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FINAL REGULATORY IMPACT ASSESSMENT (RIA) REPORT

TEA (REGISTRATION AND LICENSING) REGULATIONS, 2026

FOR

THE TEA BOARD OF KENYA (TBK)

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LIST OF ABBREVIATIONS

AFA:	Agriculture and Food Authority
ABS:	Access and Benefit-sharing
ASTGS:	Agriculture Sector Transformation and Growth Strategy
BCR:	Benefit-Cost Ratio
BETA:	Bottom-Up Economic Transformation Agenda
CBA:	Cost-Benefit Analysis
CIDP:	County Integrated Development Plan
CTC:	Crush, Tear, Curl
EATTA:	East African Tea Trade Association
EPZ:	Export Processing Zone
GDP:	Gross Domestic Product
IRR:	Internal Rate of Return
ITPAK:	Independent Tea Producers' Association of Kenya
JASSCOM:	Joint Agricultural Sector Consultation and Coordination Mechanism
KALRO:	Kenya Agricultural and Livestock Research Organization
KEBS:	Kenya Bureau of Standards
KEPHIS:	Kenya Plant Health Inspectorate Service
KCSAS:	Kenya Climate-Smart Agriculture Strategy
KPA:	Kenya Ports Authority
KTDA:	Kenya Tea Development Agency
KTGA:	Kenya Tea Growers' Association
KTNA:	Kenya Trade Network Agency
M&E:	Monitoring and Evaluation
MEL:	Monitoring, Evaluation, and Learning
MoALD:	Ministry of Agriculture, Livestock, and Fisheries
NEMA:	National Environment Management Authority
NPV:	Net Present Value
OECD:	Organization for Economic Cooperation and Development
PCPB:	Pest Control Products Board
PSTAK:	Purple and Specialty Tea Association of Kenya
R&D:	Research and Development
RIA:	Regulatory Impact Assessment
RIS:	Regulatory Impact Statement
SDA:	State Department for Agriculture
SDC:	State Department for Cooperatives
SDI:	State Department for Industry
SDIP:	State Department for Investments Promotion
SEZ:	Special Economic Zone

SWAG:	Sectoral Working Agriculture Groups
TBK:	Tea Board of Kenya
TF:	Tea Factory
TNT:	The National Treasury
TR:	Tea Research
TRF:	Tea Research Foundation
TRI:	Tea Research Institute

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EXECUTIVE SUMMARY

The Tea (Registration and Licensing) Regulations, 2026, developed under Section 74 of the Tea Act 2020, provide a comprehensive framework for the registration and licensing of all actors within Kenya's tea sector, including tea factories, growers, nurseries, transporters, packers, brokers, and exporters. The Regulations establish clear procedures, compliance standards, fees, and reporting obligations to strengthen governance, ensure traceability, and promote quality assurance across the value chain.

The Regulations operationalize the Tea Act 2020, addressing longstanding challenges in Kenya's tea industry, including inadequate regulation, fragmented oversight, declining quality, illegal tea hawking, and limited value addition. They align with national policies such as Vision 2030, the Agricultural Sector Transformation and Growth Strategy (ASTGS), BETA, and county-specific plans, as well as international trade requirements for quality, traceability, and market access.

Extensive consultations were conducted at the national and county levels with tea growers, factories, cooperatives, packers, brokers, research institutions, and county governments. Eleven forums were held between December 2024 and March 2025, supplemented by targeted engagements with technical agencies. Stakeholder input led to substantive improvements in registration procedures, licensing authority, factory siting, grower verification, green leaf agreements, compliance reporting, and fair administrative action. Approximately 69% of participants supported the Regulations, with 65% of proposals from consultations adopted either fully or partially.

The Regulations are expected to deliver significant benefits to the private sector, including improved quality control, market access, value addition, and traceability, as well as a reduction of unfair practices, although operational costs may increase. For the public sector, they provide strengthened regulatory oversight, enhanced revenue for TBK, and improved infrastructure, research, marketing, and compliance monitoring. They also support consumer protection, access to information, and fair administrative action, while requiring adherence to the Data Protection Act to safeguard privacy.

A robust monitoring, evaluation, and learning framework will track compliance, quality, licensing, inspections, enforcement actions, and overall sector performance. Key outcomes include improved compliance levels, enhanced tea quality, increased value-added production, reduced illegal trade, and higher export earnings. Overall, the Regulations provide a legally enforceable, transparent, and standardized system to regulate the tea industry, enhance governance, improve sector performance, and safeguard Kenya's reputation as a leading global tea exporter. Awareness campaigns, digital registration systems, and capacity-building measures will ensure smooth implementation and long-term sustainability.

1.0 INTRODUCTION AND BACKGROUND

1.1. Background Information

Tea plays a vital role in Kenya's economy and is among the country's leading foreign exchange earners. It supports the livelihoods of over 7 million people directly and indirectly and accounts for about 2% of the Country's Gross Domestic Product (GDP). Tea cultivation, a rural-based economic activity, has led to the development of rural infrastructure such as roads, schools, telecommunication and other social amenities. Kenya produces an average of 500 million Kg of made tea annually, of which 91% is exported and 9% is consumed in the local market. (TBK, 2024)

The Tea industry in Kenya is regulated by the Tea Board of Kenya (hereinafter "the Board" or "TBK" interchangeably). TBK was established under Section 3 of the Tea Act (the Act) to regulate, develop, and promote the tea industry in Kenya. The Tea Act, 2020, was operationalized on 11 January 2021.

In Kenya, the first tea seedlings (*camellia sinensis*) were introduced by the white settlers in 1903 in Limuru (Kiambu County) on an experimental basis. Some of these tea bushes have grown into large trees, forming historical features on what is now called Unilever's Mabroukie Tea Estate. Although a few private farmers established small tea gardens in Limuru and Kericho, commercial cultivation of tea in Kenya began in 1924. It remained an exclusive preoccupation of the colonialists until 1956, when African growers were allowed to start planting tea.

Tea is grown in the highlands located West and East of the Rift Valley at altitudes between 1,500 metres and 2,700 metres above sea level. The highlands span 19 tea-growing counties, including Nakuru, Narok, Kericho, Bomet, Nyamira, Kisii, Kakamega, Bungoma, Vihiga, Nandi, Elgeyo Marakwet, Trans-Nzoia, Kiambu, Murang'a, Nyeri, Kirinyaga, Embu, Tharaka-Nithi, and Meru.

The ideal growing conditions for tea include tropical volcanic red soils and favourable weather patterns, such as well-distributed rainfall of 1200-1400 mm per annum. Unlike other countries, Kenya produces tea year-round with minimal seasonal variations in quantity owing to its location along the equator.

In 2023, the total export volume increased by 16% (from 450.33 million kgs in 2022 to 522.92 million kgs). Owing to the increased volume of exports, a favourable USD exchange rate, and stable prices, export earnings from tea reached a record of Kshs. 180.57 billion from Kshs. 138.09 billion the previous year. This represented a 31% increase in export value (Kshs. 42.48 billion) and is the best earnings ever recorded by the tea industry. The export unit price was slightly lower in dollar terms at USD 2.47 per kg compared to USD 2.62 in the previous year. However, due to a favourable USD exchange rate of 139.85, compared to 117.87 the previous year, the unit price was much higher at Kshs. 345.32 compared to Kshs. 306.64 in the previous year. (TBK, 2023)

Kenyan tea is renowned worldwide for its quality and safety due to adherence to the industry's best agricultural practices (no pesticides or agrochemicals), good husbandry practices, selection of high-quality varieties, and skilful processing practices (no additives, preservatives or artificial colouring). This is also attributed to continuous improvements due to investment in modern technology and R&D; commitment to Global and National Food Safety standards (ISO, Hazard Analysis Critical Control Point (HACCP), KS1927), as well as compliance with environmental and social market requirements (Effluent Treatment Plant (ETP), Fair Trade etc.).

The Kenyan tea industry is generally structured into two sub-sectors: large estates and smallholders. They are supported by institutions such as the Tea Board of Kenya (a regulator), the East Africa Tea Trade Association (EATTA), which facilitates trade and the Board's Technical arm, the Tea Research Institute (TRI), which provides research for development services. The small-holder tea sub-sector is managed by the Kenya Tea Development Agency (KTDA), while the large estates are private companies affiliated with the Kenya Tea Growers Association (KTGA). The Government established the Nyayo Tea Zones Development Corporation (NTZDC) to promote environmental conservation by planting tea around forests. All the major stakeholders in the tea value chain are actively involved in formulating and implementing regulatory and policy frameworks in the sector. (AFA - Tea Directorate, 2024).

The Board's mandate, as provided for under the Tea Act 2020, is to regulate, develop, and promote the tea industry. The mission of the Board is "To sustainably develop and promote the tea value chain through effective regulation for economic growth and transformation."

The regulatory roles of the Board as a state corporation that regulates the tea industry in Kenya as provided under section 5 of the Tea Act, include:

- *Licensing*: Licensing tea factories and other entities in the tea industry.
- *Registration*: Registering tea growers, warehouse operators, exporters, importers and brokers, among others.
- *Compliance*: Ensuring that tea factories and traders comply with the Tea Act 2020 and other relevant laws.
- *Enforcement*: Enforcing regulations in the tea industry.
- *Surveillance*: Conducting inspections to check for irregular trading, counterfeit tea, and illegal imports.
- *Promoting best practices*: Promoting best practices and standards in the tea industry.
- *Facilitating marketing and distribution*: Facilitating the marketing and distribution of tea.
- *Prescribing payment periods*: Prescribing the minimum amount and maximum period for payment of green leaf.
- *Promoting demand*: Promoting the consumption and demand of tea locally and internationally.

TBK also coordinates activities in the tea industry and facilitates access to resources and benefits for all interested parties, among other functions.

It is essential to have an effective legal framework in place to facilitate the Board's execution of its mandate and steer the tea industry to further development. The legal framework should enable this vital sector to contribute to the Government's bottom-up Economic Transformation Agenda (BETA). The draft regulations will provide the legal framework for TBK to execute this mandate as outlined in this report.

1.2. Regulatory Impact Assessment Process

Regulatory Impact Assessment (RIA) is a systemic approach to critically assess the positive and negative effects of proposed or existing regulatory and non-regulatory alternatives. It is an evidence-based approach to policymaking. RIA requirements apply to proposals for new and amending regulations, and to policy proposals that may result in new or amended regulations (regulatory proposals). It is an instrument that authorizes the determination and consequences of introducing a new regulatory regime. The systematic use of RIA has been recognized as a key means to improve the efficiency, transparency and accountability of decision-making.

Over the last few decades, RIA has emerged as a key instrument to support evidence-based and coordinated policymaking. The systematic use of RIA is recognized as a key means to improve the efficiency, transparency and accountability of decision-making. RIA typically encourages several "good governance" features and contributes to a better business-enabling environment. In the 1980s, RIA gained popularity and traction in the US and the UK in the second half of the 1990s. By 2015, all 34 Organization for Economic Cooperation and Development (OECD) members at the time reported having "some form of RIA" in place.

RIA is a flexible tool that helps governments make better regulatory and other policy decisions by drawing on information and empirical analysis of the potential consequences of government action. RIA aims to ensure that better policy options are chosen by establishing a systematic and consistent framework, including stakeholder consultation, for assessing the potential impacts of government action.

When embedded in the policy process, a systematic application of RIA trains decision-makers to ask and answer targeted questions at the beginning of the policy cycle about the need for and goals of regulation and the possible consequences of government action. The many methods used in RIA – including benefit-cost, cost-effectiveness, and least-cost tests, as well as partial tests such as administrative burden and small-business tests – are means of giving order to complex qualitative and quantitative information about the potential effects of regulatory measures.

The final products of this systematic analysis are self-contained documents called RIAs (Regulatory Impact Statements) or RISs. RIAs deal with substantive policy issues, are read and

utilised by decision-makers, and are normally available for public scrutiny and subject to evaluation, but increasingly so in parallel with the drafting phase. of an independent oversight authority. Although methodologies vary across countries, several key elements are common. A RIA normally includes:

- i. Problem definition and justification for regulatory action;
- ii. Data, on which the analysis is based;
- iii. Results of the consultation with affected parties and stakeholders;
- iv. Identification of a number of feasible policy options;
- v. Estimation and comparison of the different (qualitative and quantitative) impacts of each policy option; and
- vi. Selection of a preferred option accompanied by a prospective analysis of its implementation and, more recently, providing a basis for ex-post review.

There is no single RIA model. The institutional setup for RIA depends on legal, political, economic and social conditions. However, good practices have been identified internationally, and there are converging patterns in how RIA is institutionalised. The institutional framework for RIA often includes legal provisions which embed RIA in the policy formulation process and stipulate criteria about its scope of applicability. A governmental body is often tasked with the oversight of the quality of RIA documents and the RIA process.

A Regulatory Impact Analysis (RIA) is a broad tool now used in most developed countries and an increasing number of developing and transition countries to improve the understanding of regulation's economic and social welfare impacts. It is widely recognized as an important mechanism that can improve the business environment and promote regulatory efficiency and effectiveness. RIA enables policymakers to assess trade-offs, consider new regulatory approaches, and identify the most suitable alternatives to regulation. In essence, RIA systematically and consistently examines the positive and negative impacts of proposed government actions and communicates this information to decision-makers and other stakeholders.

RIA is an important factor in designing high-quality law, as it helps provide valid arguments supporting a planned regulation. The process is designed to improve regulatory quality by ensuring that the decision-maker is fully informed when drafting regulatory instruments. The RIA process is designed to encourage careful consideration, at an early stage, of the fundamental question of whether regulatory action is required or whether alternative or non-regulatory measures can achieve policy objectives at lower cost to business and the community. RIA may sometimes indicate that non-legislative measures are the best solution to a particular social and economic problem. Thus, RIA helps to avoid the production of redundant laws and reduces the bureaucratic burden on enterprises.

Kenyan courts have made decisions to underscore the importance of RIA in the development of regulations. In ***Kenya Association of Manufacturers & 2 others v Cabinet Secretary, Ministry***

of Environment and Natural Resources & 3 Others [2017] eKLR, the court demonstrated that it is strictly incumbent on a regulation-making body to assess the impact of the proposed Regulations on the stakeholders and that failure to conduct it has the potential of rendering a statutory instrument null and void if challenged on that basis.

Accordingly, Kenyan courts have underscored the need to comply with the Statutory Instruments Act strictly. First, the courts have found that an RIA must begin with consulting stakeholders as that is the only sure way of determining the regulatory impact on the stakeholders, whether individual or juridical persons. Secondly, as was addressed in British American Tobacco Ltd v Cabinet Secretary for the Ministry of Health & 4 others [2015] eKLR, the mode of consultations is key, but this depends on the circumstances of each case, as was held in the case of Republic v MOALF & Others Exparte Council of Governors and Harrison Munyi (as the Chairman of the New National Farmers' Association) [2016] eKLR.

Regarding the process that the assessment ought to take, the court in Okiya Omtatah Okiiti v Commissioner General, Kenya Revenue Authority & 2 others [2017] eKLR posited the chronology of the procedure as follows: consultation of stakeholders; regulatory impact assessment; preparation of an explanatory memorandum; tabling of the statutory instrument in the relevant house; and consideration of the same by the Committee of Delegated legislation. This is in line with the requirements of the Statutory Instruments Act.

1.3 Objective of the Assignment

The general objective of the assignment is to conduct a regulatory impact assessment (RIA) for the proposed Tea (Registration and Licensing) Regulations 2026 and prepare a regulatory impact statement (RIS) for it in accordance with sections 6, 7, 8, and 9 of the Statutory Instruments Act, 2013.

The Consultant evaluated the effects of the proposed draft Tea (Registration and Licensing) Regulations 2026 both on the public and the private sectors to inform the choice of the most appropriate way to achieve the objectives of the proposed Regulations. The Consultant further evaluated the major feasible alternatives of the intended regulatory action and other practical non-regulatory options. The assignment further examined the benefits of the proposed Regulations and the costs of imposing them on industry players.

The specific objectives of the assignment were to:

- i. Assess the costs and benefits of the Regulations which include and are not limited to economic, environmental, and social impact, as well as administrative and compliance costs.
- ii. Assess the effects of the draft Regulations on the public and private sectors as well as on the rights and fundamental freedoms of the industry players.
- iii. Prepare a regulatory impact statement for the draft regulations.

- iv. Prepare an Explanatory Memorandum for the draft Regulations.
- v. Prepare a notice on the Regulatory Impact Statement, which will be published in the Kenya Gazette and other daily newspapers; and
- vi. Prepare a draft Certificate of Compliance in accordance with section 7(4) of the Statutory Instruments Act.

1.4 Project Deliverables

The assignment resulted in the following deliverables: -

- i. A Regulatory Impact Statement (RIS) which included the following information about the proposed statutory instrument in clear and precise language—
 - a. A Statement of the Objectives and Reasons for the Tea (Registration and Licensing) Regulations 2026.
 - b. Statement on Regulatory & Non-Regulatory Options.
 - c. Costs-Benefit Analysis (CBA) (Economic, Environmental and Social Impact/Administration and Compliance Cost/Assessment of Return on Investment (Benefit)/Quantification of the Benefit/Distribution of Impacts).
 - d. Reasons why other Regulatory Options are not appropriate, including other Practical Options/maintaining the Status Quo.
 - e. Recommendations.
 - f. Conclusion.
- ii. Notice of the RIA and the Regulatory Impact Statement guided by the Statutory Instruments Act.
- iii. An Explanatory Memorandum guided by Section 8 and the First Schedule of the Statutory Instruments Act, 2013 and containing the following:
 - a. Purpose of the statutory instrument
 - b. Legislative context
 - c. Policy background
 - d. Consultation outcome
 - e. Guidance
 - f. Impact
- iv. Monitoring and review.
- v. Appended contacts of all persons contacted in the delivery of the RIA.
- vi. Report on stakeholders' feedback and recommendations on how they will be addressed in the Regulations.

1.5 Methodology and Approach

The assignment was approached using a structured, comprehensive methodology, beginning with an inception meeting to define objectives and scope. This was followed by an extensive desk review and synthesis of the draft Tea (Registration and Licensing) Regulations, 2026,

benchmarked against the Constitution of Kenya 2010, the Tea Act 2020, and other relevant laws and regulations. The Consultant also conducted a thorough review of relevant literature, including national agricultural policies and strategies, Vision 2030, tea value chain studies, economic analysis reports, and other key policy documents. This review supported qualitative, quantitative, and comparative analyses, as well as trend assessments of data and judicial decisions on regulatory impact assessments and public participation, thereby ensuring robust validation of secondary data.

Stakeholder engagement was validated through a series of public participation forums, where views and comments from key stakeholders and the general public were systematically captured. The Consultant subsequently presented the draft Regulatory Impact Statement and draft Regulations at a national validation workshop organized by the Ministry, enabling further input from sector stakeholders.

Following the workshop, the Consultant incorporated feedback and prepared a final report, accompanied by relevant supporting documents, which was submitted to the Tea Board of Kenya. This structured approach ensured that the final outputs were evidence-based, inclusive, and aligned with statutory, policy, and sectoral requirements.

1.6 Objectives of the Regulations

The Tea (Registration and Licensing) Regulations 2026, made under Section 74 of the Tea Act 2020, provide a framework for the registration and licensing of tea factories, tea growers of all scales, commercial tea nurseries, green leaf transporters, and tea dealers. The Regulations outline procedures for registering tea stakeholders and licensing tea manufacturers, as well as the terms and conditions governing such registrations and licenses. They also require the filing of tea-related returns. Additionally, the Regulations prescribe the fees payable under the Act and any subsidiary regulations. Overall, the Regulations aim to standardize and regulate the tea industry in Kenya.

2.0 ASSESSMENT OF THE NATURE AND EXTENT OF THE PROBLEM

2.1 The Nature of the Problem

Tea production in Kenya has increased exponentially over the last 10 years. There is therefore a need to expand markets and diversify traditional Kenyan tea markets to absorb this rising production. This will require a significant investment in the promotion, marketing, and development of Kenya tea products to avoid holding large stocks of unsold tea, which will directly affect all industry actors and future tea production. (MoALD, 2024)

Kenyan Tea, however, faces high production costs, low value addition, price fluctuations, and climate change, leading to low earnings for tea growers. Potential interventions to these challenges include product diversification, value addition, and novel marketing strategies.

The Board and its technical arm, the Tea Research Foundation (TRF), have partially depended on the exchequer to fund their operations. They have both contributed significantly and positively to making the Kenyan tea sub-sector a successful industry. This support from the exchequer has been on the decline, however, due to increased competing needs, which have remained limited. The government's failure to fully implement the Maputo Declaration on Agriculture and Food Security (the Maputo Declaration), which obliged African governments to invest 10% of their annual national budgets in agricultural development and required the funds to be shared among multiple agencies, means that there is little money to support the Board's functions. This is a serious threat to the sector's competitiveness, especially in the face of challenges such as declining productivity and climate change, and to support the development of value addition technologies. (Kamanga, 2023)

Additional revenues generated from levies and fees introduced through these regulations will buttress the Board's financial position, enabling it to better invest in securing the future of the Kenyan tea industry.

