Approved SNA 14/9/23

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – SECOND SESSION – 2023

DEPARTMENTAL COMMITTEES ON FINANCE AND NATIONAL PLANNING; AND THAT ON AGRICULTURE AND LIVESTOCK

.....

PARLIAMENT OF KENYA LIBRARY

REPORT ON:

THE TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 14 SEP 2023
DAY: Thursday
TABLED BY: Hon. Joseph Makilap MP
CLERK AT THE TABLE: Tracy Chebet Koskei

CLERKS CHAMBERS

DIRECTORATE OF DEPARTMENTAL COMMITTEES

PARLIAMENT BUILDINGS

NAIROBI **SEPTEMBER 2023**

NAIROBI **SEPTEMBER 2023**

TABLE OF CONTENTS

LIST OF ABBREVIATIONS AND ACRONYMS 5

LIST OF ANNEXURES 7

CHAIRPERSON'S FOREWORD 8

PART ONE 10

1 PREFACE 10

1.1 ESTABLISHMENT OF THE COMMITTEES 10

1.2 MANDATE OF THE COMMITTEES 10

1.3 COMMITTEE MEMBERSHIP 12

1.4 COMMITTEE SECRETARIAT 14

PART TWO 16

2 BACKGROUND OF THE SUGAR INDUSTRY IN KENYA 16

2.1 INTRODUCTION 16

2.2 INTERVENTIONS AIMED AT REVIVING THE SUGAR SECTOR IN KENYA 18

PART THREE 19

3 THE TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES 19

3.1 REFERRAL TO COMMITTEES 19

3.2 PROPOSALS IN THE MEMORANDUM 19

3.3 LEGAL ANALYSIS 23

PART FOUR 24

4 MEETING WITH STAKEHOLDERS TO CONSIDER THE TREASURY MEMORANDUM 24

4.1 MEMBERS OF COUNTY ASSEMBLY 24

4.2 HON. WALTER OWINO, MP (SOUTH NYANZA SUGAR COMPANY) 25

4.3 HON. JAMES K'OYOO, MP (MIWANI, MUHORONI AND CHEMELIL SUGAR COMPANIES) 25

4.4 HON. JOHN MAKALI, MP (NZOIA SUGAR COMPANY) 26

4.5 KENYA NATIONAL FEDERATION OF SUGARCANE FARMERS (KNFSF) SONY BRANCH 26

4.6 NZOIA OUT-GROWERS COMPANY LIMITED 27

4.7 KENYA NATIONAL FEDERATION OF SUGARCANE FARMERS CHEMELIL BRANCH 27

4.8 KENYA NATIONAL FEDERATION OF SUGARCANE FARMERS MIWANI BRANCH 28

4.9 SUGAR CAMPAIGN FOR CHANGE 28

4.10 KENYA SUGARCANE GROWERS' ASSOCIATION 29

4.11 KENYA NATIONAL FEDERATION OF SUGARCANE FARMERS MUHORONI BRANCH 30

4.12 MUMIAS SUGAR COMPANY FARMERS 30

4.13 KENYA UNION OF SUGAR PLANTATION AND ALLIED WORKERS' UNION 31

4.14 MUMIAS SUGAR (2021) LIMITED 31

4.15 KENYA COMMERCIAL BANK (KCB) LIMITED 33

4.16 SOUTH NYANZA SUGAR COMPANY LIMITED 33

4.17 NZOIA SUGAR COMPANY LIMITED 34

4.18 MUHORONI SUGAR COMPANY LIMITED (IN RECEIVERSHIP) 36
4.19 MIWANI SUGAR COMPANY LIMITED (IN RECEIVERSHIP) 37
4.20 CHEMELIL SUGAR COMPANY 38
4.21 MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT (MOALD) 40
4.22 THE NATIONAL TREASURY AND ECONOMIC PLANNING 41
4.23 THE KENYA REVENUE AUTHORITY 42
4.24 HON. EMMANUEL WANGWE, CBS, MP 44
4.25 HON. JOHN WALUKE, MP 45
4.26 MUMIAS OUTGROWERS COMPANY (1998) LIMITED 46
4.27 SUGAR RESEARCH INSTITUTE 46

PART FIVE 48
5 OBSERVATIONS AND FINDINGS 48

PART SIX 50
6 COMMITTEE RECOMMENDATIONS 50

LIST OF ABBREVIATIONS AND ACRONYMS

UDA	-	United Democratic Alliance
ODM	-	Orange Democratic Movement
NOPEU	-	National Ordinary People Empowerment Union
UDM	-	United Democratic Movement
DAP-K	-	Democratic Alliance Party of Kenya
SONY	-	South Nyanza
SDL	-	Sugar Development Levy
SDF	-	Sugar Development Fund
CF	-	Commodities Fund
MP	-	Member of Parliament
KSh.	-	Kenya Shilling
CS	-	Cabinet Secretary
NA	-	National Assembly
DDC	-	Directorate of Departmental Committees
GoK	-	Government of Kenya
TCD	-	Tonnes of Cane per Day
COMESA	-	Common Market for Eastern and Southern Africa
TC:TS	-	Tonnes of Cane: Tonnes of Sugar
KCB	-	Kenya Commercial Bank
KEBS	-	Kenya Bureau of Standards
VAT	-	Value Added Tax
PAYE	-	Pay as you Earn
NHIF	-	National Hospital Insurance Fund
NSSF	-	National Social Security Fund
KERRA	-	Kenya Rural Roads Authority
MOU	-	Memorandum of Understanding
CEO	-	Chief Executive Officer
NSC	-	Nzoia Sugar Company
IDB	-	International Development Bank
Ha.	-	Hectare
ICT	-	Information, Communication and Technology
MUSCO	-	Muhoroni Sugar Company
NBK	-	National Bank of Kenya
CSCL	-	Chemelil Sugar Company Limited
ADC	-	Agricultural Development Corporation
AFA	-	Agriculture and Food Authority
KSB	-	Kenya Sugar Board
CMA	-	Capital Markets Authority
BETA	-	Bottom-up Economic Transformation Agenda
MOALD	-	Ministry of Agriculture and Livestock Development
NT & EP	-	National Treasury and Economic Planning
CBS	-	Chief of the Burning Spear
TPA	-	Tax Procedures Act
KRA	-	Kenya Revenue Authority
LN	-	Legal Notice
No.	-	Number
MOCO	-	Mumias Out-growers Company
UK	-	United Kingdom

MSC	-	Mumias Sugar Company
KNFSF	-	Kenya National Federation for Sugarcane Farmers
SRI	-	Sugar Research Institute
MT	-	Metric Tonne
MCA	-	Member of County Assembly
SUCAM	-	Sugar Campaign for Change
KESGA	-	Kenya Sugar Growers' Association
CIF	-	Cost, Insurance and Freight
KTDA	-	Kenya Tea Development Authority
KALRO	-	Kenya Agricultural and Livestock Research Organisation
CSR	-	Corporate Social Responsibility

LIST OF ANNEXURES

1. Adoption Schedule
2. Minutes
3. The Treasury Memorandum on action Plans to Revive and Commercialise the State-Owned Sugar Companies
4. Letter from the National Treasury on the Taxes, Penalties and Interest Owed to KRA by the five (5) State-Owned Sugar Companies
5. Sessional Paper No. 12 of 2022
6. Letters Inviting Stakeholders for the Meetings
7. Witness Attendance Registers
8. Submissions from Stakeholders

CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committees on Finance and National Planning; and that on Agriculture and Livestock on the Treasury Memorandum on Action Plans to Revive and Commercialise the State-Owned Sugar Companies.

The Leader of the Majority Party, Hon. Kimani Ichung'wah, MGH, MP tabled the Treasury Memorandum on Action Plans to Revive and Commercialize State-Owned Sugar Companies on 22nd August 2023. The Speaker of the National Assembly directed that the Memorandum be referred to the Departmental Committees on Finance and National Planning; and that on Agriculture and Livestock for consideration and reporting back to the House within two weeks.

