constitution — (a)the Board, on behalf of the national government, shall be responsible regulation of imports, exports, development and enforcement of standards in the tea sector. (b)each County Government shall implement the national policies to the extent that the policies relate to the county and in</i>	This is to align the provisions of the Act to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the County Governments shall be responsible for development and regulation of agriculture and trade including markets, trade licenses and fair-trading practices.

			<p><i>particular shall be responsible for —</i></p> <ul style="list-style-type: none"> <i>(i) the development of tea grown within the county;</i> <i>(ii) register tea growers, tea factories, commercial tea nursery operators, green leaf transporters; warehouse operators, tea packers and manufacturers;</i> <i>(iv) licence tea manufacturers;</i> <i>(v) offer and coordinate of extension services on tea production and milling in the respective county;</i> <i>(vi) inspect tea nurseries, processors and warehouses located within their respective counties;</i> <i>(vii) enforce county and national legislation on tea industry code of practice and other industry standards;</i> <i>(vii) in collaboration with the Board and law enforcement agencies, enforce regulations within the county;</i> <i>(viii) soil and water conservation;</i> <i>(ix) monitor and report of incidences of pests and disease outbreaks and taking appropriate action in collaboration with the Board</i>
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			<p><i>and other relevant government agencies;</i> <i>(x)regulation of cooperative societies within the county; and</i> <i>(xi) soil and water conservation.”</i></p>	
	KTDA	(Not in the Bill)	Delete Section 22(1)	<p>The justification for leaving the number of directors open to the Articles is because of the various factors such as</p> <ul style="list-style-type: none"> (a) the turnover of the Tea Factory Company; (b) the shareholding of the Tea Factory Company; (c) The geographical administration of the various Tea Factory Companies Limited; (d) The flexibility in the management of the tea factory
(s.21(2))	CoG	(Not in the Bill)	<p>Amend clause 21(2) and introduce a new clause 21(3) to read as follows—</p> <p><i>“21(1) Every tea grower shall register with a processor.</i> <i>(2)Every processor shall keep or cause to be kept for statistical purposes, a register of all tea growers registered with under subsection (1) specifying-</i> <i>(a) the name of the grower;</i></p>	<p>To provide for a framework where the processors operating in the county shares the information of the registered growers with the respective county government for purposes county statistics on tea production.</p>

			<p><i>(b)the location, size and parcel number of the land on which the tea is grown;</i></p> <p><i>(c)the variety of tea grown;</i></p> <p><i>and</i></p> <p><i>(d)such other information as the County Government may prescribe.</i></p> <p><i>(3)Every processor shall share the information on the registered tea growers with the respective county government.”</i></p>	
(s.21(2)&(6))	CoG	(Not in the Bill)	<p>Amend section 21(2) and (6) to read as follows—</p> <p><i>“21(2)The respective County Executive Committee Member with the approval of the County Assembly, shall prescribe regulations providing for the procedure for registration of small-scale tea growers and medium scale tea growers and the appeal process in case of refusal or denial of registration;</i></p> <p><i>(6) The tea factory shall furnish the County Executive Committee Member with particulars of all registered small scale tea growers or medium scale tea growers in such manner as the</i></p>	<p>To align to our proposal under section 20 above and provide for consultations in the regulatory making process.</p>

			<p><i>County Executive Committee Member may prescribe.</i></p> <p><i>6A. The County Executive Committee Member shall share with the Board the particulars of all registered small scale tea growers or medium scale tea growers in the county.</i></p>	
6 (s.22)	ZONE 7	Section 22 of the principal Act is amended in subsection (4) by inserting the word "factory" immediately after the words "their duties the".	Proposes changes to the composition of the Board to 5 out of which 3 will be elected directors.	Leave the composition and size of the factory Boards to the memorandum and articles of association of each factory. Maintain existing zones and six elected directors to preserve fair representation.
(s22(1) &(2))	ZONE 5		<p>Amend section 22 (1) by removing "maximum of five" and replace with " Minimum of six and maximum of nine members" to read as follows—</p> <p><i>22. Board of directors of tea factory limited companies</i></p> <p><i>(1) The Board of Directors of tea factory limited companies shall be a minimum of six members and a maximum of nine members</i></p> <p><i>(2) The Board shall co-opt such directors in conformity with clause 22(1) above to achieve gender parity to ensure that not more than two-thirds of the Board of Directors of tea</i></p>	Section 22 caps the number of directors in a Tea Factory Company Limited to a maximum of five members.

			<i>factory limited companies elected or appointed are of the same gender.</i>	
(s.22)	KTB		Amend Section 22 by deleting subsection (1) and renumbering subsections (2), (3), and (4) accordingly	Delete section (1) as the size of the Board of tea factory companies is provided for under the Articles of Association.
(s.22,(2),(4))	ZONE 2 & 3		Delete (2); amend (4). Appointment should be as per the respective factories MEMARTS.	Interference with Company Governance.
7 (s.23(1A))	KTGA	<p>Section 23 of the principal Act is amended—</p> <p>(a)by inserting the following new subsection immediately after subsection(1)—</p> <p>(1A)A large scale tea grower shall notify the Board of any intended sale or transfer of ownership of its holding six months before the transaction is effected.</p> <p>(b)in subsection (2) by inserting the words “procedure for transfer</p>	A clarification of the interest sought to be protected that requires disclosure to the Board of large-scale tea grower transactions to the exclusion of other agricultural enterprises or tea enterprises will advise the purpose of the disclosure.	<p>As a strategic sub-sector to the Government, additional requirements for transfer of tea enterprise without appropriate justification presents additional restrictions to the attractiveness of the industry to investors.</p> <p>As intended to apply exclusively to large-scale tea enterprises, the provision is partial and unduly prejudicial to large-scale tea enterprises. The Companies Act, Transfer of Business Act, Income Tax Act, Capital Markets Regulations and Finance Act 2020 provide adequate and justifiable grounds for disclosure of transfers of business enterprises.</p> <p>The proposal duplicates measures in other legislations without sufficient basis or justification of the interest intended to be preserved; it further</p>

		of large scale tea holdings” immediately after the words “providing for the”.		falls short of constitutional requirements for equity, equality and freedom from discrimination of a person, legal or juristic. It is contrary to Article 48 on fair administrative action. It will unjustifiably prejudice large-scale tea enterprises in seeking to attract investment despite the existence of less restrictive means to monitor transfer of business enterprises and attaching interests provided in the above-named legislations within the current laws of Kenya.
(23(1)&(2))	CoG		Amend section 23(1) and (2) to read as follows— <i>“23(1) A large scale tea grower shall register with the respective County Executive Committee Member in a prescribed form and shall pay the prescribed fee. (1)(A)The County Executive Committee Member share the particulars of the large scale tea growers with the Board in a prescribed form. (2) The Cabinet Secretary in consultation with the County Governments shall prescribe regulations providing for the procedure for registration of</i>	This is to align the provisions of the Act to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the County Governments shall be responsible for development and regulation of agriculture and trade including markets, trade licenses and fair trading practices.