Although the tea industry has been fully liberalised, government control still exists through the Board, whose directors are directly elected by key industry stakeholders. The government continues to oversee the maintenance of rural access roads, which generally creates an enabling environment for the expansion of domestic and international tea markets. The mandate of the Board also includes registration of growers, licensing of tea manufacturing factories, research, registration of buyers, brokers, packers, management agents and tea consumption promotion. All these actors are critical for the tea industry's continued success, hence the need to establish an effective framework for their registration and licensing for their effective regulation to benefit the entire tea industry. (Gesimba, 2005)

The government of Kenya liberalized the tea sector in the early 2000s, where the purchase of tea leaves from the farmers was privatized and rendered a willing-buyer-willing-seller scenario. This

saw an increase in the number of tea brokers who bought tea from farmers and sold it to factories and processing firms, commonly referred to as “tea hawking”. To the surprise of many, particularly the small tea growers, the expected results of liberalisation were overturned. It, instead, led to the steady decline of the country’s largest sector. This decline has been characterized by reduced production, declining tea quality, increased complaints among the small-scale/grower tea farmers and increased poverty levels in tea-growing communities.

Whereas ‘tea hawking’ remains illegal, it has continued unabated with roadside purchases of green leaf from farmers with the least consideration of hygiene in handling and transportation of the produce. In many instances, vehicles used to transport non-food-friendly materials, such as tea, to factories also expose end consumers to potentially harmful substances. (Kingoia, 2020)

Although Kenya is known to produce high-quality tea free of pesticides and other harmful chemicals, there have been serious concerns about the declining quality of Kenyan tea, which poses a significant threat to its market share in the global market. This declining quality trend is predominantly attributed to reduced surveillance and monitoring of the industry for quality and standards at all levels. It also poses a threat to the long-held, high-quality reputation of Kenyan tea.

TBK provides essential and critical services necessary for the well-functioning of the tea industry, with no direct charges to industry players. Government funding for TBK, as well as other regulatory agencies to facilitate its services, has been declining. The National Treasury has, therefore, directed that such agencies charge for services they provide in their respective sectors to finance their operations. This situation has affected TBK's ability to effectively provide these essential services to the tea sub-sector, threatening its performance and further development. (TBK, 2023)

The absence of a specific levy on tea imports into the country exposes local tea to competition from unregulated imports of cheap, low-quality tea, including from neighbouring tea-producing countries. This may threaten the desired development of the local tea market, which currently accounts for only 9% of Kenya's tea production, and may distort local market demand and prices.

Protecting the Kenyan tea industry from new pests or diseases remains a priority to ensure its continued development. Therefore, it is important that the sector be regulated to ensure that high-quality tea is produced.

From the foregoing, it is evident that an effective framework is needed for the registration and licensing of all tea industry actors and to generate additional reliable revenue to support the critical pillars of the Kenyan tea industry. This will ensure Kenya remains a key player in the tea industry worldwide.

2.2 The Extent of the Problem

The tea industry continues to face challenges in research and development (R&D), production, manufacturing and trade, both domestically and internationally. Though industry has done comparatively well over the years, the environment is fast changing due to factors like climate change, land subdivisions to uneconomical sizes, competition from emerging tea-producing countries and the emergence of new tea hubs such as the Dubai Tea Trade Centre. It is necessary to adopt innovative approaches to ensure that Kenya continues to consolidate the competitive advantage it has so far achieved and maintains its position as a leading player in the rapidly transforming global tea industry.

The critical importance of the roles of the Tea Board and its technical arm, the TRI, in the realisation of this objective cannot be overemphasised.

The lack of diversity in the Kenyan tea industry remains a major challenge to its competitiveness in the global tea market. This is due to insufficient investment in product development and promotion, resulting from inadequate funding.

The two types of tea processed in Kenya are black and green teas. Currently, all KTDA factories are processing only black tea. Green tea differs from black tea because the fermentation of green leaves is arrested during processing (Tea Board of Kenya, 2011). Kenya tea has, for many years been sold in its whole form, although recently, the tea sector has been looking at the likelihood of selling tea extracts (Tea Board of Kenya, 2011). Tea is primarily processed using the Cut, Tear and Curl (CTC) technique to guarantee maximum cuppage per unit weight.

Despite being the world's leading tea exporter, accounting for 25% of global exports, Kenya's tea export earnings are lower than those of competitors such as Sri Lanka and China. For example, in 2022, Sri Lanka exported 247 million kgs, 45% fewer than Kenya, but recorded 5% higher earnings at USD 1.245 billion. Consequently, the average tea export price realized by Sri Lanka was higher at USD 5.04 per kg compared to USD 2.60 per kg for Kenya tea exports. This is a price difference of USD 2.44 per kg for exports between the two countries. (KALRO-TRI, 2022)

TBK continues to provide a range of services necessary to the Kenyan tea sub-sector, with no direct charges to industry players. Government funding for TBK to provide these services has been declining. For instance, in the 2022/23 financial year, the Board received a total revenue of Kshs. 324.3 million from Government grants and internally generated resources. From this revenue, the Board applied for Kshs. 385.6 million in its programmes, thus having a deficit of Kshs. 61.3 million. This situation will affect the ability of TBK to effectively provide these essential services to the tea sub-sector which directly threatens the performance and further development of the sub-sector. (TBK, 2023)

There is, therefore, a need for increased investment in tea research, product development and diversification, product promotion and market diversification, which needs significant additional funding. (Kagira et al, 2012)

Tea hawking is emerging as a major challenge in the Kenya tea industry, not only denying farmers their rightful earnings but also seriously compromising the quality of green leaf reaching factories. It has also led to the diversion of green leaf, denying factories not only the volumes needed to operate efficiently but also the opportunity to recover credit advanced to their growers. According to Kegonde (2005), the tea sector in Kenya faces widespread tea hawking challenges in the West Rift Valley tea-growing region. This happens among small-scale farmers who prefer to sell their green leaves for immediate payment rather than wait for monthly payments. This practice may be attributed to high poverty levels. The problem with tea hawking is that farmers only receive a low payment at the farm gate payment, missing out on the annual “bonus” payment misses out on the annual payment commonly called “bonus” that is which is usually a high price per kilogram. In Kenya, tea hawking is illegal because it exploits smallholder farmers by middlemen who purchase tea leaves from farmers at very low prices and later resell them to large multinational tea firms at a significant markup. To protect the sustainability of the smallholder tea sector, tea hawking should remain illegal. Smallholder tea farmers should continue selling their tea through KTDA, as this enables them to achieve enormous economies of scale, leading to high farmers’ incomes.

This has led to the need to register and license the various tea sector actors to curb this menace and ensure compliance with relevant standards and guidelines. It also highlights the need to ensure consistent quality in Kenyan tea to protect its image in the global market.

2.3 Justification for the Tea (Registration and Licensing) Regulations

The tea industry in Kenya is a vital pillar of the national economy, directly and indirectly supporting the livelihoods of over seven million people and contributing about 2% to the country’s Gross Domestic Product (GDP). It is the leading foreign exchange earner, accounting for 20% of total foreign earnings, while providing employment and driving rural development by supporting infrastructure such as roads, schools, and telecommunications. Kenya produces an average of 500 million kilograms of made tea annually, of which 91% is exported and 9% consumed domestically, making it a major contributor to both socio-economic growth and rural livelihoods. The country’s success in tea production is underpinned by three main factors: government policies that integrate small-scale growers, which under the Kenya Tea Development Agency (KTDA) contribute about 60% of total production; a highly efficient estate sector operated by multinational companies that introduced modern management systems; and the selection of high-yielding tea varieties combined with improved planting, cultivation, and pest management methods developed through the Tea Research Foundation of Kenya (TRFK). These factors collectively enhance productivity, quality, and competitiveness in the global tea market.

Despite its economic significance, the industry faces several structural and operational challenges, including underfunded regulation, fragmented governance, inconsistent quality control, limited market access, and the threat of reputational damage in international markets. These gaps necessitate a clear, enforceable framework to ensure sustainable growth, compliance with domestic and international standards, and protection of both producers’ and consumers’ interests. The Tea

(Registration and Licensing) Regulations, 2026, developed under Section 74 of the Tea Act 2020, provide such a framework. They establish detailed procedures for the registration and licensing of all actors in the tea value chain, including small-, medium-, and large-scale growers, tea factories, packers, brokers, exporters, importers, green leaf transporters, and commercial tea nurseries. The regulations are designed to enhance traceability, quality assurance, adherence to hygiene and safety standards, and governance across the sector. They also ensure transparency, support market access, prevent illegal practices such as tea hawking, and enable the Tea Board of Kenya (TBK) to maintain comprehensive databases for effective planning and enforcement.

International experience underscores the importance of a formal regulatory framework in the tea sector. In India, the Tea Act of 1953 established the Tea Board of India to regulate production, licensing, quality standards, and exports while supporting regional Tea Councils. Sri Lanka's Tea Board, under statutes including the Tea Control Act and Tea Export Acts, regulates cultivation, factory operations, quality assurance, warehousing, and global promotion of Ceylon tea. Tanzania's Tea Board oversees licensing, cultivation, processing, research, pest control, and industry statistics. At the same time, Uganda's tea sector is regulated by the Uganda Tea Growers Corporation Act and the Uganda Tea Authority Act, which mandate the registration of growers, the licensing of factories, and compliance with quality and export standards. These examples demonstrate that structured registration and licensing systems are essential for promoting industry growth, safeguarding quality, facilitating market access, and ensuring the sector's long-term competitiveness.

In Kenya, the Tea (Registration and Licensing) Regulations, 2026, thus serve as a critical tool to operationalize the Tea Act 2020, providing the legal and administrative framework to address industry challenges, improve governance, protect stakeholder interests, and strengthen Kenya's position as a global leader in tea production and export. By formalizing registration and licensing procedures, these regulations enhance compliance, market access, quality assurance, and sustainability across the tea value chain, ensuring the continued growth and international competitiveness of Kenya's tea industry.

2.4 Regulatory Context

Licensing and registration in the Kenyan tea industry has been integral to the sector's development over time.

The British post-colonization introduced tea to Kenya. The colonial government, however, prohibited local tea cultivation. Kenyans were allowed to own tea estates and cultivate them later in the twentieth century. This commenced in the 1950s with smallholder tea cultivation, and later, the first tea factory for smallholder farmers was established in 1957 (KTDA, 2022).

The first legal instrument governing the production of tea in Kenya was the Tea Ordinance, 1934 (No. 46 of 1934). This Ordinance was revised by the Tea Ordinance, 1948 (No. 52 of 1948), which became effective on 15th August 1948. The objectives of the Tea Ordinance of 1948 were to provide

for the control of the production of tea in the Colony. The Directorate of Agriculture was responsible for controlling the production of tea by issuing licenses and permits to farmers until 1950 when TBK was established under the Tea Act (Cap 343) to regulate the industry.

In 1960 the Special Crop Development Authority (SCDA) was established to regulate the production of selected crops.

In 1964, SCDA was replaced by the establishment of the Kenya Tea Development Authority (KTDA) under the Agriculture Act (Cap 318) Section 91, Legal Notice No. 42. KTDA took over the management of smallholder tea from multinational tea companies. In 1999, the government launched Sessional Paper No. 2 on the privatization and restructuring of the tea industry, which brought major changes to the reforms of TBK. It also led to the privatization of KTDA, which was then transformed into Kenya Tea Development Agency Ltd. As a result, the tea industry enhanced processing capacity, with smallholder tea factories increasing from 45 in 1999 to 71 by 2023. There has been improved management of tea factories due to enhanced corporate governance and modalities to strengthen TBK and enable it to undertake its mandated role as the main regulatory body.

The privatization of the Kenya Tea Development Authority (KTDA) through the formation of Kenya Tea Development Agency Ltd (KTDA) in the year 2000 under the Companies Act CAP 486 was also meant to achieve improvement in the management of the tea factories. This would be by allowing farmers to play a rightful role in decision-making and attaining adequate processing capacity to bridge the gap between takings of the smallholder and large estates at the farm level. In 2009, Kenya Tea Development Agency Ltd. changed its name to Kenya Tea Development Agency (KTDA) Holdings Ltd.

Further reforms were instituted through the implementation of the Task Force Report of 2007 so that the TBK could be responsive to the needs of the Kenyan tea industry's stakeholders. It would also help overcome the global challenge of climate change and increase the low returns from Kenya's most popular and consumed product, black CTC tea. This resulted in the amendment of the Tea Act in 2011 and the regulations thereunder, which changed the funding for tea industry regulation, promotion, infrastructure development, and research from tea cess to a Tea *Ad-valorem* Levy. Before its revocation in 2016, the industry acquired modern research equipment to address the prevailing challenges in the tea industry.

In 2013, following agriculture sector legislative reforms that sought to harmonize numerous statutes governing agriculture, the Tea Act and CAP 343 were repealed, and the Agriculture and Food Authority (AFA) Act and Crops Act were enacted. Further, the Kenya Agricultural and Livestock Research Organization (KALRO) Act was enacted to consolidate the former agricultural research institutions, including TRI. This led to dissatisfaction among industry stakeholders regarding service delivery, inadequate regulation leading to poor compliance, and conflicting roles between the AFA and the County Governments.

In 2014, AFA was established under Section 3 of the AFA Act following the operationalization of the Crops Act 2013, which repealed the legislation that established TBK, amongst other agricultural commodity state corporations.

In its 2016 report, the Presidential Task Force on Tea recommended scrapping the tea levy. This position denied the Board, and by extension, the TRI, the much-needed resources to support the further development of the tea industry in Kenya.

The Tea Act 2020 was assented to on 23rd December 2020. It came into force on 11th January 2021, re-establishing TBK with the mandate, among others, to monitor and license agencies involved in the buying and selling of tea. (MoALD, 2024)

Though the Tea Act 2020 provided for licensing and registration of the various tea sector actors to facilitate the continued development of an efficient and effective tea industry in the country, this Act is yet to be fully operationalized. The proposed Tea (Registration and Licensing) Regulations 2026, therefore, seek to fully operationalize the registration and licensing aspects for the different actors in the industry to realize the envisaged benefits of the Tea Act 2020.

2.5 Current Policy and Legal Status

The tea industry plays an important role in the country's social-economic development. It is among the country's leading foreign exchange earners and a source of regular income for over 600,000 tea growers. It further, directly and indirectly, creates employment for over 6.5 million people along its value chain. The Tea Act 2020 is the primary legislation governing the regulation, promotion, and development of the tea industry. However, other legislation and policies in the agricultural sector and other related sectors support it. These are set out below.

The Constitution of Kenya (CoK): Article 10 provides for the participation of the people in the enactment of any law. National values and principles bind all state organs, state officers, public officers, and all persons whenever they apply the Constitution and enact any law. The Fourth Schedule of the Constitution provides for the devolution of specific agricultural functions to the County Governments. The National Government retains the executive function of policy decision-making under Part 1, Section 29 of the Fourth Schedule. At the same time, the counties take on the implementation of the policies issued by the National Government. The COK further stipulates that the two levels of government shall conduct their mutual relations based on consultation and cooperation (Article 6 and Article 189 (1) (b) (c)). Due to the importance of agriculture to economic development and the realization of the Constitutional requirements, it is necessary to have an Agricultural Policy that guides the development of the entire Agricultural Sector and unbundles National and County Government functions. The roles of county governments include agriculture (crop husbandry); implementation of programmes in the agricultural sector to address food security in the county; development of programmes to intervene on soil and water management and conservation of the natural resource base for agriculture; land development services for horticultural production for food security and others.

In addition, the Constitution of Kenya, 2010 (CoK 2010) under Article 11 (3) (b), provides for the Parliament to enact legislation to recognize and protect the ownership of indigenous seeds and plant varieties, their genetic and diverse characteristics, and their use by the communities of Kenya. Moreover, there are initiatives to establish an Access and Benefit-sharing (ABS) system that will allow for the access and exchange of seeds among communities, thereby recognizing the importance of farmer-managed seed systems.

Tea Act No. 23 of 2020: Section 3 of the Act establishes the Tea Board of Kenya (“the Board”). Under sections 5 (e) and (f), the Board has the mandate to:

- i) 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, management agents, tea auction organizers, commercial tea nurseries, commercial green leaf transporters; and
- ii) license manufacturers.

Section 20 of the Act provides that the Board, on behalf of the national government, is responsible for licensing and that each county government shall implement the national government’s policies.

Each small-scale and medium-scale grower shall register with the tea factory to which the respective tea growers deliver green leaf or purple leaf in accordance with section 21 of the Act. Large-scale tea growers are required to register with the Board under section 23 of the Act.

Any person manufacturing tea for sale is required to apply for a licence from the Board as per section 25 (2) of the Act. The Board is required to maintain a register of:

- i) Manufacturers
- ii) Tea packers
- iii) Warehouse packers
- iv) Tea buyers
- v) Exporters and importers
- vi) Tea broker
- vii) Management agent
- viii) Tea auction organizer
- ix) Commercial green leaf transporters
- x) Commercial tea nursery

These entities are required to register with the Board.

Under section 40 (1) of the Act, the Board may determine the conditions upon which a licence is issued. The Board has the power to renew, alter and revoke a licence issued to any person.

Crops Act No. 16 of 2013: This is the principal legislation in the agricultural sector enacted to accelerate the growth and development of agriculture in general. Under this Act, tea is a scheduled crop. AFA is responsible for registering and licensing all dealers of scheduled crops. AFA is also

designated to issue and renew licences. This function, however, has been taken up by the Tea Board of Kenya under the Tea Act.

Trade Description Act (Cap 505): This is an Act of Parliament to prohibit misdescriptions of goods, services, accommodation and facilities provided during trade and prohibit false or misleading indications as to the price of goods. It further confers powers to require information or instructions relating to goods to be marked on, to accompany the goods, or to be included in advertisements.

Weights and Measures Act (Cap 513): This is an Act of Parliament to amend and consolidate the laws relating to the use, manufacture and sale of weights and measures and to provide for the introduction of the International System of Units (ISU). This Act would apply to agriculture produce trading regarding their correct weights and labeling for efficient marketing. Regulation 12 of the Tea (Registration and Licensing) Regulations, 2026 provides that the provisions of this Act shall apply to the weighing of green leaf by a tea factory.

Standards Act (Cap 496): This is an Act of Parliament to promote the standardization of the specification of commodities and to provide for the standardization of commodities and codes of practice; to establish a Kenya Bureau of Standards, to define its functions and provide for its management and control; and for matters incidental to, and connected with, the foregoing.

Pest Control Products Act (Cap 346): This is an Act of Parliament to regulate the importation, exportation, manufacture, distribution, and use of products used for the control of pests, the organic function of plants and animals, and related purposes.

Food, Drugs and Chemical Substance Act (Cap 254) is an Act of Parliament that makes provision for the prevention of adulteration of food, drugs and chemical substances. This Act provides rules for the placing on the market of food, drugs for man and animal and chemical substances, establishes the Public Health (Standards) Board and makes otherwise provisions for the control of the quality and safety of food, drugs, and chemical substances to be placed on the market of Kenya.

Public Health Act (Cap 242)—It is concerned with protecting public health in Kenya and lays down rules relative to, among other things, food hygiene and protection of foodstuffs, the keeping of animals, protection of public water supplies, the prevention and destruction of mosquitos, and the abatement of nuisances, including nuisances arising from sewerage. The Act establishes the Central Board of Health and County health management boards. It also establishes and defines the functions of health authorities.

County Governments Act No. 17 of 2012: The various County Integrated Development Plans (CIDPs) and country-specific legislation, policies, and strategies: Individual County governments have developed different pieces of country-specific legislation, policies, and strategies for the development of agricultural production and marketing in the individual counties. These instruments will affect the tea industry differently in the individual counties.

The Kenya Agricultural and Livestock Research Act No. 17 of 2013: This is an Act of Parliament to provide for the establishment and functions of KALRO, for organs of the Organization, for the coordination of agricultural research activities in Kenya, and for connected purposes.

The Plant Protection Act (Cap 324) is an Act of Parliament to improve provisions for preventing the introduction and spread of disease-destructive plants. It also meets the requirements for seeds and plants ready for import and export, including the requirement for a Phytosanitary Certificate. Imports from tea are thus subject to the provisions of this Act.

Agriculture Sector Transformation and Growth Strategy (ASTGS), 2019 -2029: The central theme of the ASTGS (2019–2029) is food and nutrition security. The ASTGS seeks to improve food and nutrition security by transforming Kenya’s agriculture sector into one that is vibrant, commercially oriented, and modern and has three anchors: increasing incomes of small-scale farmers, pastoralists, and fisherfolk; increasing agricultural output and value-added and increasing household food resilience. The ASTGS identified 13 value chains with the highest potential for transformation that will be at the center of its identified nine implementation flagships. These value chains include crops such as potatoes, staples such as maize, rice, and beans, fruits and vegetables, beef, poultry, sheep/goats, dairy, and camels among livestock, and fish. The ASTGS’s inclusion of tea among its priority value chains indicates the critical role this crop has and the importance of the proper functioning of the tea industry in the agricultural development and transformation of the country. It notes that tea is one of Kenya’s highest export earners, making up to 60% of Kenya’s crop production. The Strategy also recognizes that Kenya can adopt some strategies such as the “Buy Kenya” campaign and Small and Medium Enterprises (SMEs) knowledge and skills building. This can extend to branded tea in high tea-growing regions.