The objective of the Memorandum is to create a competitive sugar sector with the ability to withstand the withdrawal of COMESA safeguards with a focus on the modernization of sugar milling plants which will improve production and operation efficiency, enhance cane development in both nucleus estates and small-holder farms, and improve cane sucrose content to between thirteen percent (13%) and and fourteen percent (14%).

The Memorandum proposes a leasing model that will bring on board private capital, expertise and modernization of sugar mills for efficient commercial operations, leasing the nucleus estates and factory land to private investors.

While considering the Memorandum, the Joint Committee held meetings with stakeholders most of whom will be affected by the proposals in the Memorandum. The stakeholders included MCAs, MPs, sugarcane farmers, out-grower institutions, management of state-owned sugar companies, MOALD, the National Treasury and KRA among others. The meetings were held at Best Western Hotel in Kisumu County from Tuesday, 5th September 2023 to Thursday, 7th September 2023. The stakeholder engagement was conducted pursuant to Article 118 of the Constitution.

From the meetings, Members established that all the public milling companies were on their knees and the situation had been exacerbated by the lack of sugarcane in the country which had led to the temporary closure of the Companies. The factories' plant and machinery had not gone through the annual maintenance, some for years due to lack of finances. This had impacted negatively on the efficiency of the factories.

The Committee observed that while management of state-owned sugar companies supported zoning, farmers were opposed to it because they felt that the practice would tie them to sugar companies that may fail to pay them for the cane delivered. The farmers supported the introduction of five catchment areas i.e. Rift Region (Kericho, Nandi and Uasin Gishu Counties), Upper Western Region (Bungoma and Transnzoia Counties), Lower Western Region (Busia, Kakamega, Siaya and Vihiga Counties), Southern Region (Homa Bay, Kisumu, Migori and Narok Counties) and Coastal region (Kwale, Lamu and Tana River Counties).

All the stakeholders supported the proposal to write-off debts and taxes owed to GoK, KSB/CF and KRA by the sugar companies. They added that the source of funds for payment of farmers' arrears and salary arrears needs to be clearly stated and the same paid before the leasing process begins.

The stakeholders noted that it was imperative for public participation to be done during the leasing process. Their experience in the industry will enrich the process and make members of the public more

receptive to the process. The farmers were categorical that the lessee should not be a company that has already invested in the sugar industry in Kenya to encourage competition in the industry.

The proposal to merge Chemelil Sugar Company and Muhoroni Sugar Company was vehemently opposed by most stakeholders because it would impact negatively on competition in the industry and would also lead to job losses. They averred that besides the nucleus estates, the two Companies had contracted farmers who supplied them with sugarcane and their acreage was therefore more than what had been provided in the Memorandum.

The Committees were implored by the stakeholders to expedite consideration of the Sugar Bill (National Assembly Bill No. 34 of 2022) because it will play a big role in reviving the sugar industry. The Bill re-introduces KSB, the Kenya Sugar Research Institute and SDL some of the keys to unlocking the potential in the sugar sub-sector. The SDL will provide funding for research which is a requirement to improve sugarcane varieties in the country.

The Committees are grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to them during the sittings. The Committees further thanks all stakeholders who participated in the consideration of the Memorandum. Finally, we wish to express our appreciation to Members of the Committees and the Committee Secretariats who made useful contributions towards the production and preparation of this report.

On behalf of the Departmental Committee on Finance and National Planning; and that on Agriculture and Livestock and pursuant to the provisions of Standing Order 199(6), it is our pleasant privilege and honour to present to this House the Report of the Committees on the Treasury Memorandum on Action Plans to Revive and Commercialise the State-Owned Sugar Companies.

Hon. CPA. Kuria Kimani, MP
Chairperson, Departmental Committee on Finance and National Planning

Hon. (Dr.) John K. Mutunga, M.P.
Chairperson, Departmental Committee on Agriculture and Livestock

PART ONE

1 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEES

1. The Departmental Committees on Finance and National Planning; and Agriculture and Livestock are established under **Standing Order 216.** They derive their mandate from the **Standing Order 216 (5)** as follows:

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

1.2 MANDATE OF THE COMMITTEES

1.2.1 MANDATE OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

2. In accordance with the Second Schedule to the Standing Orders, the Committee is mandated to consider public finance; public audit policies; financial institutions (excluding those in securities exchange); economy; investment policies; competition; banking; insurance; national statistics; population; revenue policies including taxation; national planning and development; and digital finance including digital currency.

3. In executing its mandate, the Departmental Committee on Finance and National Planning oversights:

    a. the National Treasury and Economic Planning;
    b. the Office of the Controller of Budget; and
    c. the Commission on Revenue Allocation.

1.2.2 MANDATE OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

4. In accordance with the Second Schedule to the Standing Orders, the Committee is mandated to consider, agriculture, livestock, food production and marketing.

5. In executing its mandate, the Committee oversights the Ministry of Agriculture and Livestock Development.

1.3 COMMITTEE MEMBERSHIP

1.3.1 DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

6. The Departmental Committee on Finance and National Planning was constituted by the House on 27th October 2022 and comprises the following Members:

Chairperson
Hon. CPA. Kuria Kimani, MP
Molo Constituency
UDA Party

Vice-Chairperson
Hon. (Amb.) Benjamin Langat, CBS, MP
Ainamoi Constituency
UDA Party

Hon. (Dr.) Adan Keynan, MP
Eldas Constituency
Jubilee Party

Hon. David Mboni, MP
Kitui Rural Constituency
Wiper Party

Hon. Joseph Makilap, MP
Baringo North Constituency
UDA Party

Hon. CPA. Julius Rutto, MP
Kesses Constituency
UDA Constituency

Hon. Paul Biego, MP
Chesumei Constituency
UDA Party

Hon. (Dr.) John Ariko, MP
Turkana South Constituency
ODM Party

Hon. George Sunkuiya, MP
Kajiado West Constituency
UDA Party

Hon. Andrew Okuome, MP
Karachuonyo Constituency
ODM Party

Hon. CPA. Joseph Oyula, MP
Butula Constituency
ODM Party

Hon. Umul Ker Kassim, MP
Mandera County
UDM Party

Hon. Shadrack Ithinji, MP
South Imenti Constituency
Jubilee Party

Hon. Joseph Munyoro, MP
Kigumo Constituency
UDA Party

Hon. Mohamed Machele, MP
Mvita Constituency
ODM Party

1.3.2 DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

7. The Departmental Committee on Agriculture and Livestock was constituted by the House on 27th October 2022 and comprises the following Members:

Chairperson
Hon. (Dr.) John Kanyuithia Mutunga, MP
Tigania West Constituency
UDA Party