(s.25)	CoG	(Not in the Bill)	<p><i>large scale tea growers and the appeal process in case of refusal or denial of registration”.</i></p> <p>Amend section 25 to read as follows—</p> <p>“25(1) <i>A person shall not manufacture tea for sale except under and in accordance with a licence issued under this Act.</i></p> <p>(2) <i>A person shall apply for a manufacturing licence to the respective County Executive Committee Member in a prescribed form and shall pay the prescribed fee.</i></p> <p>(3) <i>The County Executive Committee Member may,—</i></p> <p>(a) <i>issue a manufacturing licence, in accordance with this Act;</i></p> <p>(b) <i>refuse to issue the licence on any ground which may appear to the County Executive Committee Member to be sufficient and inform the applicant in writing of the reasons thereof;</i></p> <p>(5) <i>Before the issuance or renewal of a manufacturing</i></p>	<p>This is to align the provisions of the Act to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the County Governments shall be responsible for development and regulation of agriculture and trade including markets, trade licenses and fair trading practices.</p>
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			<p><i>licence for a tea factory limited company the County Executive Committee Member shall satisfy itself that the applicant has obtained a certificate of conformity from the Board and a procurement policy providing for competitive procurement of goods and services."</i></p>	
(s.25(3))	KTB	(Not in the Bill)	<p>Section 31 of the principal Act is amended by deleting "after consultation with the Cabinet Secretary".</p>	<p>Issuance of licenses and registrations is not a policy issue but is one of the routine functions of the Board as a semi-autonomous State Corporation. The requirement to consult the Cabinet Secretary during issuance of licenses be deleted.</p> <p>Appeals on issuance or non-issuance to be made to the Cabinet Secretary.</p>
PROPOSED NEW SECTION 25(6)	KTB	(Not in the Bill)	<p>Amend Section 25 by adding a new subsections as to read follows—</p> <p><i>"(6)A holder of a tea manufacturing license shall notify the Board of any intended sale or transfer of ownership of its holdings 6 months before the transaction is effected.</i></p>	<p>To manage significant changes in ownership of a tea factory that may have material effects or impact on the tea value chain.</p>

			<i>(7)The Cabinet Secretary shall make regulations to provide for transfer of holdings of a tea manufacturer."</i>	
(s.28)	CoG	(Not in the Bill)	Amend section 28 to read as follows— “28(1)Every warehouse operator shall register with the respective County Executive Committee Member. (2) A person shall not store tea unless the person is registered in accordance with this Act. (3) The Cabinet Secretary shall, in consultation with the County Governments prescribe regulations providing for the procedure for registration of warehouse operators”	This is to align the provisions of the Act to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the County Governments shall be responsible for development and regulation of agriculture and trade including markets, trade licenses and fair trading practices.
(s.29)	CoG	(Not in the Bill)	Amend the section 29 to read as follows— “29 (1)Every tea packer shall register with the respective County Executive Committee Member. (2)A person shall not pack tea unless the person is registered in accordance with this Act. (3) The Cabinet Secretary shall , in consultation with the County Governments prescribe	This is to align the provisions of the Act to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the County Governments shall be responsible for development and regulation of agriculture and trade including markets, trade licenses and fair trading practices.

			<i>regulations providing for the procedure for registration of tea packers and the appeal process in case of refusal or denial of registration."</i>	
(s.30 to 32)	ZONE 2 & 3	(Not in the Bill)	Remove "exporting" from registration; brokers to submit brokerage agreements and appointed by the tea factories boards.	Export and brokerage overregulation.
8 (s.31)	KTB	Section 31 of the principal Act is amended by inserting the following new subsection immediately after subsection(1)- “(1A)All tea brought into a Special Economic Zone or an Export Processing Zone shall be declared to the Board in the prescribed form.”	Section (1A) to be under a different margin note not imports.	Teas destined for Special Economic Zone or Export Processing Zone are not necessarily imports.
(s.31)	EATTA		EATTA recommends the removal of the inclusion of EPZ facilities from the Tea act as the EPZ objective are to increase;- (a) foreign exchange through increased exports; (b) job creation. (c) foreign direct investment (FDI) to the host country;	The EPZ Act part VIII Section 29(f) provides that EPZ enterprises enjoy exemption from quotas or other restrictions or prohibitions on importer export trade with the exception of trade in firearms, military equipment or other illegal goods; There is a contradiction between the EPZ Act and the Tea Amendment

			<p>(d) the introduction of technology into the country;</p> <p>(e) generate backward linkages from the EPZ to the domestic economy;</p> <p>Among the benefits of operating inside an EPZ are “exemption from quotas or prohibition on import or export trade” with the exemption of trade in firearms, military equipment or other illegal goods</p> <p>Other Agro-manufacturing factories operating inside Export Processing Zones have exempted EPZs from their Act examples; Horticultural Crops and Nut & Oil Crops (see attached copies of their Acts).</p> <p>Kenya should strive to become the international blending floor for teas from Africa (similar to what is happening in Dubai Tea Trade Zone) which has become the largest value addition centre in the world. Putting restrictions on imports of teas for blending into Kenya will make packing teas outside Kenya more attractive.</p>	<p>Bill. EPZ's benefit from unrestricted imports and are therefore outside the mandate of the Tea Board. Therefore, the requirement for Tea Board to require an EPZ enterprise to declare imports of tea into the EPZ contradicts the EPZ Act and negates the benefits that EPZ are accustomed to.</p>
(s.32)	KTB	(Not in the Bill)	<p>(a) Section 32 of the principal Act is amended in subsection (4) by deleting the words “limited</p>	<p>To provide clarity on the application of the provisions of Section 32 (4) as being applicable to all tea factories.</p>

			<p>company" appearing immediately after the words "a tea factory"</p> <p>(b) Section 32 of the principal Act is amended—</p> <p>(i) by adding a new subsection 3(c) to read as follows—</p> <p><i>“(c)the remuneration paid to a tea broker by a tea factory limited company and a tea buyer or exporter for services rendered.”</i></p> <p>(ii) in subsection (4) by deleting the words "limited company" appearing immediately after the words "a tea factory"</p>	<p>The rates payable for services rendered by tea broker by a tea factory or a tea buyer/exporter to be prescribed through regulations</p> <p>To provide clarity on the application of the provisions of section 32 (4) as being applicable to all tea factories.</p>
32(3)(b)	EATTA	(Not in the Bill)	In the spirit of liberalized business practice and growth advocated by the current government and in compliance with the Competition Authority Act of 2010, the number of factories served should be left at the discretion of the producers to negotiate and elect the Tea Brokers they would like to contract and do business with without any restrictions.	The number of Tea factories handled by a Broker is negotiated and dependent on a Broker's capability, infrastructure, value proposition and individual effort. The brokers handle producer factories from the East and Central African region and the basis of factory acquisition is in the provision of good service as well as the customer client relationship.
(s.32(4))	CONSENT IN PET No. E016 OF 2021	(Not in the Bill)	Amend Section 32 by deleting subsection 4 in its entirety and	The remuneration paid to a tea broker by a tea factory limited company and