Kenya Vision 2030: Through its 5-year Medium Term Plans, this is a nationwide multi-sectorial national strategy that outlines the main policies, legal and institutional reforms as well as programs and projects that the Government plans to implement during the period 2008-2030, which aims to transform Kenya into a newly industrializing, middle-income country providing a high-quality life to all its citizens through three pillars: economic, social and political.

Agricultural Policy 2021: It was formulated in line with the relevant provisions of the Constitution and provides a clear roadmap to the realization of Vision 2030 agricultural goals and targets. It identifies current challenges in the agricultural sector and outlines suitable guidelines to address them. The Policy recognizes tea as a leading foreign exchange earner and its export value was Kshs. 104.1 billion in 2019, Kshs. 134.8 billion in 2018 and Kshs. 134.8 billion in 2017. It remained one of the key agricultural items in domestic exports in 2019. However, the value of tea exports declined by 18.2 per cent from Kshs. 138.8 billion in 2018 to Kshs. 113.6 billion in 2019.

Kenya Climate-Smart Agriculture Strategy 2017 – 2026: It is keen on addressing the gaps in policy implementation and actualization of policies. The broad objective of the Kenya Climate-Smart Agriculture Strategy (KCSAS) is to adapt to climate change and build resilience of

agricultural systems while minimizing emissions for enhanced food and nutritional security and improved livelihoods. It recognizes the national issues on climate change and agriculture, such as a temperature rise of 2°, which would lead to large areas of Kenya currently suited to growing tea becoming unsuitable. This would have an enormous impact on the tea industry, which directly and indirectly employs three million Kenyans or about 8% of the population.

International and regional conventions and agreements: Kenya is also a signatory of various international policies employed by the international community to regulate trading or reduce the volatility of different product markets. These include trade agreements, international arrangements or controls or limitations on activities on commodities markets, and regional and bilateral policies that governments employ to regulate trade. These policies, among other things, may include export bans, variable export taxes or import tariffs. These regional and global policies, protocols and treaties, including the East African Community (EAC), Common Market for Eastern and Southern Africa (COMESA), African Union (AU), African Regional Property Organization (ARIPO), United Nations (UN) and the World Trade Organization (WTO) Agreement affect the performance of agriculture in the country through specific international requirements for trade, market access sanitary and phytosanitary standards among. The tea levy is imposed on both the importation and exportation of tea. This will have an impact on international trade in tea and will be subject to these trade agreements, international arrangements, regional and bilateral policies, protocols and treaties.

Bottom-Up Economic Transformation Agenda (BETA): The Bottom-Up Economic Transformation Plan 2022-2027 is the manifesto of the Kenya Kwanza administration that will be implemented over the next five years. The agenda is built on five main pillars: economic diversification, industrialization and value addition. One of the major crop value chains is the tea value chain. The Plan recognizes the need to mobilize tea farmers into cooperatives, establish incubation centers for specialty tea diversification, develop export markets and products as well as implement a global marketing strategy among others. It also includes an implementation matrix with an indicative budget and department responsible. Some include the State Department for Cooperatives (SDC), State Department for Industry (SDI), State Department for Investments Promotion (SDIP), State Department for Agriculture (SDA), TBK, The National Treasury (TNT), KTDA, Independent Tea Factories and the East Africa Tea Trade Association (EATTA).

3.0 EFFECTS OF PROPOSED REGULATIONS

This chapter examines the effects of the proposed regulations on the public and private sectors, as well as on individuals' fundamental rights and freedoms.

3.1 THE TEA (REGISTRATION AND LICENSING) REGULATIONS 2026

These Regulations have been developed by the Cabinet Secretary for Agriculture and Livestock Development in consultation with the Tea Board of Kenya in the exercise of the powers by sections 74 of the Tea Act, 2020.

Regulation 1 of these regulations prescribes the citation of the regulations.

Regulation 2 contains the interpretation of the regulations and specifies the meanings of the terminology employed in the regulations.

Regulation 3 gives the object and purpose of these Regulations. The main object and purpose of the regulations are to provide for the registration and licensing of tea factories, small-scale, medium-scale, and large-scale tea growers, commercial tea nurseries, commercial green leaf transporters, and tea dealers. This regulation further prescribes the procedures, terms, and conditions for the registration of all categories of tea growers, tea manufacturers, commercial tea nurseries, commercial green leaf transporters, and tea dealers, and for the declaration and submission of returns on tea and the fees charged under the Act and any regulations made thereunder.

This regulation also defines procedures for cancellation, variation, revocation of a license or registration and the appeal process in case of refusal or denial of a license or registration.

This regulation will enable the establishment and maintenance of an accurate real-time database of all these critical actors within the Kenyan tea industry, allowing for close monitoring, supervision and regulation of the tea industry and establish procedures for cancellation, revocation of a license or registration and an appeal mechanism in case of refusal or denial of a license or registration. It will also provide accurate data on industry trends to inform decision-making and policy development. The provisions of this regulation may, however, be viewed by some industry actors as excessive bureaucracy and interference with private businesses.

Regulation 4 defines the procedure for the application for registration of a commercial tea nursery to the respective County Government. It further sets out a 30-day timeline for the County Government to consider any application received and to issue a no-objection, approve, and issue a certificate of registration before the Board licenses the applicants or to reject and notify the applicant, indicating the reasons for the decision.

submit annual returns to the respective County Government and a copy to the Board by the 15th day of January each year.

This regulation also provides an appeal mechanism when an applicant for registration of a commercial tea nursery who feels aggrieved by the decision on their registration application of the County Executive member to the committee established under section 20 of the County Licensing (Uniform Procedures) Act, 2024 and thereafter may appeal to the High Court if aggrieved by the decision of this committee. This regulation also further specifies an offence for contravention of its provisions.

This regulation will ensure effective monitoring, supervision and regulation of commercial tea operators. This will ensure that tea growers will only access quality and recommended tea varieties by T.R.I to establish or expand their tea fields. It will also allow monitoring of the production and availability of planting materials in the tea-growing regions and across the country through annual returns. This regulation also provides an appeal mechanism for applicants aggrieved by decisions on their commercial tea nursery registration applications, thereby promoting fair practices in the registration of such nurseries. In addition, this regulation by pronouncing an offence for contravention of the provisions of this regulation will serve as a deterrent to non-compliance to the regulation.

The provisions of this regulation may, however, be viewed by some as excessive bureaucracy and interference in private businesses, which may drive practicing tea nursery operators out of business due to their inability to meet the requirements of these regulations.

Regulation 5 provides for the application for registration of small-scale and medium-scale tea growers. It requires such growers to register with the respective tea factory where they deliver green leaf, and for the tea factory to verify the growers' details before issuing them a grower's number. It further requires the tea factory to prepare a farm verification report on the tea grower's eligibility, which shall be kept in the tea factory for inspection by the Board. Where an application is rejected, the tea factory manager must notify the applicant of the decision. This regulation also provides an appeal mechanism for applicants for registration of small-scale and medium-scale tea growers who feel aggrieved by the decision on their registration applications. In addition, this regulation further pronounces an offence for contravention of its provisions.

This regulation additionally requires a tea factory to maintain a register of all growers registered under the regulation who supply green leaf to the tea factory. The register shall contain, among others, the grower's number, the grower's personal details, land size, number of bushes, the average production and the tea buying centre. The tea factory is also required to submit a copy of such a register to the Board and the respective County Government by the 15th day of January every year. The details of the large-scale tea growers will also be deposited with the county to

allow the County Government to have statistics on all tea growers within their counties for planning purposes.

This regulation will enable the establishment and maintenance of an accurate real-time database of small-scale and medium-scale tea growers in each tea-growing county. To efficiently realize this, the Tea Board of Kenya will be expected to support this process through its national digital growers register for reference by factories to enforce compliance with the requirements on registration of growers under the Tea Act and Tea Regulations. It will further enable close monitoring, supervision, regulation, and enforcement in the tea industry, as well as provide accurate data on industry trends to inform decision-making and policy development in each tea-growing county. This regulation will further curb the tea menace by ensuring that only verified, registered growers deliver tea to factories. The appeal mechanism for aggrieved registration applicants provided by this regulation will promote fair practices in the registration of small-scale and medium-scale tea growers in the tea industry. By pronouncing an offence for contravention of the provisions of this regulation, this regulation will serve as a deterrent to non-compliance to the regulation. However, some small-scale and medium-scale tea growers may view this regulation's provisions as excessive bureaucracy and interference in private farmers' businesses.

Regulation 6 provides for the registration of large-scale tea growers with the Board and the issuance of a certificate of registration by the Board for approved applications, and for notification to applicants when applications are rejected, with reasons for rejection. This regulation further requires the Board to maintain a register of all large-scale growers registered with the Board and to furnish a copy to the respective County Executive member annually. This regulation sets a 60-day timeline for the Board to consider any application received and either approve and issue a certificate of registration or reject and notify the applicant, indicating the reasons for the decision. Further, this regulation provides for the revocation of a certificate of registration if a registered tea grower sells or transfers land on which tea is grown, and the new owner of the land must register with the Board in accordance with this regulation. In addition, this regulation further pronounces an offence for contravention of its provisions.

This regulation will ensure the registration of large-scale tea growers in the country and the establishment and maintenance of an accurate, real-time database of large-scale tea growers, including foreign-owned estates. It will thus allow for close monitoring, supervision, and regulation of tea production and provide accurate data on industry trends to inform decision-making and policy development. By pronouncing an offence for contravention of the provisions of this regulation, this regulation will serve as a deterrent to non-compliance to the regulation. However, some large-scale tea growers, especially foreign-owned estates, may view the provisions of this regulation as excessive bureaucracy and interference in private farmers' businesses.

Regulation 7 restricts double registration by a small-scale tea grower and medium-scale tea grower of their parcel of land planted with tea with more than one tea factory at a time. The regulation further indicates an exception to the registration of a parcel of land planted with more than one type of tea, green or purple, with more than one factory at a time for the purpose of processing the different teas. The regulation subsequently requires provision of proof by the registered owner supported by a letter from the area Chief to the tea factory where a parcel of land is sub-divided, but separate title deeds have not been issued. In addition, this regulation also further pronounces an offence for contravention of the provisions of this regulation.

This will discourage unfair trade practices by growers who may want to divert their green leaf to alternative factories for various reasons. Some practices include avoiding payment for inputs, credit or advances issued by a specific factory, or illegal green tea diversion during family disputes. By imposing an offence for contravention of its provisions, this regulation will serve as a deterrent to non-compliance. However, this regulation may be viewed by growers as tying them to factories and denying them choice, including when a specific factory is underperforming or mismanaged.

Regulation 8 provides for the change of a tea factory. It requires a tea grower wishing to change the factory where they deliver green leaf to inform their respective factory with a minimum of 30 days' notice. The factory is also required to release the grower within one month of the receipt of the notice, subject to the grower clearing any outstanding dues with the factory. Where an objection to the notice is raised, the matter is referred to the County Executive member for resolution. This regulation also further specifies an offence for contravention of its provisions.

This regulation provides growers with an avenue to change their factory choice within the timelines set, while protecting factories from losses arising from unsettled dues by migrating growers. Pronouncing an offence for contravention of this regulation will serve as a deterrent to non-compliance.

Regulation 9 requires that any change in particulars of growers be notified, in writing, to the respective tea factory in the case of small-scale and medium-scale tea growers, or to the Board in the case of large-scale tea growers. Where a registered grower ceases to grow or cultivate tea, the respective tea factory or the Board may, after giving that person a written notification of its intention to do so, remove the name of that grower from the register. Further, this regulation provides that the register submitted to the Board and County Executive member as required in regulation 5(7) of these regulations shall be prima facie proof of the fact that a person is a registered tea grower with the factory. This regulation also imposes an offence for contravention of its provisions.

The regulation will restrict unauthorized changes to a grower's particulars and thus protect growers, especially the aged and/or illiterate growers, from possible defrauding of their rights by

their kin and other white-coloured criminals. This regulation will also ensure continuous updates to growers' registers, crop acreage, and tea production trends for informed decision-making and planning. Pronouncing an offence for contravention of the provisions of this regulation will serve as a deterrent to non-compliance to this regulation.

Regulation 10 requires a tea factory to sign a green leaf agreement with its registered growers in the format prescribed by this regulation. The green leaf agreement provides particulars of the agreement, including the date of commencement of the agreement, duration of the agreement, obligations and responsibilities of each party, including the performance standards, services offered by the factory, the quality standards of green leaf to be delivered by the tea grower, a dispute resolution and termination clause. It may also include additional terms and conditions that the parties may deem necessary. This regulation requires the grower and the Factory to keep a copy of the executed agreement.

This regulation will introduce accountability on the part of both the factory and the grower, thereby enhancing efficiency and performance for both parties and benefiting the Kenyan tea industry at large.

Regulation 11 provides for the registration of a commercial green leaf transporter and expressly prohibits persons not registered by the Board from operating as commercial green leaf transporters. This regulation also specifies the procedure for the application, renewal, approval, or rejection of any such application. It requires a commercial green leaf transporter applicant to obtain a no-objection from the County Executive of the respective county. This regulation prescribes an annual registration fee payable by green leaf transporters, issuance and display of an identification sticker to every vehicle registered by the Board as a commercial green leaf transporter, and conditions an applicant must comply with, including the Tea Act, the Tea Industry Code of Practice KS: 2128, the Public Health Act and any other relevant law. This regulation also requires a tea factory to maintain a register of all its registered green leaf transportation vehicles for inspection by the Board and the County Executive member. It provides for collaboration between the Board and the County Government in the regulation of green leaf transporters. Lastly, it prescribes contravention of this regulation's provision as a punishable offence.

This regulation will ensure that only certified registered transporters who meet all the defined requirements will transport green leaf. This will ensure hygiene during the handling and transportation of tea to the factories, thus protecting consumers from exposure to harmful substances from the use of vessels that transport them.

Regulating the commercial green leaf transporters will also reduce tea hawking, which not only robs farmers of their returns but also often compromises hygiene during transportation. The introduction of this regulation may, however, eliminate active commercial green leaf transporters

unable to meet the conditions set herein out of business. Additionally, prescribing an annual registration fee may also be viewed as increasing the cost of doing business for transporters.

Regulation 12 requires a commercial green leaf transporter to enter into an annual green leaf transport agreement with the tea factory where they intend to provide green leaf transport services. The commercial green leaf transporter is also required to transport tea only to the tea factory. It has signed a green leaf transportation agreement with the company and only uses designated motor vehicles. This regulation further requires such a transporter to comply with the Tea Industry Code of Practice KS: 2128, the Public Health Act and any other relevant law. This regulation also finally prescribes a punishable offence for contravention of its provisions.

This regulation will ensure that transporters are bound by agreements to deliver tea to the factory promptly and appropriately, minimizing the loss of quality tea due to delayed or non-delivery. It also ensures that no tea in transit is diverted to other factories. The requirement to use designated vehicles will help maintain hygiene during transportation and reduce tea hawking, which is primarily carried out in pickup trucks. Pronouncing an offence for contravention of this regulation will serve as a deterrent to non-compliance.

Regulation 13 provides for the registration of a management agent and requires that a person not operate as a management agent unless they are registered by the Board. This regulation defines the procedure for registering management agents, approving and issuing certificates of registration, rejecting such applications, and notifying the applicant of the reasons for the decision. Registered agents are also required to make annual returns to the Board. This regulation also finally prescribes a punishable offence for contravention of its provisions.

This regulation will ensure the registration of all management agents in the tea industry, enabling monitoring and oversight of their operations and compliance with regulations. Thus, it will safeguard the interests of other tea industry actors who employ such agents. The annual returns of registered agents to the Board will enable the Board to maintain reliable real-time data on trends in the tea industry. Pronouncing an offence for contravention of this regulation will serve as a deterrent to non-compliance.

However, this regulation may shut out already-practicing management agents from business because they are unable to meet the registration conditions, which could be viewed as increased bureaucracy in the industry.

Regulation 14 provides for management agent agreements with every tea factory to which they intend to provide management agent services or any person who intends to manufacture or deal in tea. Thus, it specifies the terms and conditions of the agreement. This regulation further requires that a management agent agreement between a management agent and a factory be submitted to

the Board for approval before execution between the parties and such agreements will be for a period of five years and may be reviewed upon expiry of this period at the discretion of the factory. This regulation also prescribes that the remuneration for the service rendered by the management agent to the tea factory limited company shall be as prescribed by the Act. This regulation finally prescribes a punishable offence for contravention of its provisions.

This regulation will enhance accountability and responsibility, particularly for management agents, thereby protecting the interests of factories and other entities that rely on their services. The prescribed five-year period for management agent agreements may, however, be viewed by tea factories as denying them the right to seek alternative or better services from underperforming management agents. In addition, this regulation, by imposing an offence for contravention of its provisions, will serve as a deterrent to non-compliance.

Regulation 15 requires warehouse operators to register with the Board. It also defines the procedures for applications, approvals, rejections, and notifications to applicants, including the reasons for rejection. It requires applicants for warehouse registration to obtain no objections from the respective County Executive Member. This regulation also requires a tea warehouse operator to submit to the Board, in a prescribed format, annual statistical returns, a copy of which is to be sent to the County Executive Member, by the 15th of every January, and prescribes a punishable offence for contravention of the provisions of this regulation.

This regulation will ensure that all warehouse operators in the tea industry are registered, facilitating the monitoring and supervision of their operations. Doing so helps regulate the industry, safeguarding the interests of other tea sector actors who utilise these operators' services and ensuring the maintenance of quality in storage. The submission of annual statistical returns will provide real-time data on trends, stocks, and movements of warehoused tea for informed policy, management, and business decisions.

This regulation may, however, shut out existing warehouse operators from business who may not meet the conditions set by these regulations and may be seen as increasing bureaucracy and the cost of doing business for warehouse operators.

Regulation 16 stipulates that no person may operate as a tea packer unless they are registered with the Board. It outlines the procedure for application, approval, rejection, and notification of applicants, including the reasons for rejection. It requires applicants to obtain no objection from the County Executive Member of the respective County. This regulation also mandates that every tea packer submits monthly statistical returns to the Board, with a copy to the respective County Executive Member. This regulation pronounces an offence for failure to comply with it, subject to penalties. Under these regulations, a tea packer must comply with the Tea Industry Code of Practice

KS: 2128, the Public Health Act, and any other relevant laws, including the applicable Food Safety and Hygiene Standards.

This regulation will ensure the registration of all tea packers, allowing for the monitoring and supervision of their operations and compliance with set quality and hygiene standards. The monthly statistical returns will provide the Board and respective county Governments with real-time data and information on tea packaging and trade trends to inform planning and decision-making. Finally, pronouncing an offence for contravention of the provisions of this regulation will serve as a deterrent to non-compliance.

Regulation 17 imposes a duty on imported or transit tea packed for the local market. It requires every tea packer packing imported or transit tea for the local market to pay the duty and value-added tax levied on such tea, in accordance with the tax laws and any other relevant laws. This regulation pronounces an offence for failure to comply with it, subject to penalties.

This regulation will protect the local tea market from the proliferation of cheap and poor-quality tea and will also generate additional revenue to the exchequer. Pronouncing an offence for contravention of the provisions of this regulation will serve as a deterrent to non-compliance to the regulation.

Regulation 18 requires a person not to carry on the business of buying or exporting unless registered by the Board. This regulation outlines the procedures for applications, applicable fees, approval, rejection, and notification to applicants, including the reasons for rejection. The regulations require applicants to provide an elaborate business plan demonstrating the viability of the business venture, outlining the creation of new market linkages, value-addition proposals, the creation of employment opportunities, technology transfer, the availability of equipment for value addition, and evidence of suitable premises for value addition. In addition, this regulation requires a tea buyer or exporter to declare all their export consignments to the Board at the point of export in a prescribed format. This regulation pronounces an offense for non-compliance with the provisions of this regulation and spells out applicable penalties

This regulation will enable the regulation of tea buying and export, thus resolving the perennial challenge of illegal tea buying and also regulating tea export while also collating real-time data on tea buying and exports for better-informed policy and business decisions. This regulation will also serve as a deterrent to non-compliance with the regulation by spelling out punishable offences for non-compliance.

Regulation 19 requires a person not to carry on the business of tea importing unless registered by the Board. This regulation outlines the procedures for applications, applicable fees, approval, rejection, and notification to applicants, including the reasons for rejection. This regulation will enable the regulation of tea imports, thus resolving the perennial challenge of illegal tea imports;

protect the local tea market from the proliferation of cheap, poor-quality tea; and avoid revenue leakage to the exchequer. Pronouncing an offence for contravention of this regulation will serve as a deterrent to non-compliance.