Vice-Chairperson
Hon. Brighton Leonard Yegon, MP
Konoin Constituency
UDA Party

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

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

Hon. Geoffrey Makokha Odanga, MP
Matayos Constituency
ODM Party

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

Hon. Jared Okello Odoyo, MP
Nyando Constituency
ODM Party

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

Hon. David Kiplagat, MP
Soi Constituency
UDA Party

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

Hon. Monicah Muthoni Marubu, MP
Lamu County
Independent Member

Hon. Pamela Njoki Njeru, MP
Embu County
UDA Party

Hon. Patrick Kibagendi Osero, MP
Borabu Constituency
ODM Party

Hon. Peter Kalerwa Salasya, MP
Mumias East Constituency
DAP-K Party

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

1.4 COMMITTEE SECRETARIAT

1.4.1 DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

8. The Departmental Committee on Finance and National Planning is facilitated by the following Secretariat:

Mr. Benjamin Magut
Senior Clerk Assistant/Head of Secretariat

Ms. Jennifer Ndeto
Deputy Director, Legal Services

Mr. Salem Lorot
Legal Counsel I

Mr. Nebert Ikai
Clerk Assistant I

Mr. Benson Kamande
Clerk Assistant III

Mr. George Ndenjeshe
Fiscal Analyst III

Mr. James Macharia
Media Relations Officer I

Mr. Andrew Jumanne Shangarai
Principal Serjeant-at-Arms

Mr. Simon Ouko
Assistant Serjeant-at-Arms

Ms. Shamsa Abdi
Research Officer III

Ms. Nelly Ondieki
Research Officer III

Ms. Joyce Wachera
Hansard Officer III

Mr. Benson Muchiri
Audio Officer III

Ms. Ivy Mumbi
Intern

Mr. Alfas Mulunda
Intern

Mr. Ian Kinuthia
Intern

1.4.2 DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

9. The Departmental Committee on Agriculture and Livestock is facilitated by the following Secretariat:

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

Mr. Victor Kanda Kilimo
Clerk Assistant III

Mr. Ahmednoor Sheikh Hassan
Clerk Assistant III

Ms. Brigitta Mati
Legal Counsel I

CPA. Robert Ng'etich
Fiscal Analyst I

Mr. David Ng'eno
Research Officer II

Ms. Sheila Chebotibin
Senior Serjeant-At-Arms

Ms. Noelle Chelagat
Media Relations Officer II

Mr. Gerald Kadede
Legal Counsel II

Mr. Muhumed Shillow
Research Officer III

Mr. Richard Sang
Serjeant-At-Arms

Mr. Kelvin Sekani
Audio Officer III

PART TWO

2 BACKGROUND OF THE SUGAR INDUSTRY IN KENYA

2.1 INTRODUCTION

10. The sugar industry plays a significant role in supporting the economy and livelihoods of more than eight (8) million Kenyans. The industry is the socio-economic backbone of the sugarcane growing communities supporting about three hundred thousand out-grower farmers.

11. Commercial sugarcane farming is concentrated in the Western, Nyanza, Rift Valley and Coastal Regions and is currently being carried out in fifteen (15) counties. The cane distribution by county is as follows: Kakamega (19.9 %), Bungoma (17.7%), Kisumu (12.9%), Narok (8.3%), Busia (7.7%), Nandi (7.7%), Homabay (6.3%), Kericho (4.8%), Migori (4.6%), Trans-Nzoia (3.4%), Kwale (3.3%), Uasin Gishu (1.8%), Kisii (1.1%), Vihiga (0.3) and Siaya (0.2%).

12. The Kenya sugar industry comprises sixteen (16) milling factories with a capacity of 41,000 TCD. Five (5) mills are public owned with National Treasury as the single largest shareholder. The public mills are:
    i. Chemelil Sugar Company;
    ii. Miwani Sugar Company (in receivership);
    iii. Muhoroni Sugar Company (in receivership);
    iv. Nzoia Sugar Company; and
    v. South Nyanza Sugar Company.

13. In 2021, about 262,667 growers were engaged in sugarcane farming, with an average farm size of 0.8 hectares. The nucleus estates account for only 9% of the total cane land area, whereas the out-growers occupy 91% of the total cane land area. The table below shows the area under sugarcane per factory in Kenya.

Table 1: Area under sugarcane by factory (in Ha.)

FACTORY	2017	2018	2019	2020	2021
Chemelil	17,520	17,005	16,905	18,186	18,012
Muhoroni	15,014	13,850	13,184	13,775	15,282
Mumias	21,538	13,034	1,925	198	274
Nzoia	24,675	20,084	18,046	18,775	18,918
South Nyanza	13,226	11,597	10,113	8,959	8,803
Kibos	5,946	6,277	8,013	7,393	8,087
Soin	1,744	1,825	1,822	1,915	2,799
Butali	18,487	15,526	14,913	19,749	24,021
West Kenya	29,721	38,868	46,716	48,011	59,048
Miwani	3,651	4,017	1,938	1,900	1,615
Sukari	6,419	11,986	15,447	17,710	21,251
Transmara	11,347	14,958	15,075	15,308	16,980
Kwale	9,477	9,488	9,488	6,763	7,287
Olepito	4,949	7,942	8,875	9,013	9,612
Busia	7,501	15,943	14,978	12,858	11,017

FACTORY	2017	2018	2019	2020	2021
Total	**191,215**	**202,400**	**197,438**	**200,513**	**223,006**

Source: AFA-Sugar Directorate

14. Kenya has been a net importer of sugar since the mid1980s and the gap between production and demand has been widening over time. Kenya's annual consumption in 2022 stood at 1.11 million MT against a production of 0.79 million MT leading to importation of 0.32 million MT worth KSh. 28 billion. Annual production and imports are shown in the table below.

Table 2: Production, Imports and Exports of Sugar from 2018 to 2022 (000 MT)

Year	Production	Imports	Exports	Consumption
2018	491.1	284.2	2	997.9
2019	440.9	458.6	0.8	1039.7
2020	603.8	442.4	0.4	1072.4
2021	700.2	426.3	0.1	1104.4
2022	796.6	320.7	0.4	1116.9

Source: AFA, Sugar Directorate

15. The table below shows the sugar produced by factories in the country from the year 2017 to the year 2022.

Table 3: Sugar produced (bagged) per factory between 2017 and 2021 (in MT)

FACTORY	2017	2018	2019	2020	2021
Chemelil	11,951	14,598	2,863	24,328	21,681
Muhoroni	20,942	14,886	10,601	17,464	19,711
Mumias	13,575	4,768	-	-	-
Nzoia	29,394	28,195	12,582	26,977	21,015
SONY	35,060	40,149	12,573	13,908	32,786
Kibos	52,110	66,599	53,249	85,339	68,139
Soin					
Butali	47,053	65,292	53,577	87,227	79,787
West Kenya	74,770	107,350	136,305	151,802	188,512
Sukari	29,542	60,401	68,657	63,146	96,156
Transmara	42,025	67,040	72,011	78,761	107,233
Kwale	19,689	17,570	339	10,875	1,477
Olepito	-	4,249	8,043	11,933	15,741
Busia	-	-	10,135	31,978	48,003
TOTAL	**376,111**	**491,097**	**440,935**	**603,738**	**700,241**

Source: AFA-Sugar Directorate

16. The sector has for the longest time continued to face several challenges among them the high cost of production, high levels of indebtedness especially among public-owned mills, acute cane shortage, declining yields, inefficiencies in the value chains, delayed payment to cane farmers, inadequate research and extension, aging equipment, obsolete technology, illegal sugar imports, mismanagement of state-owned mills, reduced incomes to farmers and weak regulatory framework among others (Sugar Taskforce Report of 2019).

2.2 INTERVENTIONS AIMED AT REVIVING THE SUGAR SECTOR IN KENYA

17. In an effort to resolve the challenges bedeviling the sector, various efforts and interventions have been initiated by the government including debt restructuring and bailouts and policy reforms amongst others.

18. In the Cabinet meeting held on 14th October 2010, the Cabinet considered the recommendations submitted to it by the Deputy Prime Minister and Minister for Finance and the Minister for Agriculture on the measures to make the sugar companies competitive by 2012 and approved a number of recommendations including expediting the privatization of the five (5) sugar companies, restructuring the sugar companies' balance sheets by writing off debts owed to the GoK and the Kenya Sugar Board, writing off tax penalties, interests and writing off land rates and other related penalties.

19. Sessional Paper No. 12 of 2012 was laid before the National Assembly for approval on 6th December 2012 by the then Finance Minister Hon. Njeru Githae and approved a debt write-off of KSh. 33,780,465,838 for the five (5) sugar companies owed to GoK and KSB/CF and a write-off of tax penalties and interest estimated at KSh. 4 billion as at 30th June 2009.

20. The National Assembly in 2015 approved the privatization of state-owned sugar companies but the implementation process was never concluded as it was opposed by stakeholders.

21. In the FY 2015/16 Mumias Sugar Company was issued with Ksh. 2 billion for restructuring and settlement of payables. In the FY 2022/23, Nzoia Sugar Company was allocated KSh. 500 million to carry out factory maintenance and settle farmers' arrears.

PART THREE

3 THE TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES

3.1 REFERRAL TO COMMITTEES

22. The Leader of the Majority Party, Hon. Kimani Ichung'wah, MGH, MP tabled the Treasury Memorandum on Action Plans to Revive and Commercialize State-Owned Sugar Companies on 22nd August 2023. The Speaker of the National Assembly directed that the Memorandum be referred to the Departmental Committees on Finance and National Planning; and that on Agriculture and Livestock for immediate consideration and reporting back to the House within two weeks.