			<p>substituting it with the following provisions—</p> <p>(4)Prescribe regulations providing for the remuneration paid to a tea broker by a tea factory limited company and a tea buyer or exporter for services rendered.</p>	<p>a tea buyer or exporter for services rendered shall not exceed zero point seven five per centum of the gross sales by the broker.</p>
(s.32(4))	EATTA	(Not in the Bill)	<p>This clause belongs to the regulations and should be domiciled in the regulations and should be expunged from the Tea Act. It is EATTA's view that in order to ensure a smooth running of the Mombasa Auction and to meet the members' obligations, like all other payments for services, this should be negotiated by the Tea Brokers, Producers, Buyers and the Managing Agents where it's applicable and should be captured in the contracts between the Brokers and the Producers. These agreements should be deposited with the Tea Board of Kenya and other Tea Boards and country tea Associations of various member countries.</p> <p>As a way forward and in order to unlock the current deadlock on the Court cases in Kenya. EATTA recommends that the brokers commission be retained at the 1.25%</p>	<p>Brokerage commission is currently agreed among the three parties concerned namely Producers from East and Central Africa, Buyers and Brokers. Currently the tea brokers receive a brokerage commission of 1.25% which is distributed as follows; 0.75% by the tea producer/factory and 0.5% is paid by the tea buyer. The amount is used to fund the Auction activities, Sampling, tea evaluation, producer visits, marketing and other technical support provided by the brokers to the producers and Buyers. We note that there was no consultation when the rate was reduced. Reduction of brokers' remuneration by 40% as proposed in the act will greatly compromise the services provided and lead to closure of some brokerage organization and distort the tea trade.</p>

			(0.75% from the producer and 0.5% from the Buyers) and thereafter be reviewed by all parties based on the services provided by the Brokers.	
9 (s.34)	KTB	Section 34 of the principal Act is amended in subsection (4) by deleting the words "one point five per centum" appearing immediately after the words "shall not exceed" and substituting therefor the word "two per centum"	Delete	It will increase the cost of production for small holder tea factories thus decreasing earnings by tea farmers.
(s.34(4))	CONSENT IN PET No. E016 OF 2021		Amend Section 34 by deleting subsection 4 in its entirety and substituting it with the following provisions— (4)The Cabinet secretary shall prescribe regulations providing for the remuneration payable for services rendered by the management agent.	The remuneration for services rendered by a management agent to a tea factory limited company shall not exceed one point five per centum of the net sales value of the tea sold per year.
10 (s.34(9))	KTDA	Section 34 of the principal Act is amended in— (a)subsection (2) by deleting the words "limited company" appearing immediately	Delete Section 34(9)	The Companies Act stipulates how directors of a company are to be elected, number of directors as well as their tenure, and how to deal with conflict of interest which should be in line with the Tea Factory Articles of Association.

		<p>after the words "each tea factory";</p> <p>(b)subsection (7) by inserting the words "limited company" immediately after the words "A tea factory",</p> <p>(c)subsection (8) by inserting the words "limited company" immediately after the words "tea factory";</p> <p>(d)subsection (9) by inserting the words "limited company" immediately after the words "tea factory"; and</p> <p>(e)subsection (10) by inserting the words "limited company" immediately after the words "tea factory".</p>		<p>The Tea Act should therefore not impose the manner in which the directors should engage once elected by farmers.</p> <p>The Companies are owned by related parties and as shareholders they have a right to appoint a director to represent them in the Board.</p>
(s. 34A,36A,36B)	ZONE 2 & 3		<p>Amend to empower factories, include pricing flexibility, and allow factory-approved disbursement instructions. Delete auction price reference as binding for direct sales.</p>	<p>Direct sales and settlement system unclear.</p>

<p>(s.34(3(a) &(4))</p>	<p>EATTA</p>		<p>Section 34(3)(a) and 34(4) of the Principal Act should be deleted and addressed under the regulations in sections 74(b) and (c) on page 15 of the Tea (Amendment) Act 2023.</p>	<p>The amendment seeks to only amend the provisions to refer to tea factory as opposed to tea factory limited referred in the Tea Act. However, it is our position as a major tea stakeholder that Section 34(3)(a) and 34(4) of the Principal Act required a further amendment as it pertains to issues of remuneration of management agents. These two provisions should be captured in the regulations.</p> <p>Secondly the matters of concern pertain to specific issues appropriately addressed by other laws such as the Companies Act, the Competition Act and the Law of Contracts Act; and are restricted to operations of a specific segment of industry. Further, perceived non-compliance by affected segment can be addressed through enhanced monitoring of overall compliance with the law by the Regulator without blanket stipulation of duplicated requirements to be applicable industry-wide.</p> <p>In addition, the Tea Board of Kenya cannot review contracts made by companies out of their own volition. Allowing this, more specifically bylaw restricts the freedom of</p>
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				contracts protected under Law of Contract and the Constitution.
11 (s.34A)	KTB	<p>The principal Act is amended by inserting the following new sections immediately after section 34—</p> <p>34A.(1) Kenyan tea shall be traded through— (a) the auction; or (b) direct sales.</p> <p>(2) All tea processed and manufactured in Kenya for the export market shall be registered with the Board prior to exportation.</p>	<p>Amend by inserting the following subsection—</p> <p><i>“34A(1)(c) e-commerce.</i></p> <p><i>34A(2) The Cabinet Secretary may prescribe regulations providing for the sale of teas through the auction, direct sales and e-commerce.”</i></p>	<p>To allow for sale of tea through commerce platform.</p> <p>To ensure sale of teas through auction, direct sales and e-commerce is competitive and is not prone to abuse</p>
(s34A(2))	KTDA		Delete Section 34 A(2)	<p>This will create bottlenecks as there will be delay in exportation of the tea.</p> <p>The requirement also duplicates duties undertaken by different government bodies in registering tea for the export market such as KEPHIS.</p>
(s.34 to 36)	ZONE 2 & 3		Allow both auction and direct sales; permit appointed marketing agents; remove auction exclusivity; restore direct factory control.	Restrictive marketing regulations.