Regulation 20 provides for pre-import approval and requires a person not to import tea into Kenya without a pre-import approval issued by the Board. This regulation outlines the procedures for applications, applicable fees, approvals, rejections, and notifications to applicants, including the reasons for rejection of pre-import approvals. This regulation requires that, upon obtaining a pre-import approval, a tea importer will declare all imported tea consignments to the Board at the point of import in the prescribed format. This regulation imposes an offence on a person who provides false information or contravenes its provisions.

This regulation will strengthen the regulation of tea imports into the country and thus further address the challenge of illegal tea imports and will protect the local tea market from the proliferation of cheap and poor quality tea, and will also avoid revenue leak to the exchequer. Pronouncing an offence for contravention of this regulation will serve as a deterrent to non-compliance.

Regulation 21 defines the conditions for the import of tea into Kenya. It requires that no tea be imported into Kenya without a valid certificate of conformity to Kenya Tea Standards issued by an accredited institution in the country of origin. This regulation mandates the Board at the cost of the importer to conduct an analysis of tea intended for importation or imported into the country to ensure conformity to Kenya Tea Standards on quality, food safety, hygiene, sanitary and phyto-sanitary regulations and must be accompanied by a certificate of origin, a sanitary and phyto-sanitary certificate and a certificate of analysis of pesticide residue issued by a competent authority from the country of origin.

This regulation empowers the Board to reject, seize, destroy, or re-export to the country of origin, at the importer's cost, any tea that does not meet the standards specified in this regulation. This also requires an importer who imports tea for blending to re-export such tea within six months of the date of import, and proof of such export shall be maintained for inspection by the Board. This regulation imposes an offence on a person who provides false information or contravenes its provisions.

This regulation will ensure that any tea imported into the country meets the Kenya Tea Standards on quality, food safety, hygiene, sanitary and phyto-sanitary regulations, thus avoid importation of poor quality or unhealthy tea into the country's domestic market. At the same time, avoid using poor-quality or unhealthy tea in the blending of Kenyan tea for export, as this may taint the reputation of Kenyan tea quality. This regulation, by stipulating a holding period for imported tea

for blending, avoids the possible misuse of the window to import such tea for blending and introducing it into the local market, and will also deter false information on tea imports.

Regulation 22 mandates the Board verify documentation for the export and import of any tea consignments and, where compliant with the requirements of the Act and these regulations, issue an export or import permit in the format prescribed in these regulations. This regulation further mandates the Board to cancel export or import permits or pre-import approvals where an importer or exporter contravenes the provisions of the Act or any regulations made thereunder.

This regulation will strengthen the regulation of tea exports and imports into the country while also allowing the elimination of errant tea importers or exporters whose actions may be detrimental to the development or reputation of the Kenyan tea industry.

Regulation 23 requires a tea buyer, exporter, and importer to complete and submit monthly statistical returns to the Board by the 14th day of each month. This regulation pronounces an offence for failure to submit such returns. This regulation will ensure continuous maintenance and availability of real-time data on tea imports and exports, trends, stocks, and movements for informed policy, management, and business decisions.

Regulation 24 provides for the registration of a Tea broker and requires a person operating as a Tea broker to be registered with the Board. This regulation outlines the procedures for applications, applicable fees, approval, rejection, and notification to applicants, including the reasons for rejection. This regulation requires a broker to sign a contract with each factory to which they intend to provide brokerage services and furnish the Board with a copy. This regulation further requires a broker to complete and submit monthly returns in the prescribed format to the Board by the fourteenth day of every month and pronounces an offence for contravening its provisions.

This regulation will enable the regulation of tea brokerage services, thus avoiding the challenge of over-exploitation by brokers, which can significantly reduce growers' and factory earnings, while also collating real-time data on tea trends to support better-informed policy and business decisions. This regulation will also serve as a deterrent to non-compliance by spelling out punishable offences.

Regulation 25 requires tea importers and exporters to comply with relevant customs laws and regulations on shipment of goods in handling transit tea and maintain relevant documents for inspection by the Board.

This regulation will avoid contradiction with other relevant customs laws and regulations.

Regulation 26 provides for the registration of an auction organizer and requires all persons who organize tea auctions or deal in tea as tea auction organizers to be registered by the Board. This regulation defines the procedure for the registration of an auction organiser, the approval and

issuance of a certificate of registration, and/or the rejection of such applications, notifying the applicant of the reasons for the decision and the procedure for renewal of registration.

Registered auction organisers are also required to submit to the Board a monthly tea auction report of all teas sold through the auction in the previous month and to provide the Board with the right to monitor auction trading and access data with the electronic trading platform. This regulation further requires an auction organiser to complete and submit to the Board monthly returns in the prescribed format by the fourteenth day of every month and pronounces an offence contravening the provisions of this regulation.

This regulation will ensure the registration of all tea auction organizers, allowing for the monitoring and supervision of their operations and their regulations. Thus, it will eliminate or reduce unfair trade practices in tea auctions through collusion and other illegal practices. This regulation will also ensure the generation of real-time data on auction trends for better-informed policy and business decisions. This regulation will also serve as a deterrent to non-compliance by spelling out punishable offences.

Regulation 27 provides for the revocation or alteration of registrations and requires registered persons under these regulations to commence operations within one year of the issuance of a registration certificate; failure to do so shall result in the lapse of such registration certificate.

This regulation also mandates the Board or the County Government to revoke, alter, suspend, vary, or cancel a registration certificate for failure to comply with the provisions of the Act and these Regulations, or for committing an offence under the Act, or for the registered activity under any other law. This regulation also provides for such action where a registration certificate holder breaches or fails to comply with the terms and conditions of the certificate of registration, fails to comply with a lawful requirement given by the Board or County Government, obtains a registration certificate fraudulently, or operates a different tea business than that the person is registered.

This regulation further provides that the Board or County Executive Member shall issue a written notice of the proposed revocation, alteration, suspension or cancellation of a registration certificate detailing the violations or reasons thereof and give at least fourteen days to respond, and which may be in writing, after which the Board or the County Executive Member will make and convey the decision to the holder of the registration certificate.

A holder of a registration certificate aggrieved by the decision of the Board or the County Executive committee may, within thirty days of the decision, appeal to a court of competent jurisdiction.

This regulation also provides for the surrender of a revoked registration certificate. It requires the holder of a revoked registration certificate to surrender it to the Board or the County Government immediately. Upon surrender, such a registration certificate ceases to have effect immediately.

This regulation will eliminate speculators who seek registrations to exploit existing or emerging industry opportunities for their own selfish gains, to the detriment of other industry actors. Thus, it will instil compliance in the industry. The appeal mechanism provided for in these regulations will promote fair practices in the tea industry. At the same time, the provision on surrender of a revoked registration certificate checks the possible illegal transfer of such registration certificate and promptly eliminates actors whose registrations have been revoked from the tea sector, protecting industry actors from agents who have been deemed unfit to operate in the industry.

Regulation 28 governs tea manufacturing licensing and requires all tea manufacturers to hold a valid tea manufacturing license. This regulation outlines the procedure and requirements for applying for or renewing a tea manufacturing license. Key requirements include conducting a feasibility study for the proposed tea manufacturing factory, an organogram of the factory, an operation plan, a crop development plan, a marketing plan and a financial plan showing projected sales, cash flow projections, capital structure, funding model, disclosure of current or former directorship in any other company dealing with tea, sustainable energy source if using wood fuel, i.e. woodlots, a no objection from the County Executive Member of the respective County, demonstrate financial capacity to construct factory and commence operations, audited financial accounts where applicable, land ownership documents for the proposed factory site, proof of directors compliance with chapter six, management profile and curriculum vitae of directors and top management staff, factory procurement policy.

Upon receipt of such an application, the Board, in consultation with the Cabinet Secretary, will determine the application, taking into consideration the current National processing capacity survey, the requirements of the Act and any other relevant law. If approved, the Board, in consultation with the Cabinet Secretary, will issue a tea manufacturing licence or a speciality tea manufacturing licence in the prescribed formats. Where an application under this regulation is rejected, the Board shall notify the applicant of the decision.

Further, this regulation provides that, for new factories, applicants must also have at least 700 hectares of planted tea bushes, or 50 hectares in the case of speciality tea manufacturing, and comply within a 50 km radius of the new factory. This regulation also allows the Board to cancel, vary or suspend a licence where licensee contravenes the provisions of the Act or these regulations. Other considerations in this regulation for manufacturing licensing include evidence of shareholding with the prescribed minimum hectareage of tea planted in the company, no processing overcapacity will be created in an area, and the Board or County Executive Member will mediate how growers are distributed between a new factory and an existing factory.

The regulation also sets out the applicable fees for each type of license, specifies timelines for processing manufacturing applications in accordance with the National Processing Capacity Survey, the Act, and other relevant laws, and defines the procedure for approving or rejecting applications. In the event of rejection, applicants must be notified of the reasons for the decision. The regulation also outlines the procedure for license renewal and pronounces an offence for contravening its provisions.

This regulation will ensure compliance with set tea manufacturing standards, maintain the high-quality standards Kenyan tea is known for, regulate and optimise processing capacity to avoid over-investment in ideal processing capacity, avoid conflicts between processors competing for green leaf, and protect consumers from poor-quality, unhygienic manufactured tea.

Regulation 29 sets out the obligations of the holder of a manufacturing license and requires a holder of a manufacturing license or specialty license to construct and commission the tea factory within three years from the date of issuance of license. The holder of the manufacturing license also does not vary the type of tea manufactured and is granted the processing capacity of their license without the prior approval of the Board. This regulation also requires the holder of a manufacturing licence or a speciality tea manufacturing licence to furnish the Board with a certified copy of their register of growers, as specified by the Board. It further requires the holder of a manufacturing license to facilitate remittance of contributions to a registered tea growers' association pursuant to any agreements entered into between the tea growers and those Associations. This regulation also requires the holder of a manufacturing licence or a specialty tea manufacturing licence to notify the Board of any intended sale or transfer of ownership of its tea factory at least six months before the transaction is effected. It further prohibits the construction of a tea factory without a valid manufacturing licence from the Board. This regulation requires licensed tea manufacturers to furnish the Board and the County Executive member with a list of their growers from time to time and to satisfy the Board that their procurement policy promotes competitive procurement before licensing or renewal of their licence. In addition, this regulation requires a licensed tea manufacturer to notify the Board and the County Executive member of any intended sale or transfer of ownership at least six months before the transaction is effected.

This regulation will eliminate speculators holding dormant manufacturing licenses, thereby distorting the industry structure. The regulation will ensure that no idle manufacturing capacity is developed by requiring manufacturers to submit growers' registers. Additionally, by facilitating the remittance of contributions to growers' associations, this regulation will help develop functional, effective growers' associations, which are an integral part of the tea sector's future self-regulation. Moreover, the regulation of the intended sale or transfer of ownership of manufacturing licenses will promote fair trade practices by checking on the development of monopolies or oligopolies through mergers and acquisitions, which may work to the detriment of other industry actors. The

requirement to get approval before commencing construction of a manufacturing factory will avoid investment in unapproved/ idle facilities and future disputes and legal tussles between investors and the Board and sets a time period of 3 years for the construction and operationalization of a new factory to check on would be speculators who may hold on to licenses to capitalize on opportunities. By maintain growers register regularly inspected by the Board and the County Executive member, this regulation will ensure that that irregularities such as green leaf poaching and exceeding processing capacity are avoided. In addition, by monitoring the ownership of manufacturing factories, this regulation will monitor the development of monopolies or oligopolies in tea manufacturing, which can be used to exploit growers through market manipulation. This regulation also prescribes an offence for contravening its provisions to deter malpractices in the development and manufacturing of tea.

Regulation 30 empowers the Board to seize and remove or order the removal of any manufactured tea or processing capacity where it has reasonable grounds to believe that the processing capacity has been installed contrary to the conditions of the licence issued under these Regulations.

This will ensure compliance with approved processing capacities in all factories and avoid variations that may be used to engage in unauthorized and unfair trade practices.

Regulation 31 prescribes that the provisions of section 27 of the Act shall apply to the illegal manufacture, possession or trading of tea.

This regulation will curb illegal tea manufacturing, possession, or trading, and thus discourage potential unfair practices in the industry's manufacturing node.

Regulation 32 requires the Board to maintain a register of all licensed manufacturers and their definitions in these regulations. This regulation will ensure the availability of data and information on all licensed manufacturers in the country, including their details, supporting better-informed policy and business decisions in the tea industry.

Regulation 25 requires the holder of a manufacturing licence and a speciality tea manufacturing licence to make monthly and annual statistical returns to the Board and to be copied to the respective County government. It also pronounces an offence for contravening these requirements.

This will provide the Board and the respective county governments with real-time data and trends on monthly and annual tea production statistics, which will be useful in informing planning, decision-making, and policy review or development at both the national and county levels.

Regulation 34 on revocation or alteration of a licence allows the Board to revoke, alter or suspend a licence where a licence holder fails to comply with the provisions of the Act and these

Regulations. This regulation provides that the Board shall issue a written notice of the proposed revocation, alteration, suspension or cancellation of a registration certificate detailing the violations or reasons thereof and give at least fourteen days to respond, and which may be in writing, after which the Board will make and convey the decision to the holder of the registration certificate. It further provides that before any licence is cancelled, revoked, suspended or varied under this regulation; the Board shall allow the affected person to be heard. This regulation also allows a person aggrieved by the Board's decision under this regulation to appeal to the High Court. This regulation also provides for an offence for contravening its provisions.

This regulation will enhance compliance with these regulations and the relevant provisions of the Tea Act by imposing heavy penalties for license cancellation, revocation, or suspension. It also provides an appeal mechanism, thus promoting fairness in tea manufacturing.

Regulation 35 provides an appeal mechanism and defines the application process. This regulation provides that an applicant aggrieved by the decision of the Board may appeal to the Board within sixty days of receipt of the notice of the decision in writing in the format prescribed in these regulations and for the Board to establish ad hoc committee to consider, determine and make recommendations on the appeal with respect to registration within sixty days of the appeal, and for the Board to communicate the decision of the Ad hoc committee to applicant within ninety days of receipt of the appeal. This regulation provides that a person aggrieved by the Board's decision may appeal to the High Court.

The appeal mechanism established herein will ensure fairness in registration across the entire tea industry, provide all stakeholders in the sector with equal treatment, and thus ensure fair trade practices.

Regulation 36 defines the validity of licenses and registrations under these regulations, and they all expire on the 30th day of June every year.

This regulation will ensure that every year, holders of licenses and registration will have to seek new licenses or registrations, thereby providing the Board with an opportunity to review the performance of individual license and registration holders in the sector and thus eliminate errant license and registration holders from the industry.

Regulation 37 defines the timeline for renewal of licenses and registration. This regulation requires that renewal applications be submitted at least one month before the license or registration certificate expires. Furthermore, the regulation states that if an application for renewal has been submitted, the license or registration will remain in effect until a decision on the renewal is made. It also allows late renewal applications within 6 months of the due date, provided the applicant has reasonable cause and pays a late application fee equal to 100% of the standard renewal fee. This regulation also provides that a registration certificate or manufacturing license issued under these

regulations shall lapse if not renewed within 6 months of its due date. Still, the applicant will be at liberty to make a fresh application.

This regulation ensures continuity of operations for various agents across the tea industry value chain, preventing disruptions caused by delays in licensing and registration processes.

Regulation 38 provides that the Board or the County Executive Committee Member may, as the case may require, request additional information considered necessary to determine an application registration or licensing under these regulations. This regulation will allow the Board or the County Executive Committee Member to seek additional information to make better-informed decisions on licensing and registrations in the tea industry. This regulation will enable a more thorough assessment of applications for registration or licensing to ensure that only credible individuals are authorized to operate within the Kenyan tea industry. However, some private sector actors may perceive it as an additional layer of interference or as a demand for information they consider private.

Regulation 39 requires the Board or the County Executive Committee Member, as applicable, to maintain a register of individuals registered or licensed under these Regulations. The Board or County Government may also publish the register in any manner it deems appropriate. This regulation will ensure that the Board or the County Executive Committee Member will maintain up-to-date registers of all actors across the various nodes of the tea industry value chain, enabling effective monitoring and regulation. However, sector actors may perceive the Board's or County Governments' right to publish such registers as a potential infringement of data privacy.

Regulation 40 requires that where there is a change of particulars used in the application for a registration certificate or a license issued under these regulations, the holder of the said registration or license shall notify the Board of the change of particulars therein, and where such change is significant, a new registration or license shall be applied for.

This will ensure that the Board maintains accurate particulars of registration and license holders, and that any illegal transfer of licenses and registrations is not disguised as a change of particulars by license and registration holders.

Regulation 41 prohibits the transfer of any license or registration certificate issued under these Regulations to third parties. This regulation also provides for an offence for contravening its provisions.

This regulation will ensure that only persons who have been assessed and approved by the Board or the respective county governments are registered or licensed to operate in the tea industry. It will prevent unapproved persons from entering the sector through private transfers of registrations or licenses. However, this provision may be seen as contrary to the principles of free trade.

Regulation 42 sets out the fees for licenses, registration certificates, and renewals issued under these regulations. This regulation provides that such fees shall be collected by the Board and apportioned equally between the Board and the respective county Government.

The regulation will generate additional revenue for the Board and County Governments, which may be reinvested in further development of the tea industry. The numerous licenses and registration fees prescribed by these regulations may, however, be viewed as duplicated and increasing the cost of doing business in the tea industry.

Regulation 43 is a transitional provision and provides that all registrations and licences existing before the coming into effect of these regulations shall remain valid until their expiry, and that subsequent registrations and licences issued in accordance with the provisions of these regulations. This regulation will ensure continuity and prevent disruptions caused by the new license and registration processes introduced by these regulations.

Regulation 44 prescribes the general penalty for contravening these regulations. It advocates that a person who commits an offence under these Regulations for which no penalty is specified shall be liable, on conviction, to the penalty provided in section 71 of the Act. This regulation will serve as a deterrent to noncompliance with its provisions.

3.2 Affected Groups

The regulations will affect all actors within the tea industry value chain. These include:

- i. National Government.
- ii. County Governments.
- iii. Government agencies – including TBK, TRI, Kenya Plant Health Inspectorate Service (KEPHIS), AFA, Pest Control Products Board (PCPB), KALRO, Kenya Bureau of Standards (KEBS) and National Environment Management Authority (NEMA).
- iv. Small-scale tea growers.
- v. Medium scale tea growers.
- vi. Large-scale tea growers.
- vii. Independent tea producers
- viii. Tea industry associations/Organizations such as KTDA, KTGA, EATTA, Independent Tea Producers' Association of Kenya (ITPAK), Purple and Specialty Tea Association of Kenya (PSTAK)
- ix. Kenyan tea buyers.
- x. Tea processors/Factories.
- xi. Tea traders.
- xii. Tea Brokerage firms.
- xiii. Tea Management agencies.

- xiv. Tea auction organizers.
- xv. Tea value addition agencies.
- xvi. Tea Wholesalers/retailers (supermarkets, retail outlets).
- xvii. Tea end consumers.
- xviii. Tea Exporters.
- xix. Tea Importers.
- xx. Tea councils and associations abroad, such as the German Council.
- xxi. Financial and micro-financial organization.
- xxii. Tea industry auxiliary service providers.
- xxiii. Academia and research organizations.
- xxiv. Agricultural advisory services providers.

3.3 Effects on the Public Sector

The Constitution of Kenya (CoK) 2010 provides for two levels of government: national and county. The two levels of government have specific, residual and concurrent functions and powers as provided for under Article 186 and the Fourth Schedule – Part 1: National government and Part 2: County governments. The Fourth Schedule of the Constitution has specified functions of the National Government as formulation of agricultural policies and strategies to develop the sector, while the County governments are responsible for agriculture (crop husbandry), implementation of programmes in the agricultural sector to address food security soil and water management and conservation of the natural resource base for agriculture and land development services.

In view of the above, the anticipated of the proposed regulations on the public sector will be:

- i. These regulations will establish a clear and practical framework that will regulate the operations of all actors in Kenya's tea industry. These include tea brokers, small-scale tea growers, medium-scale tea growers, large-scale tea growers, commercial green leaf transporters, tea packers, tea buyers, tea importers, tea exporters, management agents, auction organizers, warehouse operators, commercial tea nurseries and tea manufacturers. This will enhance coherence and synergy in the development of the sector.
- ii. The regulations will allow the development and maintenance of a real-time database of all actors, their business volume trends, production capacities, product range and quality, etc. This will enable informed sector planning, decision-making, and policymaking.
- iii. Total compliance with regulations coupled with increased surveillance, monitoring, and inspections across all nodes of the industry, including production, processing, marketing, grading, storage, collection, transportation, and warehousing, will guarantee

the quality of Kenyan tea consistent with the national tea standards, applicable international standards, and any other relevant law.