3.2 PROPOSALS IN THE MEMORANDUM

23. The objective of the action plan is to create a competitive sector with the ability to withstand the withdrawal of COMESA safeguards. The focus will be on the modernization of sugar milling plants which will improve production and operational efficiency, enhance cane development in both nucleus estates and small-holder farms and improve cane sucrose content to between 13% and 14%.

24. The Memorandum proposes a leasing model that will bring on board private capital, expertise, modernization of sugar mills for efficient commercial operations and leasing of the nucleus estates and factory land to private investors.

3.2.1 CHALLENGES FACING THE PUBLIC-OWNED SUGAR MILLS AS IDENTIFIED BY THE MEMORANDUM

The public-owned sugar mills face several challenges including:

25. **Poor governance**: Seen through mismanagement of public resources, blotted workforce, non-adherence to procurement laws, dysfunctional organisational structures and inadequate capacity and requisite experience to turn around the institutions.

26. **Failure of institutional structures, processes and policies**: Ineffective research and development owing to funding challenges; ineffective extension services due to inadequate funding; expensive farm inputs; involvement of the government in the sugar sector and political interference; and cane poaching.

27. **Lack of capital and high debt:** Public mills owe a lot of money to farmers, suppliers of goods and services rendered, salary arrears, un-serviced loans, interest and taxes among others. The debt status of public mills is shown in the table below:

Table 4: Breakdown of debts in state-owned sugar mills

ITEM	CHEMELIL	SONY	NZOIA	MUHORONI	MIWANI	TOTAL
Farmers' arrears	263,017,939	865,853,677	269,606,265	316,651,523	-	1,715,129,40
Salary arrears	1,116,195,344	1,194,397,767	1,843,427,512	1,080,444,410	0	5,234,465,03

ITEM	CHEMELIL	SONY	NZOIA	MUHORONI	MIWANI	TOTAL
Taxes & Penalties	3,739,893,783	2,682,825,089	12,262,706,248	14,120,931,330	17,338,445,158	50,144,801,608
SDL	3,740,868,462	503,244,772	3,637,056,220	3,466,198,521	-	11,347,367,975
GoK Loans	-	888,122,168	43,429,720,791	6,223,114,853	3,890,122,859	54,431,080,671
Other Creditors	1,068,049,871	1,146,745,520	1,241,204,717	926,550,290	820,002,539	5,202,552,937
Total	**9,928,025,399**	**7,281,188,993**	**62,683,721,753**	**26,133,890,927**	**22,048,570,556**	**128,075,397,628**

Source: The National Treasury

28. **Aging plants, machinery, obsolete technologies and operational inefficiencies**: Public mills operate aging plants and equipment with obsolete technologies. This is made worse by the lack of annual maintenance of mills hence operate below fifty percent of their installed capacities.

3.2.2 OBJECTIVES OF THE ACTION PLANS

The proposed action plans aim at achieving the following objectives:

29. **Creation of a competitive sugar sector**: The Government intends to create a competitive sugar sector that can withstand the withdrawal of COMESA safeguards.

30. **Enhance the profitability of sugar farming**: The plans are aimed at increasing the incomes of sugarcane farmers to ensure the sustainability of the sector.

31. **Enhance productivity in the sugar sector**: By investing in modern milling plants that will enhance production efficiency and diversified product range; by increasing the tonnes of cane harvested per acre; increasing the sugar recovery rate from the current average of 12.5% to 6%-8% per tonne of cane; and increase the cane sucrose content to 13% to 14%.

32. **Achieve economies of scale**: Competitiveness shall be achieved by delivering economies of scale by ensuring an adequate supply of cane to meet optimal factory operations. Delivery of sugar at competitive prices will allow the sector to thrive even with the removal of COMESA safeguards.

3.2.3 PROPOSED STRATEGIC INTERVENTIONS

The following strategic interventions were proposed for corporate re-organisation and financial restructuring of public mills:

33. Bring on board private capital, expertise and modernisation of sugar mills for efficient commercial operations.

34. Enhance cane development in both nucleus estates and smallholder out-grower farms.

35. Address stakeholder and community sensitivities on permanent divestiture of land. This is to seek for utilization of nucleus estate lease proceeds to incentivize smallholder farmers to enhance production through payment of loyalty bonus and in community development projects by funding CSR projects.

36. Unbundling the nucleus estate land and the factory land. The factories shall be disposed off in compliance with existing procurement regulations and the successful investor shall be provided with land which they can lease and construct a modern factory.

37. Expedite leasing of the five (5) sugar companies to facilitate rehabilitation and expansion to enhance the competitiveness of the industry before lapsing of the COMESA sugar safeguards.

38. Achieve cane catchment of viable sizes hence the need for consolidation. This will be done by creating financially viable sugar companies, able to access adequate cane, considering the minimum viable size area of 29,914 hectares required to supply cane to one factory.

39. Retain NSC and SONY Sugar Company which have cane-growing areas of 49,862 hectares and 81,415 hectares respectively as they are.

40. CSCL and MUSCO which have cane-growing areas of 18,437 hectares and 22,134 hectares respectively to be merged to form one zone with a total cane-growing area of 40,571 hectares.

41. The decision on Miwani Sugar Company will be made once the ongoing court cases are determined.

42. Investors will be required to bid for both CSCL and MUSCO to facilitate a leasing arrangement for the two factories/zones merging. The table below shows the catchment areas before and after the merger.

Table 5: Possible catchment areas (Ha.)

FACTORY	BEFORE MERGER	AFTER MERGER
Chemelil	18,487	40,571
Muhoroni	22,134	
Miwani	9,143	9,143
Nzoia	49,862	49,862
Sony	31,415	31,415
TOTAL	**131,041**	**131,041**

Source: The National Treasury

43. Restructuring of the sugar companies' balance sheets by writing off monies owed to GoK, writing off tax penalties and interest and putting in place a payment plan for balances owed to farmers.

44. Regulation of factory zones to ensure the financial viability and future sustainability of the sugar companies by clearly defining each factory zone before inviting final bids for the leasing program and ensuring that the zones are complied with by all stakeholders.

45. Government to support smallholder cane farmers to develop the crop and enhance productivity.

46. Legal reforms in the sector by coming up with mechanisms to enhance efficient settlement of disputes efficiently to mitigate the numerous legal suits filed by sector players in court.

3.2.4 STATUS OF MUMIAS SUGAR COMPANY AND WAY FORWARD

47. The near collapse of Mumias Sugar Company has adversely affected the residents of Kakamega County where sugarcane is the main cash crop.

48. The Government of Kenya holds 306,000,000 shares in the Company out of 1,530,000,000 representing 20% while the other 80% of the shares are held by private shareholders. The company was listed at the Nairobi Securities Exchange in 2001 and constituted the top 20 most valuable companies up to 2014 when its performance deteriorated due to mismanagement.

49. The Company was placed under receivership by KCB Bank on 20th September 2019. The Board was dissolved and a consultancy firm, PVR Rao appointed to run its operations. CMA suspended the Company's shares from trading due to debts of KSh. 8.7 billion in line with Capital Markets Regulations.

50. The Government supports the leasing model adopted by KCB in a bid to turn around the Company by inviting the private sector to take up the operations of the Company. The paper seeks to implement the recommendations of the Sugar Industry Stakeholders' Taskforce Report of 2019 which recommended: Negotiation with banks and other creditors for the restructuring of other debts; and in cognizance of the fact that Mumias Sugar Company is no longer a public mill, it was recommended that a revitalization committee be appointed to work with the Board, County Government and other key stakeholders to identify and implement an effective restructuring plan.

3.2.5 BENEFITS OF THE PROPOSED LEASING MODEL

51. The benefits of the proposed leasing model include allowing for private sector participation without undertaking a permanent divesture process; making sugarcane profitable and sustainable to enhance the livelihood of farmers, employees and community; modernization of sugar mills to provide efficiency and hence profitability; development of the nucleus estate; generation of taxes; improve competitiveness and increased sugar production to meet domestic demands hence save on foreign exchange occasioned by imports; enhance product diversification through co-generation and ethanol production; cut public sector financing through private sector participation; and improve the business environment in Kenya.