12 (s36(6)(a))	ZONE 7		Requires 50% payment to growers of tea proceeds within 30 days of receipt of tea proceeds	Remove the mandatory 30-day 50% payment requirement. Let factory boards determine payment timelines.
(s.36)	CONSENT IN PET No. E016 OF 2021		Amend Section 36 by deleting subsection 1 in its entirety and substituting it with the following provisions— (1)All teas processed and manufactured in Kenya for the export market shall be registered with the Board prior to exportation: (2)All tea exports offered for sale through direct sales overseas and local sales, by a tea producer shall be sold at prices above the prevailing auction price of the specific producer garden mark (3)The Cabinet Secretary shall prescribe regulations providing for the better carrying out of direct sales overseas	All teas processed and manufactured in Kenya for the export market with the exception of orthodox and specialty teas shall be offered for sale exclusively at the tea auction floor.
(s.36(2))	EATTA	Section 36 of the principal Act is amended— (a)by deleting subsection (1) and substituting therefor the following new subsection—	Amend from the previous draft Tea Bill 2023.	A tea factory can be allowed to register with the auction organizer or participate in the auction through the management agent.

		<p>(1) Tea processed and manufactured in Kenya for the export market may be offered for sale at the tea auction floor.</p> <p>(b) by deleting subsection (2) and substituting therefor the following new subsection—</p> <p>(2) A tea factory that intends to participate in a tea auction shall—</p> <p>(a) register with the Board and the auction organizer; and</p> <p>(b) participate in the auction directly or through a management agent approved under section 34.</p> <p>(c) in subsection (5) by inserting the words “and paid to the tea growers” immediately</p>		
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		<p>after the words "tea factory accounts"</p> <p>(d)by deleting subsection(6)</p> <p>(e)by inserting the following new subsection immediately after subsection(7)-</p> <p>(8)The Cabinet Secretary shall, in consultation with the county governments prescribe regulations for the procedure for auction sales of tea and for the establishment of auction centres in the tea growing counties.</p>		
(s.36(5))	KTB	(c)in subsection (5) by inserting the words " and paid to the tea growers" immediately after the words "tea factory accounts"	Delete	The proposed amendment will be difficult to implement as proceeds from tea sales for the entire month are aggregated in the tea factories account and then paid to the tea grower by the 5th of the following month.

(s.36(6))	KTB	(d)by deleting subsection(6)	Amend to read as follows— “Section 36 (6) of the Principal Act is amended by deleting the words “receipt of proceeds of sale of tea” before the words pay tea growers and substituting with the words "of delivery of green leaf.”	Deleting Section 36(6) will remove the safeguards in the Act meant to ensure tea growers are paid on time from the proceeds of sale
(s.36(6))	ZONE 5		Amend Section 36(6)(a) by replacing 50% with one third to read as follows: <i>(6) A tea factory shall within thirty days of receipt of the proceeds of the sale of tea, pay tea growers— (a)at least one third of payment due for green leaf delivered every month;</i>	Please bear in mind that the poor small scale tea farmers through the Factory Companies are already saddled with very many taxes, levies and other outgoing payments that are made to the National and county Governments and other bodies to the tune of over Forty (40) taxes and levies.
(s.36(7))	KTGA	(8)The Cabinet Secretary shall, in consultation with the county governments prescribe regulations for the procedure for auction sales of tea and for the establishment of auction centres in the tea growing counties”	Delete sub-clause (8) and maintain the clause in the Tea Act at section 36(7) which allows for competitiveness and disclosure of auction rules by the organizer to the Board.	The disruption of the existing auction will destabilize the sector trade and occasion loss of competitive advantages of a centralized, conveniently located auction attracting multiple buyers globally and suitably located at the regional logistics hub at the port of Mombasa. The proposal which envisions the setting up of auction centres within the counties, will compromise the benefits of a centralized auction location and platform, currently

				bringing together teas from the region and which has the convenience of accessibility to the port critical for logistical ease in the shipment of exports.
(s.36(7))	EATTA		Delete sub-clause (8) and maintain the clause in the Tea Act at section 36(7) which allows for competitiveness and disclosure of auction rules by the organizer to the Board.	The proposal which envisions the setting up of auction centres within the counties, will compromise the benefits of a Centralized Multi-origin auction location and platform, currently bringing together teas from the region (East and Central Africa) and which has the convenience of accessibility to the port and attraction of many Global Tea Buyers.
(s.36(2))	EATTA		It was the position of EATTA that a tea factory can be allowed to register with the auction organizer or participate in the auction through the management agent. We therefore the proposed amendment from the previous draft Tea Bill 2023.	
13 (s.36A(1) &(2))	KTGA	13. The principal Act is amended by inserting the following new sections immediately after section 36— 36A.(1) A licensed factory or a management agent approved under section 34 may	(a) adopt Clause 36A (1); (b) delete the proposed Clause 36A (2) and (3) from the Bill. These stipulate price and procedure for direct sales; and (c) delete the phrase “in consultation with County Governments” from Clause 36A (3).	There exists a procedure for direct sales and related disclosures which can be monitored through regulatory oversight, and enhanced through digitization of data collection from industry. Provisions in regulations whose implementation can be overseen by the Regulator would also suffice; and may easily be reviewed as appropriate based on the regulator’s

		<p>undertake direct sales.</p> <p>(2)The prices offered at the direct sales shall be competitive and shall be sold at a price above the highest price recorded at the auction within the three months preceding the sale.</p> <p>(3)The Cabinet Secretary shall, in consultation with county governments, prescribe regulations for the procedure of direct sales of tea.</p>		<p>observations, a flexibility that a provision in the Act will not allow.</p> <p>Allowing direct sales is advantageous to industry as it opens up avenues for tea marketing and sales.</p> <p>Stipulate procedures that are not restrictive of trade through Regulations and not in the Act. Stipulation of price and procedure in the Act presents the risk of overregulation; and will disrupt business efficiencies and competitiveness.</p>
36A(2)&(3)	EATTA	<p>(2)The prices offered at the direct sales shall be competitive and shall be sold at a price above the highest price recorded at the auction within the three months preceding the sale.</p>	Delete the proposed Clause 36A (2) and (3) from the Bill.	<p>The stipulation of a price for the direct sale of tea is anti-competitive and will be unduly prejudicial to tea producers for the following reasons;</p> <p>(1.)It fails to take into consideration the global market dynamics which may enable realisation of better prices at any subsequent auction; and will effectively, restrict price discovery by producers through stipulating an "acceptable/ceiling price" for the teas.</p>