- iv. These regulations will eliminate illegal trade practices in the tea industry. These include unlawful imports, exports, processing and manufacturing and the menace of tea hawking. These practices deny the Government revenue in the form of taxes and levies and drain public resources used to fight them
- v. Levies on tea imports will discourage the importation of tea and, therefore, protect the local Kenya tea industry from the proliferation of unbridled and cheap tea imports, including imports from neighbouring tea-producing countries.
- vi. The revenue increase generated by the Board and the County Governments through the proposed fees and levies can be reinvested in the tea industry to support much-needed research to improve production and value addition. It will also be used for promotion, trade, and marketing development for Kenyan tea, thereby increasing the industry's returns.
- vii. Increased investment in research, tea product development, market diversification, and development, supported by the increased revenue generated, will support increased production and improved tea quality and sales volumes. This will result in increased foreign exchange earnings and thus improved balance of payments for the Country
- viii. Increased marketing investment will support developing and penetrating new markets for Kenyan tea and thus diversify the current traditional markets. Consequently, it will reduce Kenyan tea price fluctuations, securing and increasing foreign exchange earnings.
- ix. With increased investment in branding and value addition of tea, Kenya will position herself as a source of high-end branded, value-added and speciality teas which attract premium prices. This will increase returns to the local tea producers, manufacturers and other tea value chain actors
- x. Value-addition and production of branded and speciality teas will create jobs and business opportunities along the value addition and production of branded and speciality teas value chains.
- xi. Improved infrastructure through improved maintenance of the dilapidated infrastructure in tea-growing regions will complement infrastructure development by other public agencies in tea-growing areas

- xii. Increased revenue from the levies will enable the Board to better undertake its statutory and regulatory role in the industry including regulation of the industry and market development for Kenya's tea. This will reduce the Board's dependency on the National Treasury for funding to perform its regulatory functions in the sector.
- xiii. Increased investment in tea research and regulation of tea nursery operators will ensure that tea growers across the country have access to recommended, high-quality tea variety planting materials for the establishment of new tea crops or replacing ageing crop fields. This will increase the nation's tea production and tea quality.
- xiv. The increased revenues of the Board will result in enhanced services in the tea subsector by the Board, including the clearance of tea exports and imports, monitoring and inspection of tea factories and other industry players, and promotion and development of Kenyan tea on the global stage.
- xv. These regulations will promote consistency in fees, commissions, and other charges payable for the services in the sector and avoid exploitation by dominant agents of disadvantaged actors, including smaller factories. This provision may, however, be viewed as contrary to the principles of free trade.
- xvi. Increased revenue from the levies will reduce the Board's funding dependency on the National Treasury.
- xvii. Introducing the proposed fees and levies will make Kenyan tea more expensive in the world market, which may lead to a loss of the country's market share, where Kenyan tea already faces intense competition from other leading global exporters. This could also further reduce the already low domestic tea consumption.
- xviii. Adopting and operationalizing the regulations will require additional resources to facilitate public participation and the development of a framework to manage the registration and licensing processes and the proposed fees and levies.

3.4 Effects on the Private Sector

Private sector actors are critical stakeholders in the tea industry. They include- small scale tea growers, medium-scale tea growers, large-scale tea growers, tea industry associations/organizations (KTDA, KTGA, EATTA), independent tea producers (ITPs), Purple and Specialty Tea Association of Kenya (PSTAK), Kenyan tea buyers and exporters, tea importers, tea processors/factories, tea traders/dealers, tea brokerage firms, tea marketing agencies, tea management agencies, tea auction organizers, tea packers, tea councils and associations abroad

such as the German Council, tea wholesalers/retailers (supermarkets, retail outlets) and tea consumers, financial and micro- financial organizations, tea industry auxiliary service providers, academia and research organizations among others.

These private sector actors are the principal drivers of the economy in this field.

The proposed Regulations will potentially affect the private sector in the following ways:

- i. The tea industry will benefit from better services provided by the Board and supported by the increased Board revenue. These include crop research and development, increased access to agronomic services and technologies, clearance of tea exports and imports, monitoring and inspection of tea factories and other industry actors, surveillance, promoting Kenyan tea, and regulating the tea sub-sector.
- ii. Increased access to tea research findings and recommendations, innovations, and technological developments. These include quality planting materials to support increased tea production, value addition, and tea product development and diversification. This will lead to increased returns to the tea sub-sector actors.
- iii. Improved quality of Kenyan tea will result from increased adherence to national standards and guidelines across the industry and enhanced monitoring and surveillance of leaf quality in production, handling, transportation, processing, and manufacturing. This will ensure Kenyan tea remains one of the world's top-quality teas.
- iv. The proposed levy on tea imports will discourage the importation of tea and, therefore, protect the Kenyan tea industry actors from the proliferation of cheap and unbridled tea imports, including teas from neighbouring tea-producing countries.
- v. Increased access to Kenya's traditional export markets and alternative new tea markets. This will accord Kenyan tea exporters increased options to market their products. It will further guarantee a market for increasing tea production and ensure the stability of producers' tea prices.
- vi. Increased tea value-addition and production of branded and specialty teas will create jobs and business opportunities along the value addition and production of branded and specialty teas value chains.
- vii. These regulations will promote consistency in fees, commissions, and other charges payable for services in the sector. They will avoid exploitation by dominant agents of disadvantaged industry actors, including smaller factories.

- viii. Enhanced regulation of the sector will eliminate unfair trade practices in the subsector, which often negatively affect the quality of Kenyan tea. These practices include illegal imports, exports, tea processing and manufacturing, and the menace of tea hawking.
- ix. The proposed fees and levies will increase the cost of doing business for all actors in the tea industry, reducing returns for tea enterprises.
- x. Local consumer prices for tea products will likely increase as the levy costs are transferred to the end consumers. This may further reduce the already low domestic tea consumption.
- xi. Some provisions of these regulations may, however, be viewed as being contrary to the principles of free trade or infringing on the rights of private businesses.
- xii. Improved infrastructure in tea-growing areas, supported by investments from increased Board revenue, will enhance maintenance of deteriorating infrastructure, reduce quality and green leaf losses during transportation and processing, and alleviate logistical challenges in tea production processes.
- xiii. The prescribed levy rates for teas imported into the country will create investment opportunities for branded, specialty teas and other value-added tea products to serve the current and increasing demand for these tea products.
- xiv. Tea consumers will be guaranteed quality and healthy tea in local and export markets.
- xv. Introducing these levies may make Kenyan tea more expensive in the global and local markets, making exporters less competitive worldwide and potentially causing a loss of market share.
- xvi. The prescribed fees and levies, especially for imported teas, will likely be viewed as prohibitive for business for actors in specialty teas and other value-added tea products not readily available in the country. This may sharply increase the costs of such tea products in the country and reduce their availability and uptake in the local market.

3.5. Effects on Fundamental Rights and Freedoms

The proposed regulations may affect the fundamental rights and freedoms of individuals and industry players in the following ways.

Article 31 of the Constitution provides for the right to privacy. This can be affected by the draft regulations. Various provisions in the proposed regulations require registration of commercial tea nurseries, green leaf transporters, and large-, medium-, and small-scale tea growers. The

applications are to be made in the prescribed forms. These forms include personal data such as names, date of birth, addresses, phone numbers, and PINs. The information is kept in registers by the tea factories and submitted to the Board and County Government annually. All these are data processing activities that ought to be carried out in accordance with the provisions of the Data Protection Act. The Board and the tea factories should establish robust data protection mechanisms to safeguard personal data in line with the Data Protection Act (Cap 411C) and the relevant regulations. The Board and tea factories should limit access to the filled forms to only the required individuals to mitigate the risk of data mining.

Article 35 of the Constitution provides for the right of access to information. The draft regulations provide for the obligations of tea factories or the Board to keep different registers. These registers contain information on licensed tea growers and other persons. Members of the public may inspect these registers upon making a request under the Access to Information Act.

Article 46 of the Constitution provides for consumer rights and that consumers have the right to goods and services of reasonable quality and to information necessary for them to gain full benefit from goods and services for the protection of their health, safety and economic interests and to compensation for loss or injury arising from defects in goods or services. The draft regulations promote this right in several ways. The registration and licensing requirements will ensure that only authorised persons carry out the activities relating to tea growing, packing, and transporting, among others. The Board also inspects crops and monitors compliance by licensed persons with the standards set out in the Act. This ensures that the products are safe for consumers.

Article 47 of the Constitution guarantees the right to expeditious, efficient, lawful, reasonable, and procedurally fair administrative action. The Regulations enhance this right by, for instance, requiring the Board to give reasons for its decision when it rejects an application for registration or a license. The draft regulations also provide for issuing letters of objection or no objection, such as when a person wants to change from one tea factory to another.

Article 48 of the Constitution provides for the right of access to justice. This is protected under Regulation 35, which provides for an appeal mechanism for any applicant whose decision of the Board may aggrieve. The proposed regulations also provide procedures and timelines for the constitution of appeals committees and for the consideration of appeals. A second appeal lies at the High Court.

4.0 REGULATORY AND NON-REGULATORY OPTIONS

This chapter highlights other regulatory and non-regulatory options that could be adopted to achieve the same intended objectives of the Tea (Registration and Licensing) Regulations 2026 in Kenya. The alternatives to rule-based regulation are more flexible than a rule-based approach because they may not require setting the rules out in legislation which then takes more time and effort to develop and change.

4.1 Option 1: Maintaining the Status Quo

Before considering new interventions, it is important to assess whether the problem could be resolved by changing practices within the existing regulatory framework, thus maintaining the status quo. Examples of this are:

- i. Making use of existing laws, regulations and/or guidelines;
- ii. Simplifying or clarifying existing regulations;
- iii. Improving compliance and enforcement of existing regulations; or
- iv. Making legal remedies more accessible or cheaper.

Though the Tea Act 2020, operationalized in January 2021, provided for the licensing and registration of various tea sector value chain actors to facilitate the continued development of an efficient and effective tea industry in the country, this Act has yet to be fully operationalized. The proposed Tea (Registration and Licensing) Regulations 2026 seek to fully operationalize the registration and licensing aspects for the different actors in the industry to realize the envisaged benefits of the Tea Act 2020. Therefore, maintaining the status quo would leave the tea sub-sector in its current state, with an ineffective regulatory framework and a dire need for additional investment in crop research, product and technology development, and market development and diversification. This will leave the industry vulnerable to being uncompetitive in the global market and thus at risk of declining performance. Poor performance in this industry would threaten the stability of the national economy and the livelihoods of millions of Kenyans who depend on this critical economic crop.

4.2 Option 2: Passing the Regulations

The Government can achieve its policy objectives by utilizing taxpayers' money or through a range of non-spending interventions, including regulation. The aim and purpose of these Regulations are to provide for the registration and licensing of tea factories, small-scale, medium-scale, and large-scale tea growers, commercial tea nurseries, commercial green leaf transporters, and tea dealers. These regulations prescribe the procedures, terms, and conditions for the registration of all categories of tea growers, tea manufacturers, commercial tea nurseries, commercial green leaf transporters, and tea dealers, as well as the declaration and submission of returns on tea, and the fees charged under the Act and any regulations made thereunder.

These Regulations also seek to generate additional revenue from the industry to support enhanced crop research, tea product development, and technology development, as well as market

development and diversification, ensuring the sustainability and competitiveness of the Kenya tea industry in the global arena.

However, regulations may create costs for businesses and the public sector and, if overused, poorly designed, or poorly implemented, stifle competitiveness and growth.

Adoption and operationalization of the proposed Regulations will translate to the following:

- i. These regulations will establish a clear and effective framework that will regulate the operations of all actors in Kenya's tea industry. They include tea brokers, small-scale tea growers, medium-scale tea growers, large-scale tea growers, commercial green leaf transporters, tea packers, tea buyers, tea importers, tea exporters, management agents, auction organizers, warehouse operators, commercial tea nurseries, and tea manufacturers. This will enhance coherence and synergy in the continued development of the sector.
- ii. Increased tea research and development, thus improving production, quality, and value addition, including in the branded and specialty teas niche. This will increase industry actors' incomes and foreign exchange earnings for the country
- iii. Better regulation of the sector to eliminate unfair trade practices in the sub-sector, including exploitation of smallholder tea producers by intermediaries and practices that contribute to the loss of quality of the world re-known tea
- iv. Enhanced monitoring and surveillance of leaf quality, transportation, manufacturing and handling standards to reverse the declining quality of Kenya tea.
- v. Increased access to Kenya's traditional tea market and the development of new alternate and diversified markets guarantees industry actors reliable markets for increasing tea production and stabilizing tea prices.
- vi. Increased tea value addition and production of branded and specialty teas will create jobs and business opportunities along the value-addition and production of branded and specialty teas value chains.
- vii. Levy on tea imports will discourage the importation of tea and therefore protect the Kenyan tea industry from the proliferation of cheap and unbridled tea.
- viii. Increased revenue from proposed levies and fees will enable the Board to undertake better its role in the industry, including providing various critical services, regulating the industry, and developing the market for Kenyan tea.
- ix. Tea industry actors will benefit from an expanded and diversified tea market for their produce and products. They will therefore benefit from higher offtake volumes, price stability, and better prices, and thus better returns from their investments.
- x. Branding and value addition of Kenyan tea and local production of specialty teas which attract premium prices, increasing returns to the local tea producers, manufacturers and other tea value chain actors.
- xi. Increased revenue from the levy will reduce the Boards' dependency on the National Treasury for funding.

- xii. Tea producers and other industry actors will have access to new research developments, including technologies that address their identified challenges and needs to improve their businesses.

The Regulations are thus important for the continued growth and sustainable development of the tea industry in Kenya, the country's agriculture sector, and the national economy.

4.3 Option 3: Other Practical Options

Alternatives to regulation include information and education, market-based structures, self-regulation and co-regulation. In addition, any existing policies can be improved, without further regulation, using techniques such as behavioral insight or changing enforcement practices to improve compliance. Such approaches may be better or worse for business and the economy than an equivalent regulatory measure.

Alternatives to regulation include:

- i. **No new intervention/do nothing:** This may include making use of existing laws (or none) and regulations, simplifying or clarifying existing laws and regulations, improving enforcement of existing laws and regulations, or making legal remedies more accessible or cheaper.
- ii. **Information and education:** Information and education can be used to empower the tea industry actors, including producers, processors, manufacturers, marketing agents, importers and exporters and other tea industry actors and stakeholders, to make their own decisions, improving choices for the mutual benefit of all. However, there are potential risks associated with this, since information and education can take time to make an impact. Access to information on research, technologies and market information in the country is still a big challenge and has remained very limited in the sector. The ability to use the little available information varies among the industry actors, the tea producers and other stakeholders. Besides, the available information may not reach all equally. It may also not be straightforward to assess how people will react or change their behavior in response to industry information available. The use of information and education, however, will increase costs for the government and businesses that will be providing the information and education required.
- iii. **Incentive/market-based structures:** The government can use economic instruments, such as taxes, subsidies, quotas and permits, vouchers, etc., as initiatives to realize the desired objectives. These initiatives, however, are only practically possible in well-developed and efficiently functioning sectors which have well-defined structures. This is unlike the diverse tea industry, with many actors at the different nodes of the tea value chain, driven by very different objectives. Further, these systems often require their own regulatory

framework, may entail additional costs for the government, and are unlikely to be effective in the tea industry as it is currently structured.

4.4 Alternative models of regulation:

i. Self-regulation.

Self-regulation entails industry players developing a framework to self-regulate a sector. This could be done using codes of conduct or practice, customer charters, standards or accreditation. In many cases, rules and codes of conduct or practice will be formulated by the industry representatives or organizations under their own initiative. However, regulating the registration and licensing of all actors in an industry cannot be undertaken by the same industry actors, as they cannot thereafter undertake surveillance, monitoring, and inspections of their own operations and activities. These activities include green leaf production, green leaf collection, processing, marketing, grading, storage, transportation, and warehousing of tea, to ascertain and enforce compliance with these Regulations, the national tea standards, applicable international standards, and any other relevant laws. Thus, even with the existing different and multiple industry organizations e.g. KTDA, KTGA, EATTA, ITPAK etc., self-regulation currently cannot be effectively possible to realise the objectives of the Tea Act 2020 and the proposed Tea (Registration and Licensing) Regulations 2026, which remain a mandate of the industry's principal regulatory agency, the Tea Board of Kenya.

ii. Co-regulation.

Co-regulation is an intermediate step between state-imposed and self-regulation, involving some degree of explicit government involvement. The industry may work with the government to develop and operationalise a code of practice, whose enforcement would be by the industry or a professional organisation, and which would be accredited by the government. However, despite the clear potential benefits of co-regulation in an industry, the role of registration and licensing of industry actors in the tea industry, as provided in the Tea Act 2020, remains the legal mandate of the Tea Board of Kenya and cannot be substituted by co-regulation.

5.0 COST-BENEFIT ANALYSIS (CBA)

This chapter analyses the economic, environmental, and social impacts, as well as the administrative and compliance costs, of adopting the proposed Regulations. It also assesses and quantifies the return on investment of the proposed Regulations and how their impact is likely to be distributed between the public and private sectors.

5.1 Economic Impacts of the Proposed Regulations

The economic impact of the proposed regulations are outlined below.

5.1.1 Economic benefits

The anticipated **economic benefits** of the proposed Regulations are: -

- i. Improved production, quality, and value addition of Kenyan tea will increase income from tea, leading to increased returns for producers and other tea stakeholders.
- ii. Increased tea exports and sales volumes resulted in increased foreign exchange earnings and, thus, an improved balance of payments for the country.
- iii. Increased access to traditional tea markets and to newly developed alternative markets for Kenyan tea will lead to increased tea sales and reduced tea price fluctuations, assuring producers of stable tea prices and reliable markets.
- iv. Increased tea research, technology and innovation in branded, specialty teas and other value-added tea products in the country.
- v. Increased production of value-added tea, branded teas, and specialty teas that attract premium prices will increase returns to the local tea producers, manufacturers, and other tea value chain actors.
- vi. Creation of more jobs and business opportunities in tea value-addition and production of branded and specialty teas.
- vii. Elimination of unfair trade practices in the subsector, such as illegal tea imports and exports, middlemen's exploitation of smallholder producers, and quality-reducing practices.
- viii. Improved infrastructure in tea-growing areas through ploughing back part of the increased revenue from the proposed fees and levies collected to maintain infrastructure.
- ix. The proposed levy on tea imports will discourage the importation of tea into Kenya, protecting the local tea industry from the proliferation of unbridled and cheap imports. This will avoid frequent local market demand and enhance tea price stability.
- x. Increased revenue from proposed fees and levies will enable the Board and county governments to better undertake its role in the industry, including regulation and market development for Kenya's tea. It will also reduce the Board's dependency on the National treasury for funding.

5.1.2 Economic Costs

The anticipated **economic costs** of the proposed Regulations are: -

- i. The introduction of the proposed fees and levies may slightly affect the prices of Kenyan tea in the world market, making Kenyan tea less competitive.
- ii. Price increases from the transfer of the cost of fees and levies to consumers will erode the competitiveness of Kenyan tea in the world market. This may lead to reduced demand for Kenyan tea, reduced volumes of offtake, and thus price instability in the subsector. It may eventually lead to the loss of livelihoods for tea-dependent households.
- iii. The proposed fees and levies will increase the business cost for all tea industry actors.
- iv. Local consumer prices for tea products are likely to increase as proposed fees and levies are transferred to the end consumers, which may further reduce domestic tea consumption slightly.
- v. Reduced returns for all tea industry actors in the country due to the increased cost of doing business, which reduced their profits from their investments in the industry.
- vi. The prescribed levy rate for imported tea may be viewed as prohibitive for business for actors in specialty teas and other value-added tea products.
- vii. The affected tea industry actors may view compliance with all the provisions of these regulations as additional time-consuming and costly bureaucratic procedures.
- viii. It is costly for the government to implement the regulations in the sector.

5.2 Social Impacts of the Proposed Regulations

The Regulations are expected to have the following social impacts.

5.2.1 Social benefits

The anticipated **social benefits** of the proposed Regulations are:

- i. A well-regulated and growing tea industry will create sustainable employment opportunities, especially for rural youth in tea production, processing, manufacturing, trade, and marketing. This will improve the local community's standards of living.
- ii. Increased production and marketing of quality tea(s) will translate to increased incomes for households in the tea value chain and thus increased households' disposable incomes to meet their daily needs.
- iii. Reduced tide of rural-urban migration in search of employment opportunities by creating attractive well-paying alternatives in the rural areas.
- iv. Improved infrastructure in rural areas through the development of modern or additional tea processing, manufacturing, and marketing facilities.