3.2.6 REQUEST TO THE NATIONAL ASSEMBLY

The National Assembly is requested to consider and approve:

52. write-off of loans owed by the public sugar companies to GoK and KSB/CF amounting to KSh. 65,778,448,646 as at 30th June 2023 and any other accrued interest as at the date of approval.

53. write-off of taxes, penalties and interest as approved by Parliament amounting to KSh. 50,144,801,608 as at 30th June 2023 and any additional interest and penalties that have accrued since then.

54. the vacation of the privatization model approved by Parliament in 2015.

55. the leasing model for the five (5) public sugar mills (Nzioa Sugar Company, Chemelil Sugar Company, Miwani Sugar Company (in receivership), Muhoroni Sugar Company (in receivership) and South Nyanza Sugar Company).

3.3 LEGAL ANALYSIS

56. Privatization Act *(No. 2 of 2005)* provides for methods of privatization. Section 17 provides for privatization by the Privatization Commission where the Commission has the exclusive authority to manage and implement the privatization under a privatization programme formulated by the Commission.

57. Section 22 of the Act provides for privatization outside the programme of the Commission. Such a programme may be implemented and managed by the responsible public entity except where the privatization involves the transfer of a public entity's interests in a state corporation or other corporation, or any other privatization prescribed by regulation.

58. Section 23 of the Act provides that the Commission shall make a specific proposal for privatization to the Cabinet Secretary who shall present the proposal to the Cabinet for approval. The Cabinet Secretary then submits a report in the form of a Sessional Paper on a privatization proposal approved by the Cabinet to the National Assembly for consideration. Upon laying the report before the National Assembly, the report stands referred to the relevant departmental committee.

59. The Cabinet Secretary shall compile and submit a consolidated report to the National Assembly on the status of each approved privatization proposal not later than four months after the end of each financial year. Upon laying the report before the National Assembly it shall be referred to the relevant departmental committee.

60. Section 25 of the Act provides for the methods of privatization as follows: Public offering of shares; negotiated sales resulting from the exercise of pre-emptive rights; sale of assets, including liquidation; and any other method approved by the Cabinet in the approval of a specific privatization proposal.

PART FOUR

4 MEETING WITH STAKEHOLDERS TO CONSIDER THE TREASURY MEMORANDUM

61. In a bid to conduct public participation on the consideration of the Treasury Memorandum on Action Plans to Revive and Commercialise the State-Owned Sugar Companies, the Joint Committee invited stakeholders for meetings vide letters REF: NA/DDC/A&L/2023/052, NA/DDC/A&L/2023/053, NA/DDC/A&L/2023/054, NA/DDC/A&L/2023/055 and NA/DDC/A&L/2023/057. The Committee received submissions from the following stakeholders:

    a. Members of County Assemblies
    b. Hon. Walter Owino, MP
    c. Hon. James K'oyoo, MP
    d. Hon. John Makali, MP
    e. Kenya National Federation of Sugarcane Farmers SONY Branch
    f. Nzoia Sugar Company Out-growers Limited
    g. Kenya National Federation of Sugarcane Farmers Chemelil Branch
    h. Kenya National Federation of Sugarcane Farmers Miwani Branch
    i. Sugar Campaign for Change
    j. Kenya Sugarcane Growers Association
    k. Kenya National Federation of Sugarcane Farmers Muhoroni Branch
    l. Mumias Sugar Company Farmers
    m. Kenya Union of Sugar Plantation and Allied Workers' Union
    n. Mumias Sugar (2021) Limited
    o. Kenya Commercial Bank Limited
    p. SONY Sugar Company
    q. Nzoia Sugar Company
    r. Muhoroni Sugar Company (In Receivership)
    s. Miwani Sugar Company (In Receivership)
    t. Chemelil Sugar Company
    u. Ministry of Agriculture and Livestock Development
    v. The National Treasury
    w. Kenya Revenue Authority
    x. Hon. Emmanuel Wangwe, MP
    y. Hon. John Waluke, MP
    z. Mumias Out-growers Company (1998) Limited
    aa. Sugar Research Institute.

62. The stakeholders submitted as follows:

4.1 MEMBERS OF COUNTY ASSEMBLY

In a meeting with the Committee held on Tuesday, 5th September 2023, the MCAs from Kisumu and Migori Counties submitted that:

63. All sugar companies in the Kisumu Region were on their knees and they would support the leasing process on condition that it would improve the companies, bring about new technologies that would lead to efficiency in sugar production, terms and conditions of leasing are set out clearly, management of the sugar companies given to qualified managers and not political appointees, Chemelil and Muhoroni Sugar Companies are not merged and farmers' arrears are paid.

64. There should be a link between the sugar companies and research institutions for access to good sugarcane varieties by farmers. Additionally, sugar importation should be discouraged to encourage local production because there is a lot of potential in the sugar industry. The process of sugar importation should be clear and open.

65. The court cases filed against Miwani Sugar Company need to be withdrawn as they have had a negative impact on the operations of the Company. In addition, the land owned by the Agricultural Development Corporation (ADC) that was given to Chemelil Sugar Company had been grabbed by prominent persons. This land needs to be returned to the Company.

66. They concluded by requesting that, Muhoroni and Miwani Sugar Companies similar to Nzoia Sugar Company, be assigned the National Youth Service (NYS) to provide security.

4.2 HON. WALTER OWINO, MP (SOUTH NYANZA SUGAR COMPANY)

In a meeting with the Joint Committee held on Tuesday, 5th September 2023, Hon. Walter Owino, Member of Parliament for Awendo Constituency informed the meeting that:

67. He had no problem with the leasing of the state-owned sugar companies. He however, stated that the following issues needed to be addressed: Farmers' arrears and employees' salary arrears should be paid before leasing is done; the factory and nucleus land need to be separated during the leasing; an explanation provided on why putting the companies under private investors will give better results; plans that the Government will put in place to encourage farmers to plant sugarcane given that they had abandoned the practice; when stakeholder engagement will be done and by whom; corporate social responsibilities that the investors will bring to the communities; involvement of leaders from the areas where the sugar companies are located in the negotiating process; and assurance that employees' jobs are safe.

68. Hon. Owino submitted that he will support the leasing process if: the lease period does not exceed twenty (20) years; the investor will install new and modern machinery; the investor commits to neither import sugar nor poach sugarcane from other millers; the nucleus land is not sold to the investor and the investor uses the land to grow sugarcane; and the investor should commit to undertake cane development.

4.3 HON. JAMES K'OYOO, MP (MIWANI, MUHORONI AND CHEMELIL SUGAR COMPANIES)

In a meeting with the Joint Committee held on Tuesday, 5th September 2023, Hon. James K'oyoo, Member of Parliament for Muhoroni Constituency submitted as follows:

69. He will support the leasing process as long as it is done transparently, that the investor installs ultra-modern machines in the sugar companies after the leasing process and representatives of the people are involved in the leasing process.

70. The court cases against Miwani Sugar Company need to be withdrawn and the Company land that was grabbed by prominent persons returned to the Company. Sugar-importing barons should be eliminated from the industry. Additionally, millers should not be involved in sugar importation.

4.4 HON. JOHN MAKALI, MP (NZOIA SUGAR COMPANY)

In a meeting with the Joint Committee held on Tuesday, 5th September 2023, Hon. John Makali, Member of Parliament for Kanduyi Constituency informed the meeting as follows:

71. Farmers who supply sugarcane to Nzoia Sugar Company had not been paid for the last ten (10) months while employees had gone without salaries for the last eleven (11) months. There was a bloated workforce of about seven thousand (7,000) employees out of whom three thousand (3,000) were casuals. The Company also experienced the following challenges: the Nzoia Sugar Company nucleus land was underutilised; there were governance issues at the Company; the machinery in the Company used obsolete technology (KSh. 700 million is used on maintenance of the factory annually); and cane poaching.