				<p>(2.)The requirement disregards that some teas are produced for special orders of direct buyers overseas and therefore attract much higher, premium prices due to the customer specifications. This stipulation of prices will restrict price discovery for forward contracts, a critical avenue for marketing of Kenyan teas. It is unclear whether all teas will be required to be presented at the Auction floor for the assessment of the price. If so, this will increase logistical and administrative costs and occasion marketing and trade inefficiencies.</p> <p>(3.)The proposal is unduly prejudicial to processors of tea as businesses that should have freedom to sell their tea at an appropriate price/set price to ensure the business remains sustainable.</p> <p>(4.)This price stipulation would restrict free trade and reduce competitiveness of Kenyan teas against other regional producers.</p>
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				There exists a procedure for direct sales and related disclosures which can be monitored through regulatory oversight. Provisions in regulations whose implementation can be overseen by the Regulator would also suffice; and may easily be reviewed as appropriate based on the regulator's observations, a flexibility that a provision in the Act will not allow.
(s.36A(2))	KTDA	(2)The prices offered at the direct sales shall be competitive and shall be sold at a price above the highest price recorded at the auction within the three months preceding the sale	Amend the provision to read as follows— <i>"(2)The prices offered at the direct sales shall be sold at a price above the average price recorded at the auction within the three months preceding the sale."</i>	Direct sales offer exporters and buyers the flexibility to negotiate prices based on market conditions, demand, and tea quality. Tying direct sales to the highest auction prices will limit this flexibility. Requiring prices to exceed auction highs could make Kenyan tea less competitive in the international market, as buyers may shift to other tea-producing countries offering better pricing flexibility. Direct buyers may avoid Kenyan tea due to the artificial price floor, reducing demand and potentially leading to an oversupply in the market which could depress overall prices.
(s.36(6)(a))	ZONE 5		Amend Section 36(6)(a) by replacing 50% with One Third as to read follows:	

			<p><i>"(6) A tea factory shall within thirty days of receipt of the proceeds of the sale of tea, pay tea growers—</i></p> <p><i>(a) at least One third of payment due for green leaf delivered every month;"</i></p>	
(s.36A(3))	EATTA	(3)The Cabinet Secretary shall, in consultation with county governments, prescribe regulations for the procedure of direct sales of tea.	delete the phrase "in consultation with County Governments" from Clause 36A (4) since consultation with county governments in the stipulation of procedure for direct sales will be unconstitutional for delegating national policy development for a scheduled crop to the county government.	Requiring county government consultation for tea trading will create inefficiencies, restrict trade, and conflict with national economic policies. It discriminates against tea businesses compared to other sectors and lacks clarity on the issue it aims to address. Additionally, it is unconstitutional to delegate tea policy direction to county governments.
(s.36A(3))	KTDA		<p>Amend the provision to read as follows—</p> <p><i>"(3)The Cabinet Secretary shall, in consultation with the Council of Governors, prescribe regulations for the procedure of direct sale of tea."</i></p>	<p>Engaging with the county governments individually may lead to delays and inconsistencies in the formulation of regulations.</p> <p>Different counties may prioritize their unique interests, complicating the development of cohesive national-level policies for the tea sector.</p> <p>The Council of Governors serves as a collective representative body for all counties, providing a single platform for engagement with the national government.</p>

				Consulting the Council of Governors will ensure that county-level interests are uniformly represented while maintaining a national perspective.
(s.36A(3))	KTDA		Delete this provision and retain the Mombasa Tea Auction as the sole auction centre.	<p>Establishing multiple auction centers in tea-growing counties risks segmenting the tea market, leading to difference in pricing. This could dilute Kenya's competitive edge in the global tea market, which benefits from a centralised pricing system.</p> <p>The benefits of having a consolidated auction that accommodates all the teas from the country provides economies of scale that translate to lower auction selling costs for the Producer as well as convenience to the Buyer who when blending different origin teas will need the teas to be easily accessible.</p>
(s.36(6))	KTDA		Delete s.36 (6)	The reason for this is that the implementation will pose a challenge as the amounts payable per Factory Company Limited will vary, thereby taking away from the uniformity of payment within the sector. lower auction selling costs for the Producer as well as convenience to the Buyer who when blending different origin teas will need the teas to be easily accessible

<p>14 (s.37(3))</p>	<p>KTGA</p>	<p>Section 37 of the principal Act is amended—</p> <p>(a) in subsection (1) by deleting the word “Board” appearing immediately after the words “register with the” and substituting therefor the words “respective county government”;and</p> <p>(b)by deleting subsection (3) and substituting therefor the following new subsection—</p> <p>(3)A county Assembly shall enact county legislation to provide for the procedure for registration of commercial green leaf transporters and the appeal process in case of denial of registration.</p>	<p>Delete this clause 37(3). Sufficient provisions exist in County Licensing laws and the Public Finance Management Act.</p>	<p>There exist adequate provisions for transporter licensing in law. A separate procedure for tea transporter registration stands to increase financial and administrative costs of doing business and will create administrative barriers to efficiency of the operations of the sector.</p> <p>The tea sector is strategic to Government and has been prioritized under the Bottom-Up Economic Transformation Agenda (BETA). As such proposals that introduce administrative bottlenecks at county level for the sector go counter to the Government’s commitment to support the growth of the sector.</p>
<p>(s.36A(3))</p>	<p>KTGA</p>	<p>(3)The Cabinet Secretary shall, in consultation</p>	<p>Delete the requirement for its anti-competitive prescriptiveness.</p>	<p>Overly prescriptive requirement in restriction of trade.</p>

		with county governments, prescribe regulations for the procedure of direct sales of tea.”		The Competition Act provides adequate mechanisms for monitoring of price competitiveness and consumer protection. Further, the stipulation in consultation with county governments in governing tea trading will create inefficiencies, restrict trade, and conflict with national economic policies. It discriminates against tea businesses compared to other sectors and lacks clarity on the issue it aims to address.
(s.37)	CoG		Amend the section 37 to read as follows— <i>“37(1) A person who intends to carry on the business of commercial green leaf transporter shall register with the respective County Executive Committee Member. (2) A person shall not carry on the business of commercial green leaf transporter unless the person is registered in accordance with this Act. (3) The Cabinet Secretary shall in consultation with the County Governments prescribe regulations</i>	This is to align the provisions of the Act to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the County Governments shall be responsible for development and regulation of agriculture and trade including markets, trade licenses and fair trading practices.

			<i>providing for the procedure for registration of commercial green leaf transporters and the appeal process in case of refusal or denial of registration."</i>	
(s.38(1))	CoG	(Not in the Bill)	Amend section 38(1) to read as follows— <i>"38(1)A person who intends to establish a commercial tea nursery shall register with the County Executive Committee Member where they intend to establish a tea nursery."</i>	To provide clarity as to whom the application for commercial tea nursery is to be addressed to at the county level.
Proposed New Section 38D	KTB	(Not in the Bill)	38D(1) a person shall not operate a voluntary certification scheme for tea in Kenya without being registered by the Board. (2)A voluntary certification scheme owner or certification agent operating in the tea industry in Kenya shall register with the Board and pay the prescribed fee. (3)The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of voluntary certification scheme owners and certification agents. (4)A person who operates a voluntary certification scheme for tea in	To control the multiplicity of various certifications in the tea sub-sector which are increasing cost of production thus reducing the profitability of tea producers and growers' earnings To ensure tea value chain players get value for services offered by standards owners who have been engaging the tea industry without the knowledge and approval of the industry regulator.