- v. Improved income distribution among farm families and communities in general has reduced inequalities. This is due to the increased production and participation in the industry by smallholder producers, traders, agents, and dealers.
- vi. Improved education levels and reduced illiteracy in societies due to improved incomes, thus improving the social well-being of rural communities.
- vii. The proposed fees and levies collected will assist TBK in developing strategies and building capacity in the sector to comply with Environmental, Social, and Governance (ESG) principles and implement climate change programs. This will enhance the sector's sustainability.
- viii. The funding from the proposed fees and levies will enable TBK to create awareness and empower locals on their rights to eradicate social ills in the tea-growing zones.

5.2.2 Social Costs

The anticipated **social costs** of the proposed Regulations are:

- i. Consumer prices for tea products may increase slightly as proposed fees and levies are transferred to the end consumers thereby reducing tea consumption.
- ii. Attractive tea prices from expanded markets and the marketing of value-added tea products may encourage increased hawking and theft of tea. The middlemen may want to benefit from quick earnings, as has been witnessed in other lucrative cash crop value chains in the country.
- iii. Reduced competitiveness of Kenya tea in the world market due to increased prices resulting from the levy may lead to the loss of Kenya's market share, which may threaten the livelihoods of millions of Kenyans who depend on the value chain.

5.3 Environmental Impacts of the Proposed Regulations

The proposed Regulations are expected to have the following environmental impacts.

5.3.1 Environmental benefits

The anticipated **environmental benefits** of the proposed Regulations are:

- i. Research, breeding, and promotion of more climate-resilient tea cultivars and cultivars suitable for different agro zones and regions of the country will enable the expansion of tea production in marginal tea-growing zones.
- ii. Reduced soil degradation due to improved crop cover from the increased land area under tea production and compliance with relevant tea guidelines, including the use of agro-chemicals.
- iii. Improved land utilization and management, especially in otherwise idle, underutilized, low-potential, and marginal tea-growing areas.

- iv. The proposed fees and levies collected will assist TBK in developing strategies and building capacity in the sector to comply with ESG principles and implement climate change programs. This will enhance the sector's environmental sustainability.

5.3.2 Environmental costs

The anticipated **environmental costs** of the proposed Regulations are:

- i. Environmental degradation as a result of the installation of new or additional tea processing, manufacturing, marketing, and rural road infrastructure.
- ii. Increased soil degradation due to the opening of new areas or expansion of land for tea production.

However, with proper and effective implementation of these regulations, these negative environmental impacts can be significantly mitigated.

5.4 Quantification of the Benefits

The remarkable growth of Kenya's tea industry has been attributed to the supportive role of TBK and the management of the smallholder sector by the Kenya Tea Development Agency (KTDA) over the years. The mandate of the Board, as provided under the Tea Act 2020, is regulation, development and promotion of the tea industry, and for connected purposes. *"To sustainably develop and promote the tea value chain through effective regulation for economic growth and transformation"*. TBK undertakes tea research through the Tea Research Institute (TRI), which is TBK's technical arm.

TBK executes its mandate with resources from different sources. These include internally generated sources, such as fees, levies, and commissions for services rendered by the Board, as well as support from the exchequer.

However, it must be noted that the proposed regulations principally target the registration and licensing of tea industry actors. Although the importance of these two processes in the development of the tea industry cannot be underestimated, it is difficult to isolate the specific possible contributions or impacts of the registration, licensing, and regulation of tea industry actors only in the transformation and continued development of the sector.

In addition, whereas there are clear potential benefits from increased investment in tea agronomic and technology research, product development, market development, and promotion initiatives, it is difficult to attribute such benefits to regulations on registration and licensing.

However, the absence of a comprehensive and effective regulatory framework for the industry that encompasses registration, licensing and regulation of the tea sector actors can lead to several serious challenges in the industry, including:

- **Quality Control Issues:** Proper registration and licensing will ensure standardized quality control, ensuring consistency in the country's tea quality.

- **Market Access:** Inadequate registration and licensing of the sector actors can hinder access to international markets that require stringent quality and safety standards.
- **Economic Losses:** Inadequate registration and licensing in the industry can result in economic losses due to the inability to meet export requirements and potential product rejection.
- **Regulatory Non-compliance:** Poorly regulated registration and licensing of key industry actors can lead to non-compliance with local and international regulations, resulting in fines and legal issues.
- **Reputation Damage:** The reputation of Kenya's tea industry could be damaged by exports if products do not meet quality standards, affecting long-term market trust and demand.

The implementation of the proposed regulations will significantly contribute to fully addressing these challenges to the benefit of all industry stakeholders and the country, and most of such challenges have been reported in the country. Some challenges are outlined below -

- i. A survey conducted by the Kenya Tea Development Agency across its seven regions showed that: -
 - In 2022, hawking escalated, where 60.3 million kilograms of green leaf were hawked, leading to the loss of Kshs 15.36 billion in farmers' earnings.
 - Region 5, which covers Kericho and Bomet counties, had the highest percentage of hawked green leaf at 42%, while Region 6, which covers Kisii and Nyamira counties, hawked 36% of their green leaf. Region 7 (Vihiga, Kakamega and Nandi) had an estimated hawking of 15.1 %.
 - Brokers are offering farmers a quick Kshs.25 at the farm gate. Consequently, the farmers divert tea from factories where they earn Kes 50. (TBK, 2023/Guguyu, 2023)
- ii. Several independent tea factories have been confirmed to aid and abet tea hawking. Surveillance inspections have further shown that *“some are processing up to 15 million kilograms while their license capacity is 5 million kilograms”*. That is way beyond their approved capacity, contrary to the Law–Tea Act (TBK, 2023)
- iii. Analysis of trade mis-invoicing in Kenya in 2013 shows that the potential loss of revenue to the government was \$907 million for the year, according to a study by Global Financial Integrity. Lost revenue due to mispriced exports (\$140 million) may be related to the coffee, tea and spice trade, given that this category of goods makes up over 90 per cent of all exports. (Global Financial Integrity, 2018)
- iv. Challenges in the tea sector have been compounded by increased poaching and invasion of brokers. Together, these have escalated green leaf theft in tea-growing areas. According to the tea agency, brokers offer farmers a quick Kshs. 25 at the farm gate. Consequently, the farmers divert tea from factories where they earn Kshs. 50. KTDA have noticed a proliferation of unregulated and unregistered small-scale factories. The agency is blaming them for illegally hawking tea leaves in various parts of the Mt Kenya region.

The potential benefits from increased investment in tea crop agronomic and technological research and development by the Research Institute, as well as from sector development and promotion initiatives and regulation, documented in various studies and reports, can be used to elaborate on the anticipated gains from the reintroduction and operationalisation of these regulations on selected parameters. These parameters include:

i. Gross Margin Analysis and Enterprise Profitability: Informal and Informal Marketing Channels

a) Standard gross margin per Hectare

Item	Unit Cost	Total Cost
Population per Hectare (1.2x0.60m)		13448
Average yield per bush per year (Kg)		1.2
Total yield per Hectare/yr-1 (Kg)		16137.6
Tea income Unit price (Ksh)	Amount (Ksh)	
1st payment	14.50	233,995.20
2 nd payment	35.00	564,816.00
Tea Output Value (TOV) (Kshs)		798,811.20
Variable costs (Kshs)	Unit price (Ksh)	Amount (Ksh)
Fertilizer (NPK 26:5:5) 12bags/ha -	1800.00	21,600.00
Fertilizer application 4bags/ Manday	250.00	750.00
Weed control(glyphosate)3ltrs/ha x 2times	1200.00	7,200.00
Herbicide application labour cost 3ltrs/Manday	250.00	500.00
Plucking cost	12.00	193,651.20
Variable Costs (VC)(Kshs)		245,233.20
Interest(13.5%VC)		33,106.48
Total Variable Cost (TVC)(Kshs)		523,572.88
Gross margin/year (Kshs)		
GM= TOV-TVC		275,238.32

(Source KALRO, 2019)

b) Gross margin Comparative analysis with Formal and informal (Hawking) marketing

Item	Unit	Total (Kshs)	Unit	Total
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		Formal Marketing		Informal (Hawking) Marketing
Production				
Population per Hectare (1.2x0.60m)	No.	13448	No.	13448
Average yield per bush per year (Kg)	Kg	1.2	Kg	1.2
Total yield per Hectare/yr-1 (Kg)	Kg	16137.6	Kg	16137.6
Tea income Unit price (Ksh)				
1st payment (Kshs))	14.50/Kg	233,995.20	25	403440
2nd payment (Kshs)	35.00/Kg	564,816.00	0	0
Tea Output Value (TOV) (Kshs)	Kshs	798,811.20	Kshs	403440
Total Variable Cost (TVC)(Kshs)	Kshs	523,572.88	Kshs	523,572.88
Gross margin/year (Kshs)				
GM= TOV-TVC	Kshs	275,238.32	Kshs	-120,132.88
Gross margin per bush/year (Kshs)	Kshs	20.6	Kshs	-8.93
Benefit cost Ratio (BCR)	Kshs	1.53	Kshs	0.77

Gross Margin Analysis Data Interpretation

Interpretation of data:

i. Gross margin Analysis

From the above table, it is observed that when all other factors are held constant and only the marketing channel for green leaf tea production is varied:

- The Tea Output Value, or gross income per hectare of tea, is Kshs. 798,811.20 when using the formal marketing channel. In contrast, it is only Kshs. 403,440.00 when the informal (tea hawking) channel is used, representing 49.5% (Kshs. 395,371.20) reduction in potential income per hectare.
- The gross margin per hectare (Total Output Value Less Total Variable Cost) is Kshs. 275,238.32 when using the formal marketing channel, compared to a loss of Kshs. 120,132.88 with the informal channel. This indicates that growers using the informal marketing channel do not break even on their investment and instead incur losses.

- The gross margin per tea bush per year is Kshs. 20.6 with the formal marketing channel, whereas the informal marketing channel results in a loss of Kshs. 8.93 per bush for the grower.

ii. Cost Benefit Analysis

To determine financial viability CBA analysis uses three indicators:

- a. Net Present Value (NPV)
- b. Internal Rate of Return (IRR)
- c. Benefit Cost Ratio (BCR)

In this case, the Benefit-Cost Ratio (BCR) is the preferred indicator due to sufficient documented data, which limits the determination of either NPV or IRR. The decision rule when using the BCR is as follows: if the BCR is greater than 1, the intervention is considered financially viable. A BCR of less than 1 indicates that the investment is not breaking even and is, in fact, loss-making.

From the above table the BCR for the formal marketing channel is 1.53, meaning that for every shilling invested, the grower earns a margin of Kshs. 0.53 (1.53 - 1.00). In contrast, the BCR for the informal marketing channel is 0.77, resulting in a loss of Kshs. 0.23 (1.00 - 0.77) for every shilling invested in the tea enterprise.

From the above analysis, measures must be taken to eliminate informal tea marketing channels such as tea hawking for tea growers, especially small tea growers, to realize the optimal potential returns from their investments.

ii. Green leaf production potential

- Over the past 50 years, improved technologies, including enhanced cultivars, have increased tea yields in Kenya. On large estates, yields have risen from an average of 1,500 kg to 3,300 kg of made tea per hectare per year, while smallholder production systems have increased from an average of 600 kg to 2,300 kg per hectare per year. This represents a 120% and 283% increase, respectively, for large estates and smallholder producers, attributable to investments in tea research. (Source: TRI, 2022)
- The Tea Research Institute (TRI) has developed over 1,000 improved clones with a broad genetic base, designed to adapt to challenging biotic and abiotic conditions. Among these, 58 cultivars have demonstrated consistent superiority in yield and quality across various agroecological and socio-economic settings. Notably, 22 of these cultivars can yield between 5,000 kg and 8,000 kg of tea made per hectare per year.
- Additional investment in research and commercialization of these cultivars could potentially increase tea production by up to 247% for smallholder producers and 142% for large estates. (Source: TRI, 2022)

iii. Value addition benefits

The proposed fees and levies will assist the sector in supporting the value-addition of the tea products. This will increase foreign exchange earnings from the exports derived from value-added tea.

Base year: 2022

Country	Tea exports (Mil. Kgs)	Ave. Price USD/Kg	Total earnings (USD Billion)	Comparative prices to Kenya
Sri Lanka	247	5.04	1.245	94.5%
China	375	5.55	2.082	95%
Kenya	540	2.60	1.182	0

(Source MoALD, 2024)

- From the above data:
 - A Kilo of export tea from Sri Lanka and China earned 94.5% and 95%, respectively, more compared to that from Kenya.
 - Selling in bulk rather than value-added form is the main reason for Kenya's lower earnings from tea exports compared to Sri Lanka and China, respectively.
 - 99% of Kenya tea is exported in bulk form (60 kg Packages) while 1% is value added mostly in blended form and in packages of less than 3 Kgs, instant tea, iced teas and tea extracts. (Source MoALD, 2024)
 - The country can capture greater value by diversifying its tea products, offering beyond black CTC tea to include specialty teas such as green and purple tea. Increasing the output of specialty teas by 20% annually has the potential to yield additional Kshs. 18 billion for industry, the bulk of which will go to the producers and processors. (Source EATTA, 2018)
 - Challenges of value addition and market diversification in the Kenyan tea industry include:
 - Limited research outputs on value-added products.
 - Tariff escalation in the destination markets.
 - Limited capacity for competitive packaging.
 - Difficulties in penetrating the retail sector in established markets.
 - High cost of inputs as well as expensive packaging materials, equipment and machinery.

The challenges can be addressed through additional investment in research in tea, product development and targeted promotion. (Source MoALD, 2024)

From the above discussions, it is quite clear that the expected economic, social, and environmental benefits from the implementation of the proposed Regulations heavily outweigh the corresponding

costs. The analysis of the cost and benefits of implementation of the draft Regulations is, however, based on the following assumptions: -

- i. The Regulations will be implemented holistically, with all their provisions implemented.
- ii. The countries and tea-producing counties' development strategies and political and policy environment will continue to prioritize and support the development of the tea value chain.
- iii. The climatic conditions will remain favourable for tea production.
- iv. Tea sub-sector value chain actors and all other auxiliary industry actors will respond rationally to the implementation of the proposed Regulations and voluntarily comply with them.
- v. The additional revenue generated from the various fees and levies will be used to develop the tea subsector further.

5.6 Administration and Compliance Costs

The Regulatory Impact Assessment (RIA) highlighted that implementing the Tea (Registration and Licensing) Regulations will require allocating significant resources for effective administration and compliance. These resources will cover human capital and operational costs necessary for monitoring and enforcing standards across the tea value chain, including leaf quality, transportation, processing, manufacturing, and handling. They will also support inspections of tea factories and other industry actors, promote product development and value addition, enhance marketing and promotion of Kenyan tea, and raise awareness of the Regulations among all sector stakeholders.

Furthermore, it is anticipated that additional resources will be directed toward implementing broader national policies and strategies that support the tea industry, including agricultural, industrialization, and trade initiatives. This includes efforts to enhance tea production, manufacturing, value addition, research, and the provision of agricultural services. Resources will also be required to align the Regulations with overarching frameworks such as national tea strategies, sectoral agricultural and industrial policies, Vision 2030, County Integrated Development Plans (CIDPs), and the Government's Bottom-Up Economic Transformation Agenda (BETA), ensuring coherence and integration across all levels of policy implementation.

Overall, the effective operationalization of the Regulations will depend on adequate resourcing to ensure compliance, promote growth, and sustain competitiveness within Kenya's tea industry, while supporting national development objectives and sectoral strategic priorities.

5.7 Assessment of Return on Investment (Benefit)

Passing and operationalizing the proposed Tea (Registration and Licensing) Regulations, 2026, will be critical to facilitating the continued sustainable development of the Kenyan tea subsector and the full effective implementation of the Tea Act 2020.

Whereas it is difficult to directly apportion the impact of these regulations, whose primary objective is to create a framework for the registration and licensing of all tea industry actors, industry regulation is clearly a pillar for the transformation of the Kenyan tea industry.

Each of the different categories of industry players is critical for the efficient operation of the tea industry and is interdependent, with players in each node of the industry depending on the performance of the players in the other industry nodes. This means that the performance of the entire industry can be failed by any of the industry nodes, even those which may not seem to be very important. Similarly, the Kenyan tea brand's reputation in the global market is the result of the concerted efforts of all players across the industry. A compromise by any of the industry actors will hurt the brand.

These regulations also seek to generate additional resources for the Board to finance its operations to enable it to execute its mandate to bridge the increasing budget deficit arising from the reduced support from the exchequer. The additional resources to be generated from fees and levies prescribed in these regulations will allow the Board to increase investments in the development of key industry areas. These include the critical areas of tea research to ensure the development of technologies such as the breeding of new tea varieties adapted to the ever-increasing climate change effects and varieties adopted for marginal tea growing areas supplement production from traditional tea growing zones which are experiencing increasing land pressure. Further, to improve tea production and productivity, the regulations also seek to regulate the production of seedlings, which will ensure the production of adequate high-quality and suitable planting materials in every tea-growing region in the country. This will enable farmers not only to establish new tea fields but also to replace ageing, low-performing tea fields.

The regulations will also pursue to restore the high-quality standards of tea, which Kenya is well known for, but which has been on a decline in recent times. This will be done through enhanced monitoring and surveillance of leaf quality, green leaf transportation, manufacturing and handling standards. It will also discourage unbridled, cheap importation of tea by introducing a levy on imported tea, thereby protecting the local tea industry from undue competition. It will further facilitate and support the development of an efficient and well-regulated tea sub-sector in the Country.

Implementation of the regulations will also create numerous additional employment opportunities, both on-farm to increase production and off-farm to provide auxiliary services in the industry.

In broad terms, the RIA noted that the following broad benefits and returns on investment will be achieved:

- i. Establishment of a clear and effective framework that will regulate the operations of all actors in Kenya's tea industry. These include tea brokers, small-scale tea growers, medium-scale tea growers, large-scale tea growers, commercial green leaf transporters, tea packers, tea buyers, tea importers, tea exporters, management agents, auction

- organizers, warehouse operators, commercial tea nurseries and tea manufacturers. This will enhance coherence and synergy in the continued development of the sector
- ii. Increased research in tea will produce new high-yielding, drought—and pest-resilient varieties and new tea and tea derivatives products. This will meet the changing demographics, tastes, and preferences in the global tea market.
 - iii. Tea production and productivity increased due to the use of better-yielding varieties and increased use of clean, high-quality planning materials.
 - iv. Reduced green tea post-harvest and quality losses due to poor handling and transportation through enhanced surveillance and increased compliance with these regulations' leaf collection and transportation guidelines.
 - v. Reducing or eliminating informal marketing of green leaf, commonly known as “hawking,” through registration of all growers and enforcing growers' and factories' agreements.
 - vi. Reduce or eliminate growers' diversion of green leaf to ensure that each tea factory operates at the approved capacity for efficiency. This will further avoid factory losses from unpaid credit advances to growers.
 - vii. Regulation and discouragement of tea imports into the country will protect the local tea market from unbridled imports of cheap and low-quality tea, including imports from neighboring tea-producing countries. This will avoid distortion of demand in the domestic tea market and the threatened development of the local tea market.
 - viii. Maintaining or restoring the high-quality standards of tea which Kenya is well known for, but which has been on a decline in recent times. This will be through enhanced monitoring and surveillance of leaf quality, green leaf transportation, manufacturing and handling standards
 - ix. Increased tea value addition and production of branded and specialty teas will create additional jobs and business opportunities along the value addition and production of branded and specialty teas value chains.
 - x. Increased revenue from proposed levies and fees will enable the Board to undertake better its role in the industry including the provision of various critical services offered by the Board, regulation of the industry and market development for Kenyan tea.
 - xi. Tea industry actors will benefit from an expanded and diversified tea market for their produce and products. They will therefore benefit from higher offtake volumes, price stability, better prices, and thus better returns from their investments.
 - xii. Increased quality tea exports and sales volumes resulted in increased foreign exchange earnings and, thus, an improved balance of payments for the country.
 - xiii. Expansion into new markets for Kenyan tea, diversifying from over-reliance on the current traditional markets and thereby reducing tea price fluctuations. This will ensure producers of stable tea prices and reliable market outlets.

- xiv. Increased incomes for tea producers resulting from the increase in tea production and good and stable prices. This will ensure improved livelihoods and social well-being of the rural communities in tea-producing regions
- xv. Regulating tea imports and exports will control any illegal trade actions that can negatively impact on the domestic tea and export markets distorting tea demand and prices.

6.0 REASONS WHY OTHER REGULATORY OPTIONS ARE NOT APPROPRIATE

6.1 Option 1: Maintaining the Status Quo

Maintaining the *status quo* will mean the country does not fully operationalize the Tea Act 2020 and specifically does not put in place a framework to licence and register the tea industry actors. This will affect the surveillance and monitoring of their operations and their compliance with the provisions of the Act, other relevant laws, and guidelines in place to guide their individual operations for the good of the entire industry. It will also affect its competitiveness in the global arena. The Kenya tea industry is in dire need of additional investment in sector-critical areas such as tea crop research, product development and tea value addition, and the promotion and market development of Kenya tea to maintain the country's edge in the world tea market. The Board, which plays a critical role in providing different services to the industry, must continue to provide these services efficiently despite the reduced support from the Government, hence the need to generate additional resources.