72. On the Treasury Memorandum, he supported debt write-off for the sugar Companies. He however did not support leasing of NSC and proposed that the Government should hand management of the Company to the County Government of Bungoma if unable to manage it. He was opposed to indigenous persons taking over the Company and proposed that management should be done by a management company as had been done before. He further observed that sugar companies should be given capital for revitalisation in addition to the proposals in the Memorandum.

73. He concluded that sugar importation should be done by the Kenya National Trading Corporation (KNTC) and millers.

4.5 KENYA NATIONAL FEDERATION OF SUGARCANE FARMERS (KNFSF) SONY BRANCH

In a meeting with the Committee held on Wednesday, 6th September 2023, Mr. Argwengs Adongo, the Branch Secretary proposed the following solutions to challenges experienced by state-owned sugar companies:

74. **Poor governance**: the Companies Act be amended to factor in the role of county governments, farmers who supply raw materials to the companies and their representation in the boards of management.

75. **Legal and regulatory frameworks that do not adequately respond to sugar industry needs**: the laws governing the sugar industry do not meet the industry's needs, encourage chaos in the industry and have hampered growth in the sugar industry. They proposed that an act of Parliament be put in place to give direction, instill discipline in the industry and put in place an independent regulatory body to oversight the industry.

76. **Debt write-off of KSh. 65,778,448,646**: supported the write-off so that the companies can start on a clean balance sheet.

77. **High level of indebtedness among the public-owned sugar companies**: supported the proposal by the National Treasury to bail out state-owned sugar companies by paying sugarcane farmers the outstanding arrears.

78. **Low sugarcane productivity and quality for the industry sustainability**: the following strategies need to be taken into consideration: promote cluster and block farming arrangements; facilitate the

provision of affordable credit; implement programmes to facilitate multiplication and distribution of certified seed cane; provide subsidies on farm inputs; improve cane varieties and use of appropriate agronomic practices; and facilitate effective research for the early maturing sugarcane. Laws need to be put in place to facilitate the above.

79. **Privatisation/leasing of state-owned sugar companies**: the fate of the SONY Sugar Company nucleus estate needs to be stated. The terms and conditions of the lease/privatisation should be laid bare and public participation done to all stakeholders before implementation of the same. They supported leasing but not privatisation.

4.6 NZOIA OUT-GROWERS COMPANY LIMITED

Mr. Christopher Sifuna, the Chairperson, appeared before the Committee on Wednesday, 6th September and submitted as follows:

80. Previously, one hectare of land used to produce 90 tonnes of sugarcane but this has been reduced to 40 tonnes due to the high cost of farm inputs, poor seed cane, high operational costs, harvest of young cane, no extension services and high transportation cost.

81. The Nzoia Outgrowers Company Limited was not able to service their loans borrowed from KSB/CF because farmers were unable to deliver cane to the factory as a result of the breakdown of machines at the factory, cane poaching, burned cane (lost cane worth 240 million during the 2017/18 post-election violence). The Company requested the loan write-off extended to out-grower institutions.

82. Mr. Sifuna observed that there is a need for bonuses to be paid when sugar prices go up to encourage sugarcane farming. It is also important for farmers to be paid advances because sugarcane takes long to mature.

83. Additionally, millers or farmer organisations should be allowed to import sugar when there is a deficit. Further, a regulatory framework that will bring discipline in the sugar industry, re-introduce KSB, re-introduce SDL, allow for research to come up with improved cane varieties, subsidize the price of farm inputs and encourage cane development needs to be enacted.

4.7 KENYA NATIONAL FEDERATION OF SUGARCANE FARMERS CHEMELIL BRANCH

The Branch Secretary, Mr. Caleb Ochieng' appeared before the Committee on Wednesday, 6th September 2023 and submitted that:

84. They were against the merger of Chemelil and Muhoroni Sugar Companies to form one zone because it would encourage monopoly in the region and kill competition. Competition in the region has resulted in improved services to farmers, prompt payment to farmers and good cane prices. They proposed that each of the factories be offered to a different investor with proven sugar milling and sugar industry experience.

85. They supported the regional zoning as follows: Central Region (Kisumu, Kericho and Nandi Counties); Upper Western Region (Bungoma, Kakamega, Transnzoia and Uasin Gishu Counties); Lower Western Region (Busia, Mumias and Siaya Counties); Southern Region (Homabay, Kisii, Migori and Narok Counties); and Coastal Region (Kwale, Lamu and Tana River Counties).

86. The Government should support cane farmers to mitigate against high input costs to increase cane productivity. This can be achieved by availing subsidized GoK fertilizer to sugarcane farmers through sugar millers.

87. The law should be amended to allow millers to retain the cess funds and release them to cess committees or use the funds to repair roads within their regions directly or outsource the services under the supervision of cess committees.

88. Millers operating in the same region should put in place as many weighbridges as possible so that they are close to farmers to reduce transport costs thus increasing farmers' income.

89. The SRI should work in collaboration with millers, farmer organisations and county governments to ensure the availability and modalities for increased adoption of appropriate and affordable planting materials. SRI should be funded by the government to aptly discharge their mandate.

90. Strengthen and implement the National Agricultural Extension Services Policy and ensure implementation of the Policy at the county level.

91. The leasing process should be advertised openly with a clear criterion for selection including the shareholding details.

4.8 KENYA NATIONAL FEDERATION OF SUGARCANE FARMERS MIWANI BRANCH

In a meeting with the Committee held on Wednesday, 6th September 2023, the Federation submitted as follows:

92. Miwani Sugar Company Limited has been having court cases from 2008 to date leading to no development. The cases need to be withdrawn to allow the Company's operations to run smoothly.

93. They supported the leasing of the Sugar Company as long as public participation is done, farmers' arrears and salary arrears are paid before the process begins, the nucleus land is not leased and the lessee is not a sugar factory owner in Kenya to encourage competition.

94. They opposed the merging of Muhoroni and Chemelil Sugar Companies because it would lead to a loss of jobs.

4.9 SUGAR CAMPAIGN FOR CHANGE

Hon. Saulo Busolo appeared before the committee on Wednesday, 6th September 2023 and submitted as follows:

95. It is highly anticipated that the entry of private sector players in the sugar sub-sector will transform the industry by injecting the necessary capital for stimulating the modernization of the factories, improving operational efficiencies, addressing technical expertise, and bringing on board effective management and good governance styles. These reforms will enhance the competitiveness of the industry while at the same time containing political patronage, official bureaucracy, corruption and wastage.

96. The traditional enforcement of arbitrary millers' designed contracts to reap economic benefits while exploiting the farmers with impunity, delay or non-harvesting of contracted sugarcane, delay or

non-payment for sugarcane delivered to the mills, excessive and compounded interest charges and arbitrary falsified deductions and poor weighbridge records have highly influenced farmer's economic development. SUCAM proposed that the Ministry should provide a timeline for the gazettement of the Sugar Regulations.

97. The philosophy behind the cane pricing system is to evolve a cane payment system that ensures equitable distribution of industry proceeds. The payment system should include a provision for an accurate assessment of sugarcane by weight or by sucrose content, setting up of a base price for standard sugar, dividing the proceeds to cover all costs (growers and milling) and distributing the balance according to each stakeholder's input. SUCAM proposed that before leasing state-owned sugar factories, it will be necessary that the government puts in place systems that will provide for equitable distribution of industry proceeds.

98. Productivity at the farm level requires a policy backup to ensure the achievement of optimal tonnage per acre. In this case, there needs to be a proposed framework for specific policies along the value of sugar import, seed cane policy, cane payment, insurance, cane transport policy and weighbridges. The policy decision should be guided by the principle of what is the greatest good for the greatest number and should go through public participation by the stakeholders and not by the bureaucrats.

99. When the out-grower institutions were active, the extension services were being provided, efficient cane production was undertaken and access to affordable farm input and services was witnessed. The current reporting channels and organizational structures portray a conflict between the apex body and the primary societies/companies in reaching for an audience with the regulatory body (AFA), government ministries and the millers.

100. They proposed the reintroduction of the SDL to be domiciled within the proposed KSB and not CF as proposed in the Committee Report. The contribution from imported sugar should be at the domestic value of the sugar imported and not the CIF value.