				<p>Kenya without being registered by the Board commits an offence;</p> <p>Amend to read as follows—</p> <p><i>“39(1)The Board or County Executive Committee Member shall, before registering, a licensing or renewing a registration, certificate of conformity or licence under this Act, satisfy itself that—”</i></p>	<p>To recognize the role of the County Executive Committee Members in issuance of licenses under the Act.</p>
(s.39)	CoG	(Not in the Bill)		<p>Amend section 40(1),(2)(4) and (5) to read as follows—</p> <p><i>“40(1)A licence or certificate of conformity issued under this Act shall be subject to such conditions as the Board or County Executive Committee Member may determine and as are specified in the licence or certificate and to any conditions which may be prescribed.</i></p> <p><i>(2)The Board or County Executive Committee Member shall consider the professional and moral suitability of a person applying for a licence or certificate and satisfy itself that such a person is a fit and proper person for the grant of the licence or certificate</i></p>	<p>To recognize the role of the County Executive Committee Members in issuance of licenses under the Act.</p>
(s.40)	CoG	(Not in the Bill)			

			<p>(3)...</p> <p>4) <i>In considering an application for a licence or certificate of conformity, the Board or County Executive Committee Member may require to be satisfied as to —</i></p> <p>(a)...</p> <p>(5)<i>The Board or County Executive Committee Member may at any time during the validity of a licence—</i>“</p>	
PROPOSED NEW SECTION 40B	KTB	<p>Disclosure of Beneficial Ownership of a holder of a license or a registration certificate.</p> <p>(Not in the Bill)</p>	<p>40B.(1) An applicant for a license or a certificate of registration shall disclose information on beneficial ownership of the company or any entity contained in the application;</p> <p>(2)A holder of a license or a certificate of registration shall within 14 days following any amendment of beneficial ownership information, furnish the Board with a copy of the amended beneficial owners' register.</p> <p>(3)A person who fails to comply with Section 40B commits an offence.</p>	<p>To promote transparency in the ownership structures of companies dealing in tea</p> <p>To comply with Section 93A of the Companies Act, 2015 which requires every company registered in Kenya to prepare and keep a register of its beneficial owners.</p>
(s.41)	CoG	(Not in the Bill)	Amend section 41 by deleting the “Board” and replace it with the words	To recognize the role of the County Executive Committee Members in issuance of licenses under the Act as

			<p>“ County Executive Committee Member” to read as follows—</p> <p>“41(1)An application for the renewal of a licence under this Act shall be made to respective County Executive Committee Member in a form prescribed not later than the first day of the month of June in which the current licence is due to expire.</p> <p>(2) Despite subsection (1), a late application may be made upon payment of a late application fee as may be prescribed by the County Executive Committee Member.”</p>	<p>per the provisions of the Fourth Schedule to the Constitution.</p>
(s.42)	CoG	(Not in the Bill)	<p>Amend to read as follows—</p> <p>“42.The County Executive Committee Member may revoke, alter or suspend a licence issued under this Act if in its opinion —</p> <p>(a) an offence under this Act, or in respect of the licensed activity under any other written law, has been committed by the licence holder or any employee of the licence holder; or</p> <p>(b) a condition of the licence has been contravened or not complied with.”</p>	<p>To recognize the role of the County Executive Committee Members in issuance of licenses under the Act as per the provisions of the Fourth Schedule to the Constitution.</p>

(s.43)	CoG	(Not in the Bill)	<p>Amend to read as follows—</p> <p><i>“43. (1) The holder of a licence which is revoked shall immediately surrender it to the County Executive Committee Member.</i></p> <p><i>(2) A licence holder may at any time surrender the licence to the County Executive Committee Member and the licence shall cease to have effect immediately.”</i></p>	<p>To recognize the role of the County Executive Committee Members in issuance of licenses under the Act as per the provisions of the Fourth Schedule to the Constitution.</p>
(s.44)	CoG	(Not in the Bill)	<p>Delete section 44 and replace with the following new section 44—</p> <p><i>“44(1) An applicant for or holder of a certificate who is aggrieved by a decision of the Board may appeal to the Cabinet Secretary on or in respect of—</i></p> <p><i>(a) the grant, refusal, renewal, variation or revocation; or</i></p> <p><i>(b) the conditions imposed on the grant, renewal or variation, of a certificate.</i></p> <p><i>(2) An applicant for or holder of a licence who is aggrieved by a decision of the County Executive Committee Member may appeal to the County Executive Committee through office of</i></p>	<p>To provide for the appeal mechanisms from the decision of the Board and County Executive Committee Members. It is our considered opinion that the High Court should be the last resort.</p>

			<p><i>County Secretary on or in respect of—</i></p> <p><i>(a) the grant, refusal, renewal, variation or revocation; or</i></p> <p><i>(b) the conditions imposed on the grant, renewal or variation, of a licence.</i></p> <p><i>(3) A person aggrieved by the decisions of the Cabinet Secretary or County Executive Committee under sub-section (1) and (2) may appeal to the High Court.</i></p> <p><i>(3) An appeal under this section shall be lodged within thirty days from the date on which the appellant first received notice of the decision."</i></p>	
(s.47(1))	ZONE 2 & 3	(Not in the Bill)	Harmonize and make fee structures transparent across all counties.	County fees lacks safeguards against double taxation/economic barriers.
(s.48)	CONSENT IN PET No. E016 OF 2021	(Not in the Bill)	<p>(a) Amend Section 48(1) by deleting the phrase "eight years" and replacing it with "ten years".</p> <p>(b) Add a new sub-section (2) as follows—</p> <p>"(2)The Cabinet Secretary shall prescribe regulations providing for the better carrying out of this section".</p>	All tea buyers or exporters shall value add at least forty per centum of their annual Kenya tea exports within eight (8) years of the commencement of this Act