Maintaining the status quo will have an impact on the tea sub-sector as follows:

- i. The full implementation of all the provisions of the Tea Act 2020 will remain unachieved, and thus, the Act's objectives will remain unattainable.
- ii. The tea sector will remain without an effective framework to regulate the registration and licensing of the different tea sector actors for its sustainable development.
- iii. The current increasing hawking of tea, which denies growers the full benefits of their investment, efforts and production, will continue. This will make tea a less profitable farm enterprise and, in the long run, make a less priority crop. This will lead to reduced production and acreage, and a decline in quality
- iv. Diversion of green leaf to other factories denies some factories deliveries from their recognized growers, forcing them to operate under capacity. This will make them unviable and deny such factories the opportunity to recover credit advanced to growers.
- v. The loss of green leaf quality during handling at the tea buying centres, delayed transportation to the factories, losses due to non-collection of Greenleaf from the collection centres, and quality losses from using transport vessels not suitable for green leaf transportation or vessels continue.
- vi. The quality of Kenyan tea for the market may continue to decline or remain low due to the continued loss of quality across the other different nodes of the tea industry.
- vii. The highly regarded quality of Kenyan tea in the world market may continue to decline due to the cumulative losses in quality across the industry. This will reduce the current preference for Kenyan tea in the world market, reducing prices offered and volume uptake and thus reducing revenues from tea exports.
- viii. Unregulated tea imports into the country will continue to expose the local tea sub-sector to competition from unbridled imports of cheap and low-quality tea, including imports from neighbouring tea-producing countries, which distort local market tea demand and prices.

- ix. The promotion of Kenyan tea in Kenyan tea market development, including diversification from the traditional markets, will not be realized. This may lead to holding stocks of unsold processed tea, which will affect payments to producers and millions of Kenyans who derive their livelihoods from the sub-sector.
- x. Support for research in tea will remain limited to support the tea sub-sector's ability to respond to changing tea production technologies, demographic changes and changing tastes in the tea market. It will affect the ability of new tea products to remain competitive in the global arena.
- xi. Non-regulating tea nurseries will continue to significantly limit the adoption and use of the many new high-yielding and high-quality tea varieties developed over the years through tea research for the establishment of new tea fields or in replacing old poor-performing tea fields.
- xii. The industry will continue to remain without an accurate database of the different active actors in the tea sector, their operating capacities and levels of operations to inform sector decisions and policy development.
- xiii. The provision of various critical services to the sub-sector will be affected by insufficient funding, which will negatively impact the general performance of the sub-sector. The board will have to depend more on the Government to provide these services to the industry.

The situation is undesirable, and the RIA recommends that the proposed Regulations be implemented to realize the optimal development and regulation of the tea sub-sector for the benefit of all stakeholders in the industry in the country. In addition, this industry will effectively contribute to the realisation of the objectives of the Vision 2030, the Agricultural Sector Transformation and Growth Strategy, the National Agriculture Sector Strategy, the Government's Bottom-Up Transformation Agenda and the respective tea producing Counties' CIDPs and other national policies and strategies on agricultural, trade, industrialization and economic transformation.

6.2 Option 2: Other Practical Options

Alternatives to regulation include:

i. No new intervention/do nothing

This may involve utilizing existing regulations, simplifying or clarifying them, improving their enforcement, or making legal remedies more accessible and affordable. However, this approach may not bring about significant change. The status of the tea sub-sector in the country indicates that despite the Tea Act of 2020 providing for the registration and licensing of various tea industry actors, these provisions have yet to be fully realized. The current regulations seek to operationalize the registration and licensing aspects of the Act. Therefore, in the absence of any new interventions, the industry is likely to remain stagnant, which would be detrimental to all stakeholders in the sector and the country.

ii. **Information and education**

Information and education can empower stakeholders to make informed decisions, improving choices for the mutual benefit of all. However, this approach may take time to have an impact and might not always be well-received. Additionally, it could increase costs for the government, agencies, and businesses responsible for providing the necessary information and education. Consequently, the desired objectives for the common good are unlikely to be achieved unless the designated regulatory agency objectively undertakes the registration and licensing of actors in any industry.

iii. **Incentive/market-based structures.**

The government can utilize economic instruments, such as taxes, subsidies, and initiatives, to achieve its desired objectives. However, these initiatives are only feasible in well-developed and efficiently functioning sectors with clearly defined structures. Often, such systems require their own regulations to establish a framework, which may incur additional costs for the government. This makes them unlikely to be effective in Kenya's tea sub-sector and industry, which is fragmented and consists of multiple organizations, each representing different segments of actors driven by varying objectives and priorities. These regulations aim to establish a well-developed, functioning framework and structure for the different industry sectors, enabling the implementation of incentives and market-based approaches.

6.3 Alternative Models of Regulation

The alternative modes of regulating the tea sector include the following:

i. **Self-regulation**

Although the Kenyan tea sub-sector has multiple industry organizations such as KTDA, KTGA, EATTA, and ITPAK that could formulate and implement codes of conduct, customer charters, standards, or an accreditation system for self-regulation, these organizations do not provide a comprehensive representation of all sector actors. As a result, effective self-regulation in the tea industry, as it is currently structured, is not feasible. Furthermore, regulating the registration and licensing of all industry actors cannot be carried out by those same actors, as they cannot effectively oversee or objectively monitor their own operations. Therefore, despite the presence of industry representatives, effective self-regulation is currently unattainable hindering the realization of the objectives set forth in the Tea Act of 2020 and the proposed Tea (Registration and Licensing) Regulations 2026. This responsibility remains with the principal regulatory agency for the industry, the Tea Board of Kenya.

ii. **Co-regulation.**

Co-regulation lies between state-imposed regulation and self-regulation, involving some degree of explicit government involvement. In this model, the industry collaborates with the government to develop a code of practice, with enforcement carried out by the industry or a professional

organization accredited by the government. However, despite the clear potential benefits of co-regulation in an industry, the responsibility for registration and licensing of industry actors in the tea sector, as outlined in the Tea Act 2020, remains the legal mandate of the Tea Board of Kenya. This responsibility cannot be substituted by co-regulation. Nevertheless, the regulatory agency may engage various industry representatives in the operationalization and implementation of registration and licensing for these organizations, fostering their buy-in and cooperation.

7.0 OUTCOME OF STAKEHOLDERS PARTICIPATION

This chapter examines the legal requirements and thresholds for stakeholders' engagement in the regulation-making process. It also analyses the outcome of stakeholder engagements in developing the proposed regulations to assess whether they met the legal threshold set for stakeholder engagements in Kenya.

7.1 Legal Basis for Stakeholder Engagements

The principle of public participation holds that those affected by a decision have a right to participate in the decision-making process. This principle upholds the sovereignty of the people by allowing them to express their views in the decision-making process. Section 2 of the Statutory Instruments Act, 2013, defines public participation as the involvement of persons or stakeholders by the regulation-making Authority that the statutory instrument may directly or indirectly apply to.

The Constitution of Kenya provides for national values and principles of good governance and participation of the people of Kenya. Article 10 provides for public participation in the enactment of any law. The national values and principles bind all state organs, state officers, public officers, and all persons whenever they, *inter-alia*, apply the Constitution and enact any law.

Courts of law have in several instances provided modes of ensuring public participation is effective and meaningful. For instance, in, *Independent Electoral and Boundaries Commission (IEBC) v National Super Alliance (NASA) Kenya & 6 others [2017] eKLR* (para 164 – 5) the court of appeal stated:

“...The mode, degree, scope and extent of public participation is to be determined on a case-by-case basis.

What is critical is a reasonable notice and reasonable opportunity for public participation. In determining what reasonable notice is, a realistic time frame for public participation should be given. Also, the purposes and level of public participation should be indicated. Reasonableness is also to be determined from the nature and importance of legislation or decision to be made, and the intensity of the impact of the legislation or decision on the public. The length of consultation during public participation should be given and the issues for consultation. Mechanisms to enable the widest reach to members of the public should be put in place; and if the matter is urgent the urgency should be explained...”

Further, in *Poverty Alleviation Network & Others v President of the Republic of South Africa & 19 others, CCT 86/08 [2010] ZACC 5*, public participation was emphasized in the following terms;

“...engagement with the public is essential. Public participation informs the public of what is to be expected. It allows the community to express concerns, fears and even to

make demands. In any democratic state, participation is integral to its legitimacy. When a decision is made without consulting the public the result can never be an informed decision...

In the totality of all the above pronouncements, the following points are important in determining the effective threshold for public participation:

- i. Public participation was never intended to be a superfluous or ornamental suggestion; rather, it should be implemented and enforced to have a practical, substantive value.
- ii. Public participation should never be a mere cosmetic venture, formality, and public relations exercise, rather it ought to be conducted in a manner that informs the public of what is at stake, and how it will impact society and the end document should mirror and reflect the spirit of the public in concern; and
- iii. Public participation should never be equated to mere consultations. The product of legislation ought to be a true reflection of public participation so that the end product bears the seal of approval by the public.

Section 5 of the Statutory Instruments Act, 2013 requires a regulatory Authority to, before issuing a statutory instrument, make appropriate consultations with persons who are likely to be affected by the proposed instrument. Specifically, section 5(3) (a) of the Act requires a regulatory authority to notify, either directly or by advertisement, persons who are likely to be affected by the proposed regulation.

Failure to conduct stakeholder engagement may risk the regulation being challenged in court and subsequently annulled. For example, in ***Republic v Cabinet Secretary, Ministry of Agriculture, Livestock & Fisheries & 4 others Ex Parte Council of County Governors & another [2017] eKLR***, the court declared the Coffee (General) Regulations 2016 unlawful for failure to comply with the provisions of the Statutory Instruments Act.

In **ODM & 4 Others -vs- The Speaker of the National Assembly & 5 Others [CONSTITUTIONAL PETITION NO. E 491 OF 2023 (Consolidated with E010 of 2024 and E025 of 2024)]** the court declared the Privatization Act, 2023 unconstitutional for lack of meaningful and sufficient public participation. The court held that limiting public participation to select few stakeholders could not be considered reasonable, meaningful and effective both quantitatively and qualitatively as envisioned by the Constitution. The court pronounced that the public ought to have been informed of the intended public participation on the impugned Act.

In **National Assembly & another v Okiiti & 55 others (Civil Appeal E003 of 2023 & E016, E021, E049, E064 & E080 of 2024 (Consolidated)) [2024] KECA 876 (KLR) (31 July 2024) (Judgment) Neutral citation: [2024] KECA 876 (KLR)**, the Court of Appeal held that Article 10 of the Constitution requires state organs and regulatory bodies to inform the general public and

stakeholders why their views were not taken into account and why the views of some of the stakeholders were preferred over theirs. Such an approach will not only enhance accountability in the decision-making processes by State organs but also enhance public confidence in the processes and in our participatory democracy. It is on this basis that the court held that the Finance Act, 2023 offended Article 10 (1) and (2) (c) of the Constitution.

Stakeholder engagement is a statutory requirement and a constitutional mandate that the Authority should observe. It bears great importance to the public as it enables people who are likely to be affected by the proposed regulations to present their concerns to the regulatory body so that they can be considered in deciding the changes that need to be made to the draft regulations. This process should not be considered a formality. The views gathered during the process should be given serious consideration by the Authority even though they are not binding. Failure to consider the comments without justification may have adverse consequences on the draft regulations including legal, economic and cost implications.

7.2 Stakeholder Engagement

The Ministry of Agriculture and Livestock Development (the Ministry), together with the Tea Board of Kenya (TBK) organized stakeholders' engagement and public participation workshops to provide an opportunity for the public to participate in the regulation-making process. The Ministry held specific engagement workshops with key stakeholders, including national government ministries, government agencies, research organizations and private players in the sector. The public workshops were held in different counties to ensure proper public participation.

The Authority held eleven consultative forums in different counties between 9th December 2024 and 18th March 2025. The public participation workshops took place at the following locations: Nairobi, Muranga, Kericho and Mombasa. The workshops attracted various stakeholders, including growers, grower representatives, cooperative societies, retailers, processors, packers, brokers, exporters, the Council of Governors, County Governments, State departments, the private sector, and research institutions.

On 29th January 2025 to 1st February 2025, the Authority presented the outcome of the public participation to the JASSCOM and SWAG PLS wherein the Authority incorporated the comments from the public participation exercise.

The records from the public forums show extensive deliberation on the myriad issues arising from the proposed regulations. Stakeholders were allowed to read and analyse the draft regulations and share their views with the Board. There was evidence that the Board collated, reviewed, and incorporated the issues raised into the proposed regulations, and that it received comments from the workshops.

7.2.1 National Government/Level Consultations

Consultations were conducted with representatives of various national government agencies and state departments of the Ministry of Agriculture and Livestock Development, Tea Board of Kenya and Kenya Agriculture and Livestock Organization (KALRO)

7.2.2 County Governments/Level Consultations

The Ministry, in collaboration with TBK, convened multiple public participation workshops across four counties, Nairobi, Murang'a, Kericho, and Mombasa, to ensure broad regional representation.

- Nairobi (9 December 2024): Attended by representatives from MOALD, the Institute of Certified Secretaries (ICS), MMK, KTDA, Bahari Chai, and farmers.
- Murang'a (10–11 December 2024): Attended by representatives from MOALD, TBK, and numerous factories, including Kiminy TF, Kirm TF, Imenti TF, Kinoro Tea Factory, Kionyo Tea Factory, Gatungiri TF, Ikumbi TF, Kagwe TF, Thumata TF, Kambaa TF, Ngere TF, Nduta TF, Theta TF, Herera Forest Edge TF, Githongo TF, and Gacharage TF, alongside farmers.
- Kericho (16–17 December 2024): Attended by representatives from Kericho, Nyamira, Kisii, Nandi, Narok, Vihiga, Trans Nzoia and Kakamega counties. Participants included MOALD, TBK, MMK, KTGA, Kipsigis Highland Cooperative Society, Bowns Plantation, KTDA, KALRO, ICS, and factories such as Twatwat TF, Letein TF, Kebingi TF, Roret TF, Toror TF, Tombe TF, Roset TF, Nyankoba TF, Mudete TF, Kabianga TF, Ogembo TF, Nyamache TF, Sotik TF, Mogogussek TF and Nyansiongo TF.
- Mombasa (22–23 January 2025): Attended by representatives from Lamu and Tana River counties. Attendees included MOALD, TBK, KTDA, KTGA, ITPAK, TRI, EATTA, numerous tea factories, brokers, packers, exporters, logistics providers and private-sector entities such as Global Tea, Choice Tea Brokers, Capital Tea, Eastern Produce Kenya (EPK), Mogogosiek Tea Factory, Almasi Chai, Waso Tea, Empire Kenya EPZ Ltd, Prudential Tea Brokers, Kipkebe Ltd (Sasini), and many others.
- Nakuru (18 March 2025): Attended by representatives from tea-growing counties including Nyamira, Bomet, Nakuru, Kirinyaga, Kisii, Murang'a, Nyeri, Kiambu, Nandi, Tharaka Nithi and Meru.
- Nairobi (13th and 14th October 2025) attended by representatives from KTDA, KTGA, ITPAK and EATTA.

7.2.3 Research and Academia

The Ministry, in collaboration with the Board, involved stakeholders from research institutions such as KALRO and the Tea Research Institute.

7.2.4 Private Sector

The Ministry, in collaboration with TBK, held various forums with various farmers, growers' associations, tea factories, cooperative societies, marketing organizations and packers and brokers, who gave considerable comments on improving the draft regulations.

7.3 Summary of Stakeholders' Views

Stakeholder views were captured, discussed, and addressed in consultative meetings. They were thereafter documented in a matrix that outlines the issues and how they were addressed. Some views were incorporated into the proposed regulations, while others were not. The Ministry indicated the reasons for the non-adoption of some views, including that other regulations had already addressed them.

A summary of the public consultation outcomes was as follows:

Item	Key Areas of the Regulations	Proposed Changes by the Stakeholders	Responses from The Technical Drafting Team	Justification/Action Taken
1.	Regulation 4	Under the Tea Act, the Board has been given the authority to license. The Act does not provide for an Inter-Governmental Registration and Licensing Committee.	Adopted	The provisions for the establishment of the Inter-Governmental Registration and Licensing Committee have been deleted, and the regulations have been amended to provide applications for manufacturing licenses to the Board. A provision has been introduced to require obtaining no objection from the respective county before the Board licenses.

2.	Regulation (4)	4Provide a mechanism of appeal in case of rejection of an application for registration of a commercial tea nursery.	Adopted	Introduced sub-regulations (5) and (6) to provide for the appeal mechanisms.
3.	Regulation 5(3)	The Tea Board verify the tea grower details in compliance with the functions under the Tea Act. The tea factory should be able to rely fully on the information provided by a tea grower without being required to take any further steps for verification.	Not adopted	Under Section 21 of the Tea Act, it is the responsibility of the tea factory to register small- and medium-scale tea growers, not the Board. Verification of the tea grower details by the tea factories is critical to validate the information provided during registration and enable traceability, which is particularly important in many international markets. However, the Board will verify the details and register the large-scale tea growers in line with Section 23 of the Act.
3.	Regulation 5(7)	The Tea Board of Kenya is to independently carry out a census of tea farmers and, in conjunction with the KNBS and KIAMIS, develop a comprehensive database that should	Partially adopted	Under Section 21 (3) of the Act, every tea factory is required to keep a register of all its small-scale and medium-scale tea growers. Under Section 5, the register is the primary proof that a small-scale or medium-

		serve as a reference for tea factories.		scale tea grower is registered in a particular tea factory. The register is an important growers' management tool for the factory and is critical for TBK's compliance monitoring. However, TBK will independently develop a national database of tea growers for use in planning, compliance monitoring and enforcement.
4.	Regulation 5(8)	Delete the requirement for a copy of the register of tea growers to the respective County Executive Committee.	Not Adopted	Fourth Schedule of the Constitution provides that agronomy, including statistics, is a function of the County Government and data on registered farmers is critical for planning purposes.
5.	Regulation 6(4)	There exists a framework for regulation of the transfer of enterprises under CMA, the Competition Authority, the Law of Contracts Act and TBK purporting to carry out the regulation of transfer of businesses will be ultra vires	Adopted by deleting Reg 6(4)	Since registration certificates are not transferable, the new owner of the large-scale tea holding will only need to reapply for a new certificate.