101. The economies of scale cannot be designed by a legal framework in a liberalized industry. Best practice is, that achieving economies of scale is gradual, designed by good management, and modern technology and innovation. Focus on increasing yield per acre to achieve the requirement of the specific mill hence their opposition to the merger of Muhoroni and Chemelil Sugar Companies.

102. An investigative audit to examine the reality of the debt of Miwani should be done because some of the debts are not genuine. In case of culpability, the culprits should be charged in a court of law for recovery of the public funds.

4.10 KENYA SUGARCANE GROWERS' ASSOCIATION

KESGA appeared before the committee on Wednesday, 6th September 2023 and submitted as follows:

103. The journey to commercialize government-owned sugar mills began more than 20 years ago and successive regimes have tried to implement this policy with zero success perhaps failing to understand the local dynamics and why these mills were put up in the first place. Government-owned factories have performed exemplarily, it is only on the profit-making front which was never part of the inception plan that they have failed miserably therefore in an ever-changing environment. It is necessary to come up with a diffraction framework to ensure the sustainability of these institutions.

104. They supported the leasing of state-owned sugar companies on the following conditions: The successful lessee should only be allowed to manage one mill; the lease shall only apply to the mill, there should be a different arrangement for the nucleus estate where counties will hold the land in trust for the people; the lease shall be for 20 years or be reviewed every five years after signing; all debts owed to workers, suppliers and farmers shall be paid in full before commencement of the process; members of the boards of the sugar mills shall be elected directly from farmers akin to the KTDA model; the process of leasing is open and above board; Muhoroni and Chemelil Sugar Companies are not merged; and the lessee undertakes to put up a training facility within the sugar mill and must also commit to taking 10 individuals from the local community for apprentice training every year.

105. Miwani Sugar Company was not among the Companies to be leased. The government needs to talk to the individuals who had lodged numerous court cases against the Company to drop them. All debts owed by out-grower companies should also be written off, the reason being that these are the structures that investors will rely on in boosting productivity at the farm level.

106. Zoning whether mill or regional has the potential of stifling growth and innovation. The government should address the falling farm productivity which stands at 35 tons per acre. The government should start to progressively exit the sugar industry by providing a timeline for the exit.

4.11 KENYA NATIONAL FEDERATION OF SUGARCANE FARMERS MUHORONI BRANCH

Mr. Jerim Odada, the Branch Chairman appeared before the Joint Committee on Wednesday, 6th September 2023 and submitted as follows:

107. Sugarcane farmers should be supported with cheap funding for cane development. This can be done through reinstatement of the Sugar Act which will put in place KSB. Additionally, licensing of new milling companies in the Muhoroni Zone should be restricted because it encourages cane poaching which has caused many problems in the sugar sector.

108. The Government should pay off debts and unsecured creditors and reinstate a board of management to manage the operations of MUSCO. The Company should be removed from receivership to regular management.

109. Supported leasing of the factory and its land to companies with track records in management and agriculture but not briefcase companies. They were however not in support of the merger of MUSCO and Chemelil Sugar Company.

4.12 MUMIAS SUGAR COMPANY FARMERS

Ms. Everlyne Wakhusama, a farmer, appeared before the Committee on Wednesday, 6th September 2023 and submitted as follows:

110. It is important to carry out sugar research to come up with cane varieties that mature in a shorter time and have high sucrose content. Farmers should be represented in KSB and have societies where their issues can be canvassed and addressed.

111. All costs related to sugarcane are borne by farmers including transportation which is not the case with other crops.

112. Establishment of sugar factories should be regulated. A factory should prove that they have raw materials before they are licensed.

4.13 KENYA UNION OF SUGAR PLANTATION AND ALLIED WORKERS' UNION

The Director of Communications, Mr. Lincoln Aveza appeared before the Joint Committee on Wednesday, 6th September 2023 and stated as follows:

113. Workers in state-owned sugar companies had not been paid their salaries for months (Chemelil Sugar Company for 53 months, NSC for 19 months and SONY for 15 months). In addition, retirees go home with unpaid salaries and no pension. Clarity should be given on how the arrears will be paid.

114. Most private sugar companies have poor working conditions and do not adhere to labor laws. Some have two payrolls, one for black people and the other for light-skinned people.

115. Management of the state-owned sugar companies that were responsible for the mismanagement of the companies should be investigated and brought to book.

116. Workers should be represented in the taskforce that will be in charge of the leasing process to take care of the interests of workers. The fate of workers should be made clear before the process begins and salary arrears paid before the commercialisation process begins. Additionally, a leasing model should be put in place.

117. Before licensing sugar companies, the government should ensure that the company has raw materials.

4.14 MUMIAS SUGAR (2021) LIMITED

In a meeting held on Wednesday, 6th September 2023, the General Manager, Mr. Rakesh Bvats made the following submission to the Joint Committee:

118. The Company has factory land of 117 Ha, nucleus land of 4295 Ha but the available area is 3,495 Ha and a crushing capacity of 8,500 TCDs.

119. The Company ceased operation in 2017 and Sarrai Group Limited was awarded the lease as the highest qualified bidder out of three (3) bidders on 22nd December 2021. When leasing the Company, the lessor (KCB) required the lessee (Sarrai Group Limited) to: Revive the Company (achieved but a lot more needs to be done); improve the financial well-being of farmers (12,570 farmers deliver cane and are paid weekly); creation of employment (880 direct employment and 2,500 indirect employment, 94% of the employees are old Mumias Sugar Company employees); and increase in government revenue (KSh. 433 million remitted to the government as VAT, Cess, PAYE, NHIF, NSSF e.t.c.).

120. Despite multiple court cases blocking the revival of Mumias Sugar Company, the Company has achieved the following: Developed over 2,139 acres of the nucleus estate; investment over KSh. 1.359 billion; KSh. 1.5 billion paid to farmers; over KSh. 433 million remitted to GoK; crushed 300,000 tonnes of cane in 9 months; produced 20,000 tonnes of sugar; and brought the Company back to the common man after seven (7) years.

COMMENTS ON THE TREASURY MEMORANDUM

121. Mr. Bvats observed that the Memorandum had taken care of most concerns in the sugar sector. He proposed the following additions to enrich the document:

a. **Implementation of Zones**: Globally, zoning is the backbone of the sugar industry. Zoning will give a sense of ownership to both farmers and millers, encourage millers to give farmers financial help, cane development by millers, better recovery hence higher revenue, reduction in sugar deficit, affordable and stable sugar prices and encourage CSR by millers.

b. **Protection of the Investor:** the business environment should be investor-friendly to give value to the money invested. Investors should be protected from court cases that may interfere with their working as is the case with Mumias Sugar Company (2021) Limited.

c. **Availability of Nucleus**: All millers should facilitate the production of good quality and good variety of cane to the farmers. This can be made possible through the availability of nucleus land. The state-owned mills should therefore retain the nucleus land.

d. **Reduction of the cost of farm inputs**: Kenya's input cost is the highest in East Africa and COMESA. Deliberate efforts need to be put in place to reduce the cost.

e. **Availability of Credit Facility**: The government should provide affordable and subsidized credit to the farmers.

f. **Investment in technology**: The Government should invest in technology that will facilitate farmers regarding their creditworthiness, availability of land, crop insurance and buying of agricultural inputs and agricultural machinery. This will also facilitate Government and government bodies to monitor and report as required.

g. **Payment to Farmers**: The Government and other regulatory bodies need to put in place a policy on the payment of farmers and its dispute resolution mechanism.

h. **Role of Government and their respective arms**: The Government of Kenya should put in place a legal framework for the sugar industry and ensure that it is implemented. They should also put in place a dispute resolution mechanism.

i. **Miller code of conduct**: It should be made clear to millers that sugar is their first priority and the by-products come after.

j. **Utilization of other indirect taxes**: Counties collect cess for infrastructure but are unable to develop the same. Cess should be collected as follows and deposited in an infrastructure fund as follows: 1% paid by farmer; 1% paid by miller; 1% cess by county governments; and 2% by KERRA.

k. **Other Important long-term measures**: Government through various agencies need to sign MOUs with global and local research bodies to improve seed cane varieties, to increase cane production per acre and sucrose content; millers should be incentivized by the government to encourage investment in infrastructure-related to sugar sector such as dams, irrigation channels, fertilizer, herbicides e.t.c. for increased sugar cane production; and special tax incentive to the

millers should be introduced for millers to invest in by-products such as ethanol, power generation, bio- fertilizer, paper and refined sugar (which can be produced locally).