			(c) Amend the definition of value addition under Section 2 by adding the following words 'after the word "branding" "orthodox and bespoke teas"'. 	
(s.48)	KTB	(Not in the Bill)	Amend Section 48 by deleting the word "eight" after the word within and substituting it with "ten".	To enable the tea sector value chain players put in place the necessary infrastructure to do value addition.
(s.48)	ZONE 2 & 3	(Not in the Bill)	Misplaced value addition responsibilities.	Assign to manufacturers and producers instead of exporters.
(s.48)	EATTA	(Not in the Bill)	EATTA's proposes to have a negotiated agreement for value addition to include bespoke teas and orthodox teas; and for a 10-year period within which value addition is to reach 40% (i.e. by 2034). The inclusion of bespoke teas as value added tea, buyers and producers, will have attained the requirement over the said period, if they are not already meeting that threshold. We further propose that the Government of Kenya provides an enabling environment for value addition and benchmark value addition best practices, tariffs and government support initiatives with countries already excelling in this field like India and Sri Lanka. We further propose that a multi-agency steering team including the Tea Stakeholders, the Tea Board of	The value addition proclamation on the Tea Act risks destabilizing our traditional markets. There are key customers who require straight line teas from specific factories, others require single gardens for their packed tea while others have special requirements for blends, hence dictating the form of tea exports. Multiple taxation and certificates required such as KEPHIS, Port Health and Radiation Certificates. Imported Packaging Paper attracts 35% Import duty, 25% excise duty, 3.5% IDF, 2% Railway Levy and 16% VAT impedes value addition. There is also Duty and VAT on promotional materials and Inter-County Taxes. The effect of section 48 results to punitive financial and tax implication on large scale tea growers who are some of our members which in turn goes to the cost of production which

			Kenya, Kenya Revenue Authority, Ministry of Agriculture, Ministry of Trade, Ministry of Foreign Affairs and the Attorney General's office to be set to review the various provisions that currently inhibit the growth of value addition as well as other support structures that will enable the country to realize this value addition target. We can borrow a leaf from Sri Lanka that developed the value addition blue print and has managed to achieve the 40% level and growing.	is a great financial implication on the tea sector.
(s.49)	CoG	(Not in the Bill)	Amend to read as follows— <i>“49(1)The Board or County Government may appoint qualified persons to be crop inspectors for the purposes of this Act. (2)For purposes of subsection (1), the Board in consultation with County Governments may, by regulations, prescribe the qualifications for a crop inspector.”</i>	To allow the County Governments to appoint persons qualifies as crops inspectors for purposes of assisting the county in discharging its mandates under the Act.
15 (s.53)	EATTA	Section 53 of the principal Act is amended by— (a)inserting the following new subsection	EATTA had proposed the adoption of quantum based (kg) levy so that you do not punish the farmer who produces better quality. EATTA has always stated that a levy based on quantum of kilos was preferable but	Studies have shown that price stabilization as a strategy for margin compensation is not sustainable. The allocation of the tea levy to the Tea Board of Kenya should be at a rate of 40% to cover the costs of carrying out

		<p>immediately after subsection(2)—</p> <p>(2A)Specialty tea and value added tea packed into packets or containers holding not more than ten kilograms" shall be exempted from tea levy.</p> <p>(b)deleting subsection (5) and substituting therefor the following new subsection-</p> <p>(5) The tea levy collected under subsection (2)shall be apportioned as follows—</p> <p>(a))sixty per centum shall be applied by the Board in the furtherance or exercise of any function or power of the Board; and</p> <p>(b) forty per centum shall be remitted</p>	<p>the position is that the amount should be at a rate of Kshs 1 per kilo. There should be further guidance provided through regulation based on budgetary requirements for TBK and TRF. We further propose the involvement of the various tea stakeholders in the budgeting, disbursement and monitoring of the usage of the funds.</p> <p>We further propose that Tea Act provisions and apportionment of the levy to Tea Board (40%),Tea Marketing (20%), Tea Research (30%) and infrastructure development (10%) respectively. The 10% infrastructure development should be administered through the County Governments in the Tea growing areas while the 20% Marketing allocation should be managed by a committee with representation from the various tea sector players and the Tea Board of Kenya with clear annual budgets and a monitoring process</p>	<p>their functions. Research is an important aspect for the sustainability of the industry; therefore, the Tea Research Institute should be allocated 30%o of the funds from the levy.</p> <p>We are of the opinion that the Tea Research Institute should be delinked from Kenya Agricultural and Livestock Research Organization (KALRO) and given autonomy with its own governance structure as was during the Tea Research Foundation of Kenya (TRFK).</p>
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		directly to the Tea Research Foundation for execution of the function of the Foundation.		
(s.53)	CONSENT IN PET No. E016 OF 2021		Amend Section 53 by deleting subsection (2) in its entirety and substituting with the following— (2)The levy imposed through a notice under subsection (1)shall be collected by the Board at a rate not exceeding "one per centum" of the export value of made tea, and at such times, being not earlier than one month after the date of publication of the notice, in such a manner, as is specified in the notice.	
(s.53(b))	CoG	15(b)deleting subsection (5) and substituting therefor the following new subsection— (5) The tea levy collected under subsection (2) shall be apportioned as follows — (a)sixty per centum shall be applied by the Board in the furtherance or	Amend by deleting clause 15(b) in its entirety and replace with the following new section 15(b) to read as follows— <i>15(b)deleting subsection (5) and substituting therefor the following new subsection—</i> (5) <i>The tea levy collected under subsection (2) shall be apportioned as follows —</i> <i>(a) twenty per centum shall be applied by the Board in the</i>	This is to align the provisions of the Act to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the County Governments shall be responsible for development and regulation of agriculture. To achieve this, counties need to be adequately resourced, we therefore propose that 60% of the Levy is directly disbursed to counties for development of the tea sector.

		<p>exercise of any function or power of the Board; and</p> <p>(b) forty per centum shall be remitted directly to the Tea Research Foundation for execution of the function of the Foundation.</p>	<p><i>furtherance or exercise of any function or power of the Board;</i></p> <p><i>(b) twenty per centum shall be remitted directly to the Tea Research Foundation for execution of the function of the Foundation; and</i></p> <p><i>(d) sixty per centum shall be remitted directly to the tea growing counties to be applied for development of the tea subsector on a pro rata basis.</i></p>	
(s.53(2A))	KTGA	(2A) Specialty tea and value-added tea packed into packets or containers holding not more than ten kilograms" shall be exempted from tea levy.	Delete the phrase "packed into packets or containers holding not more than ten kilograms" in the proposed sub-clause (2A) that the exemption is applicable to all value-added teas. This will overall, incentivize value addition ventures	Exemption of specialty or value-added teas from tea levy restricted to 10kgs packaging disregards needed incentives for all value-added teas such as instant teas, special manufacture teas unique to Kenya's geographical location and tea character. Some of these are not packaged in 10kilograms.
(s.53(2A))	KTB		<p>amend the Section 53 2(A) further to read as follows—</p> <p><i>"(2A) Speciality tea Value added tea packed into packets or containers containing not more than ten kilograms, tea aroma, tea extracts and decaffeinated teas shall be exempted from tea levy"</i></p>	To provide incentives for value addition of Kenya tea prior to export, brand and origin recognition of Kenya tea and include tea aroma, tea extracts and decaffeinated teas which are high value in the teas to be exempted from tea levy.