5.	Regulation 6(2) and Form TBK/TB/C in the first Schedule.	Large-scale growers should declare the acreage of their land and the source of their green leaf in their application for registration.	Adopted.	The Application form TBK/TB/C1 was amended to include land acreage and the source of green leaf.
6.	Registration 7	The private factories are registering farmers twice. If a tea factory is built, it should have its own tea. The number of Hectares should go up from 250Ha to 750Ha as many factories are not following the rules. The mushrooming tea factories are near each other. The new factory should be at least 15 km from any other factory, and each tea factory should have its own tea-buying centre.	Adopted	Reg 13(9) An applicant for a manufacturing license will be required to have 700Ha of planted tea bushes of 50Ha in the case of speciality tea manufacture. The radius of a new factory and the guidelines for the location of tea-buying centres are provided in the Green Leaf Quality Guidelines.
6.	Regulation 8	Registration details for small-scale farmers to be shared with the County Governments. The details of the large-scale tea growers should also be deposited with the county.	Adopted by amending Reg. 8 to provide for a register which will be shared with the respective County Governments by the Board	To enable the County Government, have statistics on tea growers within their counties for planning purposes.
7.	Regulation 11	Amend the green leaf agreement to remove the 3-year validity	Adopted by deleting the duration of the 3-year contract	To give a leeway for the factory and the tea-grower to enter into agreements for the

		period, as tea is a perennial crop.		duration of their choice.
8.	Regulation 13	To foster quality and all modes of harvesting, allow large-scale producers and individual farmers with large hectareage to register vehicles below 3 tonnes.	Adopted by deleting the 3-tonne capacity requirement	The tonnage will be specified in the guidelines being developed for the Green Leaf Quality requirements for the tea industry.
9.	Regulation 17 (3)	Relates to Tea Packers, not Management Agent, as indicated on the draft. Registration is acceptable; however, the form TBK/TB/G2 demands private information from private contracts and internal business planning. The requirements on the form are too many and should be scaled down more, especially since the auction organiser has automated its functions. The form TBK/TB/G2 be revised.	Not adopted	TBK/TB/G2 only allows the submission of information on tea purchases and sales, which is critical for collating national statistics and planning. Value addition is one of the key agendas of the government, and information on value-added teas for the tea packers is critical in determining the progress towards the realisation of the government priorities. The auction organiser is one of the licensees who is also required to submit their returns just like any other player. In addition, not all tea packers are members of the auction necessitating the information.
10.	Regulation 17	The source of the tea packed by street tea packers is unknown.	Adopted	Under the terms and conditions for registration of a tea

		The teas being sold are not quality teas. TBK to check the source of the teas and whether they are quality teas or dust.		packer, a tea packer is required to comply with the Tea Industry Code of Practice KS: 2128, the Public Health Act and any other relevant laws. TBK will ensure that the packers comply with the Food Safety and Hygiene Standards. In addition, provisions requiring packers to indicate their source of tea will be incorporated into the tea industry general regulations.
11.	Regulation 19	Introduce a clause for affected parties to be notified of their intention to revoke, suspend, cancel or vary a registration in order to allow for a fair hearing.	Adopted and amended by Reg. 24	To ensure fairness in revocation, suspension, cancellation or variation of a registration certificate whilst complying with Article 47 of the Constitution and the requirements of Fair Administrative Action Act.
12.	Regulations 19	Prescribe a mechanism for appeal in case of rejection of an application for a tea importer	Adopted.	Introduced Regulation 35 to provide for appeal mechanism.
13.	Regulation 21	Rescind private companies that have not met the basic requirements and do not have their own tea.	Partially adopted	The Regulations have provided the terms and conditions for manufacturing license that must be met by new applicants before licensing. However,

				this cannot be applied retrospectively to manufacturers who are already licensed; they will be given a timeline to comply before renewal of their licenses.
13.	Regulation 22	The requirement to notify the Board of an intended sale or transfer of ownership will lead to duplication of oversight and overregulation, making the regulatory framework burdensome and counterproductive. This disclosure violates the constitutional rights to privacy and to property. It is also a restriction on free market transactions and the basis for government involvement is not justified. Such a disclosure is also likely to attract undue influence and interference in a private transaction.	Partially adopted by specifying that it is sale or a manufacturing transfer of license to notify the regulator of the intended sale of their tea holdings. Still, it does not seek similar information that would be otherwise disclosed to other government agencies involved in the transfer of land. This is aimed at safeguarding the interests of industry and country at large and therefore does not violate the right to privacy and property. The regulation does not seek to restrict transactions or transfers. In addition, Article 40 (3) of the Constitution allows the State to regulate property rights in public interest, which, in this case, includes ensuring continuity and compliance in the key	Reg. 22 (5) only requires the holder of a tea manufacturing license to notify the regulator of the intended sale of their tea holdings. Still, it does not seek similar information that would be otherwise disclosed to other government agencies involved in the transfer of land. This is aimed at safeguarding the interests of industry and country at large and therefore does not violate the right to privacy and property. The regulation does not seek to restrict transactions or transfers. In addition, Article 40 (3) of the Constitution allows the State to regulate property rights in public interest, which, in this case, includes ensuring continuity and compliance in the key

				economic sub-sectors such as tea.
14.	Regulation 24	Substitute the requirement for submission of statistical results by the fourteenth day of each month with a requirement for submission of statistical reports by the thirtieth day of the following month.	Not Adopted	The relevant parties had a consensus that the period provided is sufficient to submit their returns.
15.	Regulation 28	Delete the requirement that the proponents or directors of a tea manufacturer meet the requirements of Chapter Six of the Constitution.	Partially adopted	The manufacturing factories serve a large section of the public; it is important that the directors operate within the dictates of the Constitution.
16.	Regulation 32	TBK to digitise and integrate systems with other relevant export facilitation departments/agencies for ease of recording/tracking transactions.	Adopted by providing for the modification of forms, including the use of forms electronically in Reg. 32	To enhance integration with other government agencies and to facilitate tea export and import. In addition, the current system is integrated with the KENTRADE Single Window System, which is a national gateway for imports and exports.
15.	Regulation 35	The number of brokers in the market. TBK should license more brokers to increase competition. The purpose of the law is to solve the problem. We have brokers from East	Adopted	There is no limit on the number of brokers. Any person who meets the minimum requirements for registration of a tea broker, regardless of their origin, is entitled

		of Rift. We need brokers from the West of Rift.		to be registered as a tea broker. Currently, we have tea brokers from both the East and the West of the Rift.
16.	Regulation 41	Clarify the scope and the relevant standards. Incorporate transitional requirements for existing operators to meet compliance with the green leaf quality guidelines.	Adopted by amending Reg. 41 to specify the standards to be complied with	Since tea is a food product, it is important to clarify that all industry players must comply with the relevant national, regional, and international Standards.
17.	Regulation 48	Disclosures to be done to Tea Board of Kenya. Delete the requirement on the licensee to disclose to the County Government. Harmonize requirements with National legislation and ensure nondiscrimination.	Not adopted	Certain aspects of agriculture, including primary production, are a devolved function in the Constitution. In addition, the County Government can seek additional information from the value chain players whom they are registering as provided for under the Tea Act (e.g. commercial tea nursery operators)
18.	Regulation 51	A tea broker, tea auction organizer and management agent shall seek prior approval from the Board before charging any fees, commission and other charges for the services rendered. This is an unreasonable and unnecessary restriction. Including	Partially adopted by amending Regulation 51	Amended Reg 51 to align it with Section 45 of the Tea Act.

		this gives the impression that the Board can reject a private commercial agreement between two parties for management services. This is a breach of a party's right to property which includes the right to derive income from services rendered or assets owned. This also interferes with the freedom to conduct business and set commercial rates.		
19.	General	TBK should develop a comprehensive standard on environmental, social, carbon-trading and other areas to address the issue of multiple standards in the tea industry	Adopted	To be incorporated in the Tea Industry General Regulations.
20.	General	Prohibit tea hawking	Adopted	The prohibition of buying tea from unregistered growers is provided for under Section 21(7), (8) and (9) of the Tea Act and Regulation 7 (1) and 8 (3) of the Tea Registration and Licensing Regulations.

7.4 Key Outcomes of Stakeholder Consultations

1. Licensing Authority and Processes

Stakeholders questioned the role of the Inter-Governmental Licensing Committee and sought clearer, streamlined licensing procedures. They also raised concerns about acreage requirements and factory proximity to curb unplanned factory proliferation.

2. Registration of Growers and Data Management

Issues were raised regarding verification responsibilities, the sharing of farmer data with counties, the creation of a national grower database, and the duplication of registration efforts by factories.

3. Appeal and Fair Hearing Mechanisms

Stakeholders requested clear mechanisms for appeal when applications are rejected and sought guarantees of fair hearing in cases of suspension, revocation, or variation of registration.

4. Quality Assurance and Standards Compliance

Concerns included ensuring quality control of teas packed by street vendors, flexibility in vehicle tonnage requirements, and the need for clear standards, including transition periods for compliance with green-leaf quality guidelines.

5. Oversight of Transfers, Ownership and Commercial Transactions

Stakeholders challenged requirements to notify TBK of ownership transfers, arguing that they constitute potential overregulation, privacy concerns, and restrictions on free-market transactions.

6. Reporting, Returns and Administrative Burden

Concerns were raised about the frequency and timelines for submitting statistical returns, as well as the volume of information required in some registration forms, which stakeholders found excessive.

7. Market Structure, Governance and Industry Sustainability

Stakeholders discussed the need for more tea brokers to promote competition, enforcement against tea hawking, and the development of comprehensive environmental and social standards to harmonize industry practices.

7.5 Assessment of Adequacy of Stakeholder Participation

The Ministry conducted extensive national, county-level, and sector-specific consultations that met the requirements of Section 5 of the Statutory Instruments Act, 2013. Public participation workshops were held across four counties: Nairobi, Murang'a, Kericho, and Mombasa. They drew participants from 20 tea-growing counties, including Kericho, Nyamira, Kisii, Nandi, Nyeri, Narok, Vihiga, Trans Nzoia, Lamu, Tana River, Bomet, Nakuru, Kirinyaga, Murang'a, Kiambu, Tharaka Nithi, Meru, and Kakamega. The validation workshop was held in Nairobi.

Attendance records demonstrate that the Ministry proactively identified, reached out to, and engaged a broad spectrum of stakeholders, including farmers, cooperative societies, factories, packers, brokers, county governments, national government agencies, and private sector actors. The records further show that participants were given adequate opportunity to read, analyse, and comment on the draft Regulations. The Ministry and the Board responded to questions raised in each session, and all feedback was collated, reviewed, and recorded in the stakeholder matrix.

7.6 Analysis of Consultation Outcomes

A review of the stakeholder matrix and deliberations across the 11 consultative forums reveals the following overall trends:

1. Level of Support for the Proposed Regulations

- Approximately 69% of stakeholders supported the Regulations, particularly provisions aimed at:
 - i. strengthening registration and licensing;
 - ii. enhancing quality control;
 - iii. addressing tea hawking;
 - iv. improving traceability;
 - v. introducing structured oversight mechanisms.
- About 31% expressed objections or requested amendments, mainly relating to:
 - i. perceived over-regulation;
 - ii. concerns about duplication of county and national roles;
 - iii. fear of bureaucratic burdens on private sector actors;
 - iv. concerns about disclosure of commercial information;
 - v. transitional challenges for existing operators.

2. Reasons for Support

Stakeholders in favour of the Regulations cited:

- i. the need to curb tea hawking and protect farmers' incomes;
- ii. the need for consistent and enforceable quality standards;
- iii. the need to modernize the regulatory framework as required by the Tea Act, 2020;
- iv. improved traceability for international market compliance;
- v. improved data collection for planning and enforcement;
- vi. protection of Kenya's global tea reputation and competitiveness.

3. Reasons for Objections

Stakeholders who objected raised the following concerns:

- i. fears that some provisions may duplicate the roles of existing agencies (e.g., Competition Authority, CMA);
- ii. concerns about over-regulation and increased bureaucracy, especially for brokers, packers, and management agents;
- iii. objections to mandatory disclosures (seen as interfering with privacy and commercial autonomy);
- iv. logistical and cost challenges in meeting new compliance requirements (e.g., land size, quality standards);
- v. discomfort with restrictions that may appear to limit market freedom.

4. Responsiveness of the Drafting Team

The Ministry and TBK demonstrated high responsiveness to stakeholder concerns:

- a) 65% of proposals were adopted, either fully or partially.
- b) Amendments were made to:
 - i. remove ultra vires provisions;
 - ii. delete or modify restrictive clauses;
 - iii. harmonize requirements with the Tea Act, Constitution, and Fair Administrative Action Act;
 - iv. ensure compliance with devolved functions under the Constitution;
 - v. introduce transitional clauses to avoid retrospective application.

Unadopted proposals were clearly justified, primarily where:

- i. They contradicted statutory requirements;
- ii. They were already addressed in other regulations.
- iii. They involved information necessary for national planning;

- iv. They risk undermining public interest or food safety standards.

Overall, the public participation process was compliant with constitutional and statutory requirements. Stakeholder views were meaningfully considered, resulting in material improvements to the draft Regulations.

8.0 ENFORCEMENT AND COMPLIANCE

The Tea (Registration and Licensing) Regulations, 2026, provide a comprehensive framework for enforcement and compliance across the tea value chain. Key mechanisms include registration, certification, licensing, verification, record-keeping, submission of returns, and declaration of information. County Governments are responsible for registering commercial tea nurseries. In contrast, tea factories register their growers, and TBK issues certificates of registration for green leaf transporters, management agents, tea packers, brokers, exporters, and importers. Registered actors are required to pay fees, submit regular returns, and maintain accurate records to ensure traceability and regulatory compliance.

Inspection and verification are core components of enforcement. The Board, in collaboration with County Governments, conducts inspections, verifies customs documentation, monitors transit documents, and appoints crop inspectors to enforce adherence to the Tea Act and related regulations. Registers of all licensed and registered actors are maintained and may be published to enhance transparency and accountability. Additionally, the Board approves applicable fees, commissions, and charges for tea brokers, auction organizers, and management agents, ensuring that industry practices remain standardized and fair.

Non-compliance is addressed through robust sanctions, including fines and imprisonment under Section 71 of the Tea Act. The Regulations specify penalties for violations across key areas, such as registration, licensing, reporting, quality standards, exports, imports, and transit procedures. Together, these measures create a structured, enforceable system that strengthens oversight, promotes adherence to statutory requirements, and safeguards the integrity, quality, and competitiveness of Kenya's tea industry.

9.0 REVIEW, MONITORING, EVALUATION AND LEARNING

Monitoring, Evaluation, and Learning (MEL) are central to assessing the effectiveness, efficiency, and adequacy of the Tea (Registration and Licensing) Regulations, 2026. Effective MEL enables continuous regulatory implementation improvement, supports evidence-based decision-making, and enhances institutional accountability. By embedding strong M&E mechanisms, the Ministry and the Tea Board of Kenya (TBK) can determine whether the Regulations achieve their objective of improving tea quality, strengthening governance, ensuring compliance, and enhancing the competitiveness and sustainability of the tea sector. A periodic review of the Regulations, guided

by data, stakeholder feedback, inspection outcomes, and market trends, will ensure continued alignment with national goals and international best practices.

Given stakeholder interest in issues of tea quality, export competitiveness, sector governance, and market expansion, the effective implementation of these Regulations is expected to improve assurance of quality Kenyan tea, strengthen licensing oversight, and enhance consumer protection both locally and internationally. Registration and licensing will create a verified database of actors across the value chain, which is critical for traceability, market development, and regulatory enforcement. To ensure the Regulations achieve these outcomes, TBK has established comprehensive mechanisms for monitoring and evaluation, each tied to measurable indicators to track progress and support necessary adjustments.

i. Inspection and Compliance Enforcement (Tea Act, s.49)

Crop inspectors appointed by TBK will conduct routine and risk-based inspections across the value chain to enforce compliance.

Indicators:

- Number of inspections conducted per quarter.
- Percentage of inspected entities found compliant with licensing requirements.
- Number of enforcement actions taken (warnings, sanctions, remedial orders).
- Reduction in cases of illegal manufacturing, trading, or hawking of tea annually.

ii. Quality Analysis of Made Tea

TBK will conduct periodic quality analyses of made tea to ensure compliance with national and international standards.

Indicators:

- Percentage of sampled tea batches meeting quality benchmarks.
- Frequency of quality analysis reports produced annually.
- Reduction in rejected tea consignments at export points.

iii. Surveillance Inspections

Regular surveillance of production, processing, grading, storage, transport, and warehousing will ensure adherence to standards and detect non-compliance early.

Indicators:

- Number of surveillance missions conducted.
- Percentage of factories complying with Green Leaf Quality Guidelines.
- Number of corrective action notices issued and resolved.

iv. Licensing and Renewal Transparency

Requiring audited financial statements for renewal of key licenses promotes accountability and transparency.

Indicators:

- Percentage of license renewal applications with complete audited financials.
- Number of licenses renewed, suspended, or revoked due to non-compliance.

v. Revocation, Suspension, or Variation of Licenses

TBK will take regulatory action against non-compliant actors to ensure adherence to standards and laws.

Indicators:

- Number of revocation/suspension cases initiated and concluded.
- Time taken to conclude administrative actions.
- Reduction in repeat offences by licensed actors.

vi. Maintenance of Importer and Exporter Registers

TBK will maintain real-time registers of licensed exporters and importers to ensure only authorized persons participate in trade.

Indicators:

- Completeness and accuracy of the importer/exporter register.
- Number of unlicensed traders identified and penalized annually.

vii. Publication of Licensing Information in the Kenya Gazette

Gazetting licenses enhances transparency and public access to regulatory decisions.

Indicators:

- Number of Gazette notices published annually.
- Public access rate (requests or downloads of licensing information).

viii. Verification of Valid Licenses Across Value Chain

TBK will ensure that all growers, factories, transporters, traders, packers, exporters, and importers are properly licensed.

Indicators:

- Percentage of actors with valid licenses.
- Number of detected cases involving expired or fraudulent licenses.
- Reduction in unlicensed trade activities.

ix. **TBK Capacity and Responsiveness**

TBK will ensure adequate staffing, technical resources, and inspection capacity to enforce the Regulations.

Indicators:

- Inspector-to-entity ratio.
- Response time to complaints and enforcement reports.
- Number of TBK staff trained annually on regulatory enforcement.

x. **Inter-Agency Collaboration**

TBK will collaborate with agencies such as KPA, KENTRADE, KRA, KeBS, and county governments to strengthen quality assurance, data sharing, and oversight.

Indicators:

- Number of joint inspections or operations conducted.
- Integration of systems for data sharing (e.g., with KENTRADE).
- Reduction in illegal or substandard tea consignments detected at ports.

Outcome-Level Indicators (Impact Indicators)

To assess whether the Regulations achieve their long-term objectives, the following indicators will be tracked:

- i. Increase in compliance levels across the tea value chain.
- ii. Improvement in Kenyan tea prices in export markets.
- iii. Reduction in quality-related consumer complaints.
- iv. Increase in volumes of branded, specialty, and value-added teas.
- v. Reduction in illegal tea trade and hawking activities.
- vi. Increase in foreign exchange earnings from tea exports.
- vii. Increased number of export markets for Kenyan tea.
- viii. Improvement in sector-wide data accuracy and traceability.

10.0 CONCLUSION AND RECOMMENDATIONS

The Tea (Registration and Licensing) Regulations, 2026, provide a framework for the orderly development, governance, and regulation of Kenya's tea industry. By establishing clear procedures for registration and licensing of all sector actors, the Regulations enhance traceability, ensure compliance with quality and safety standards, curb illegal practices such as tea hawking, and strengthen oversight across the value chain. Extensive stakeholder consultations and public participation informed the Regulations, ensuring that the perspectives of growers, factories,

cooperatives, packers, brokers, county governments, research institutions, and other key actors were meaningfully considered.

The Regulations are expected to yield significant benefits for both the private and public sectors. For industry actors, they support improved quality control, value addition, market access, and competitiveness while reducing unfair practices. For the public sector, they provide a coherent and enforceable framework for monitoring, enforcement, and revenue generation, strengthening the Tea Board of Kenya's capacity to deliver essential services, research, and market development initiatives. Additionally, the Regulations support constitutional and statutory requirements on consumer protection, fair administrative action, and data privacy.

Through robust monitoring, evaluation, and compliance mechanisms, the Regulations will enhance sector efficiency, improve tea quality, increase export earnings, and safeguard Kenya's global reputation for high-quality tea. They provide a sustainable, transparent, and standardized approach to managing the tea industry, ensuring long-term growth, modernization, and resilience of this vital sector. It is therefore recommended that the Cabinet Secretary gazette the draft regulations for formal implementation.

REFERENCES

1. AFA - Tea Directorate, 2024.
2. Global Financial Integrity, 2018, <https://gfintegrity.org/report/kenya-potential-revenue-losses-associated-with-trade-misinvoicing/>
3. Kagira, Elias & Kimani, Sarah & Kagwathi, Stephen & Githii, Stephen. (2012). Sustainable Methods of Addressing Challenges Facing Small Holder Tea Sector in Kenya: A Supply Chain Management Approach. Journal of Management and Sustainability.
4. KALR/TRI, 2022. Tea Research Institute Strategic Direction
5. Kegonde, P. (2005). Economic Governance of the Tea Sector, A paper presented to CGD.
6. Kenya Agricultural & Livestock Research Organization, Tea Growers Guide 2019 Tea board of Kenya, 2024, <https://www.teaboard.or.ke/kenya-tea/history-of-kenyan-tea>
7. KIPPRA, 2020, Fluctuations in Market Earnings for Tea in Kenya: What Could be the Cause and Remedy?
8. Ministry of Agriculture, Livestock and Fisheries, 2024. Tea Policy (Draft)
9. Otiato Guguyu, July 5, 2023, A bitter cup of tea for conference. <https://newsroom.maudhui.co.ke/news/2023/a-bitter-cup-of-tea-for-dp-gachagua-conference/>
10. Peter Kamanga, 2023. Tea bonus debate shows why sector needs more reforms
11. Peter Mongare Kingoina, 2020, Liberalization of Tea Sector: A Blessing or a Poverty Conduit; Case Study of Kisii County, Kenya
12. R.M. Gesimba, M.C. Langat, G. Liu and J.N. Wolukau, 2005. The Tea Industry in Kenya; The Challenges and Positive Developments. Journal of Applied Sciences, 5.
13. Sri Lanka Tea Board. 2024, <https://www.srilankateaboard.lk/sri-lanka-tea-board/legal-and-statutory-information/>
14. TBK, 2023, <https://teaboard.or.ke/media-centre/news-and-events/green-leaf-hawking-blamed-for-sh50bn-loss-of-farmers-revenue>
15. Tea Board India, 2024: Know the role, benefits, and registration process <https://www.ibef.org/exports/indian-tea-industry.aspx>
16. Tea Board of Kenya, 2023: Annual report and financial statements for the year ended 30th June 2023
17. Tea Board of Kenya, 2023, KENYA TEA INDUSTRY PERFORMANCE HIGHLIGHTS FOR 2023
18. Tea Board of Kenya, 2023, Justification for imposing Tea Levy
19. Tea Board of Kenya, 2024, Provision for consultancy services to undertake Regulatory Impact Assessment for the tea (Licensing and Registration) Regulations (ToRs)
20. Tea Board of Tanzania, 2024. <https://maps.prodafrica.com/places/tanzania/dar-es-salam/dar-es-salaam-2/government-2/the-tea-board-of-tanzania-tbt-tz/>