(s.53(5))		<p>(5)The tea levy collected under subsection (2) shall be apportioned as follows —</p> <p>(a)sixty per centum shall be applied by the Board in the furtherance or exercise of any function or power of the Board; and</p> <p>(b)forty per centum shall be remitted directly to the Tea Research Foundation for execution of the function of the Foundation.</p>	<p>Following the change of Government Policy in the Medium-Term Budget Policy Statement 2024, measures for enhancement of regulatory fees have been introduced by the various regulatory bodies in the period since January, 2024. The impact of these increases has been substantial rise in the cost of production of tea and an additional levy would further raise the cost. Although proposed to be charged at the point of export, the buyers will offset the additional cost from the price. As at May, 2025, tea prices have declined to below cost of production. A new levy will further drop the prices being offered by the market. The implementation of similar measures in Malawi lead to a drop in prices commensurate to the levy introduced.</p> <p>In the alternative, should a levy be charged, an inclusive framework should be put in place for industry engagement in market expansion, data analysis to guide investment and to secure a stable tax and regulatory environment. KTGA supports the apportionment of any such levy to the TBK and Tea Research Foundation as critical institutions that support the</p>	<p>The establishment of the levy at a time when high volumes of tea are being produced and prices from the market are below the cost of production threatens the viability of the sector.</p>
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			sector and are key for sector development	
(s.53(5))	CONSENT IN PET No. E016 OF 2021		<p>Amend Section 53(5) by deleting in its entirety and substituting it with the following—</p> <p>(a)Forty per centum shall be applied by the Board for the execution of its functions;</p> <p>(b)Twenty per centum shall be applied by the Board for marketing development branding, promotion and value addition</p> <p>(c)Thirty per centum shall be remitted directly to the Tea Research Foundation</p> <p>(d)Ten per centum shall be applied for infrastructure development in the tea subsector on a pro rata basis</p> <p>Add a new subsection (7) as follows—</p> <p>"(7)The Cabinet Secretary shall prescribe regulations providing for the application of the infrastructure funds."</p>	
(s.53(2)&(5))	ZONE 5		53 (2) and (5): Remove/delete the clauses	
(s.52(2)&(5))	ZONE 5		Remove/delete the clauses	

15 (s.53)	ZONE 7		A 1% Tea levy would place a financial burden on tea growers.	Delete the tea levy entirely. Recommend that funding for the tea sector be sourced from the government exchequer, like other crop sectors.
(s.53)	ZONE 2 & 3		Cap levy at Kshs 1kg, of made tea; exempt specialty/value-added tea; revise allocation to 70% marketing, 10%TBK functions, 20% research. Delete infrastructure provision.	Unjustified levies and allocation.
(s.53)	KTDA		Deletion of Section 53	The amount payable to the farmer is negligible owing to the amount payable as levy
(s.53)	EATTA		EATTA proposes the adoption of quantum based (kg) levy so that we do not punish the farmer who produces better quality. EATTA has always stated that a levy based on quantum of kilos since tea production volumes have grown over time was preferable and the position is that the amount should be at a rate of Kshs 1 per kilo. There should be further guidance provided through regulation based on budgetary requirements for TBK and TRF. We further propose the involvement of the various tea stakeholders in the budgeting, disbursement and monitoring of the usage of the funds. We further propose that Tea Act provisions and apportionment of the	

			levy to Tea Board (40%), Tea Marketing (20%), Tea Research (30%) and infrastructure development (10%) respectively. The 10% infrastructure development should be administered through the County Governments in the Tea growing areas while the 20% Marketing allocation should be managed by a committee with representation from the various tea sector players and the Tea Board of Kenya with clear annual budgets and a monitoring process.	
(s.54)	KTB	(Not in the Bill)	Amend Section 54 by deleting subsections 2(b) and 3(a).	To align to the deleted provisions under Section 53 (5).
(s.55)	KALRO-TRI	(Not in the Bill)	Amend Clause 55 is amended by inserting subclauses (3) and (4)— <i>“(3)The headquarters of the Foundation shall be in Kericho County. (4)The Foundation may establish such Centres in Kenya as it may consider necessary for the efficient performance of its functions.”</i>	This key item is missing in the principal act.
(s.56)	KALRO-TRI	(Not in the Bill)	Amend Clause 56 by inserting therefor the following subclauses— <i>“(1)The Foundation shall consist of the following organs—</i>	Insertion/amendment of Clauses 57 to 90 shall facilitate formation, creation of governance structure and operationalization of Tea Research Foundation

			<p>a)the Board of Tea Research Foundation under section 58; b)the staff under Section 69; c)the research centers specified in the first Schedule to the amended Act; and d)associate centers, provided for under subsection (2).</p> <p>(2)Any organization /institution which undertakes tea research or similar research, may apply to the Board to join the Foundation, and if the Board grants the application, the organization shall be an associate institute of the Foundation”</p>	
(s.57)	KALRO- TRI	(Not in the Bill)	Clause 56 in principal act be amended without altering its contents by substituting it with Clause 57.	
	KALRO- TRI	<p>Proposal to insert 34 new clauses and amendment the Fistr Schedule to the Bill to insert Conduct of Business and Affairs of the Board of the Foundation.</p> <p>(Not in the Bill)</p>	Inserting a new part VII on Board of the Foundation	
16 (s.74)	ZONE 2 & 3		Amend as per highlighted changes to emphasize fair governance, remove duplication, and safeguard innovation	Broad regulatory powers and potential overreach.

	CoG		Amend to read as follows— <i>“74(1)The Cabinet Secretary may, in consultation with the Board and County Governments make Regulations –“</i>	Agriculture has been fully devolved under the Constitution, it is imperative that the Cabinet Secretary consults County Governments in the development of the regulation as its implementation has a direct impact on how the Counties will undertake their functions as provided for under the Fourth Schedule of the Constitution.
17 (s.76(2))	KTGA	(2)All immovable assets of the former Tea Board of Kenya and the former Tea Research Foundation of Kenya which were vested in the Agriculture and Food Authority and Kenya Agricultural and Livestock Research Organization upon the commencement of the Crops Act and the Kenya Agricultural and Livestock Research Organization Act shall by virtue of this paragraph vest in the Board and the Foundation respectively.”	KTGA supports the proposal as it will strengthen the institutional framework for industry research and development	Reversion of assets of TBK and TRF from AFA and KALRO back to TBK

NEW SECTION 74B	KTB	(Not in the Bill)	74B. Cabinet Secretary may, in consultation with the Board, make Guidelines to provide for- (a) Corporate Governance Guidelines for the tea; (b)) Code of Ethics and Conduct for tea factory Director(s);	To foster ethics and integrity among directors in the tea factories.
THIRD SCHEDULE	KTB	(Not in the Bill)	Amend the Third Schedule by— (a) deleting “Narok” from the East Block and inserting it under the West Block; (b) adding “West Pokot” under the West Block	To correct misclassification of Narok under the tea blocks. To incorporate all tea growing counties.