4.15 KENYA COMMERCIAL BANK (KCB) LIMITED

In a meeting with the Joint Committee held on Wednesday, 6th September 2023, Mr. Paul Russo, the CEO informed the meeting as follows:

122. He supported the proposals in the Treasury Memorandum because KCB had taken the same approach with Mumias Sugar Company to recover their loans. He observed that leasing is a perfect option because it brings onboard competencies that can turn around the fortunes of a company. A company that has a track record for social good should be engaged, the financial status of the company should also be taken into account and most importantly their ability to get working capital. He added that stakeholder engagement should be done during the leasing process and policy put in place for predictability.

123. In conclusion, he stated that he was ready and willing to work with the government to operationalize the outcome of the Treasury Memorandum.

4.16 SOUTH NYANZA SUGAR COMPANY LIMITED

The Managing Director, Mr. Stephen Ligawa, appeared before the Joint Committee on Wednesday, 6th September 2023 and submitted as follows:

124. SONY Sugar Company Limited started milling in 1979, with an installed capacity of 2,000 TCD which was gradually expanded to the current capacity of 3,000 TCD. The Company has a nucleus estate of 2,400 Ha and an out-growers zone of 20,000 Ha made up of more than 50,000 farmers.

125. To improve performance, the Company undertook comprehensive factory maintenance in June/August 2021 and November/December 2022 which has enabled the Company to operate fairly well at a recovery ratio of 10%. Before May 2020, the Company did not carry out maintenance with the last such exercise having been done in April/May 2015.

126. This compromised the Company's performance resulting in cash flow constraints leading to the accumulation of pending bills amounting to KSh. 8,159,634,377.39 as at 30th June 2023 broken down into: Farmers' arrears KSh. 1,096,938,999.98; salary arrears and other emoluments KSh. 1,194,397,767.62; Taxes and penalties KSh. 3,059,764,218; cess, land rent and rates KSh. 85,652,759.41, SDL KSh. 291,179,534.21, CF loans KSh. 503,244,772; Government loans KSh. 891,989,972.39; and other creditors KSh. 1,034,375,500.06.

127. The current management is capable of addressing the pending bills if the challenge brought about by the cane shortage is addressed. The current cane shortage is as a result of some private millers operating without having developed cane, thereby relying on cane poaching to sustain their operations. SONY Sugar has lost over KSh. 4 billion in investment in cane development due to cane poaching compounding to the current state of affairs.

COMMENTS ON THE TREASURY MEMORANDUM

128. Mr. Ligawa commented as follows on the challenges facing the public-owned sugar mills: Politicization of the boards of directors should be added to the list because it has impacted negatively on service delivery due to lack of capacity and requisite experience to turn around the companies; failure in institutional structures, processes and policy to address issues in the sugar industry can be addressed by restoring KSB, SDL and SDF; and aging plants, machinery, obsolete technologies and operational inefficiencies can be addressed through regular annual planned maintenance and preventive weekly maintenance schedules to sustain efficiencies at recommended levels.

129. On the challenges of government bureaucracy in running commercial enterprises, Mr. Ligawa averred that the government needs to reduce its role in the running of commercial entities hence their support for the leasing of state-owned sugar companies to private investors.

130. Regarding the objectives of the Action Plan, he submitted that: A legal framework should be put in place to provide for a level playing field for millers to create a competitive sugar sector; rehabilitation and modernization of investment and diversification of revenue streams should be done to enhance profitability of sugar farming; and synchronization of milling capacity and establishment of block farming by enforcing the Land use Policy to achieve economies of scale.

131. Regarding the proposed strategic interventions, Mr. Ligawa submitted that they did not agree with strategic interventions No. (iii) and (iv) because divestiture of the nucleus estate will make the Company vulnerable to external factors. The nucleus estate serves as a bulking site for newly introduced varieties, a buffer zone for the company and compliments what comes from out-growers. It serves as the Company's farm where trials can be carried out and can also be used as collateral for loans. The community is involved in its cane husbandry and maintenance activities which gives them a source of income.

4.17 NZOIA SUGAR COMPANY LIMITED

CPA. Ezron Kotut, the Ag. Managing Director appeared before the Joint Committee on Wednesday, 6th September 2023 and submitted as follows:

132. NSC Limited was established in 1975 and started operations in August 1978. It was formed under the Companies Act Cap. 486 of the Laws of Kenya. The Company is owned by the GoK with a shareholding of 97.94%, Fives Cail with a shareholding of 1.13 % shares and Kenya Development Corporation formerly IDB with a shareholding of 0.93%.

133. NSC has a nucleus estate of 3,600 Ha equivalent to 10,000 acres and a factory with an installed milling capacity of 3,000 TCDs. NSC serves approximately 45,000 sugarcane farmers in Bungoma and neighboring counties. The Company has a total workforce of over 2,500 employees.

134. Since inception, the Company has been managed by four entities, namely; FCB & Technisure from 7th October 1975 to 3rd January 1978, Government of Kenya from January 1978 to 11th January 1999, F.C. Schaffer & Associates between 12th January 1999 and 31st August 2003. Management of the Company reverted to GoK on 1st September 2003.

135. The company is faced with many challenges, key among them being:

a. **Accumulation of outstanding debt**: The company accumulated a total of KSh. 62.2 billion as pending bills as at 30th June 2023, a bulk of which (KSh. 59.3 B) comprises Kenya government-guaranteed loans, interests, principal taxes and penalties; farmers' arrears of KSh. 269 million; employee arrears and related costs of KSh. 2 billion; and suppliers KSh. 788 million among others.

b. **Cane shortage**: The Company targets to plant 1,700 Ha (4,250 acres) of cane in the nucleus estate and 1,000 Ha (2,500) acres of cane from out-growers in the current financial year.

c. **Factory inefficiencies**: The Government provided KSh. 216 million for factory maintenance in the last financial year which was 64% of their requirement. The factory had an average TC: TS of 14.67 against a benchmark average of 10 which led to losses.

d. **Staff salary arrears**: The salary arrears for staff stood at KSh. 1.9 billion. The accumulation arose from March 2019 to February 2020 when the Company ran out of cane and the factory broke down. The Company was paying full salaries from August 2022 but the situation changed in February 2023 when NSC began making part payments. The arrears have contributed to low staff morale.

COMMENTS ON THE TREASURY MEMORANDUM

136. NSC proposed that the following strategies should be included in the proposed strategic interventions:

a. Zoning be clearly defined (catchment area) and the regulator empowered to enforce the regulations.
b. Empower and enhance collaboration between the Sugar Research Institute and sugar millers in research to develop better yielding and early maturing cane varieties.
c. Enhance extension services to farmers: The millers and respective county governments in cane growing regions to partner and increase their capacity in offering extension services.
d. Sugar to be classified as a food commodity and not as an industrial commodity and the Government is to waive some taxes and levies on locally produced sugar. Factory spares, equipment and machinery should be exempted from payment of duty.
e. Ensuring the availability of affordable certified seed cane to farmers, affordable credit and subsidized prices of farm inputs.
f. Cane development to improve on yields and diversification to include animal feeds, organic fertilizer, charcoal briquets, chipboards, soya beans and soya bean products.
g. The unbundling of the nucleus estate land and factory land, shall also include the unbundling of public utilities such as schools and hospitals and other social amenities like stadiums.
h. In cases where there will be a sugar deficit in the country, government millers to be apportioned sugar import quotas based on their production capacity.
i. The leasing model to ensure the continued operation of current factories and provide a clear transition period as the modern factories are constructed, taking into consideration the welfare of existing employees.
j. Restructuring of the sugar companies balance sheets to include: A payment plan for balances owed to employees of Nzoia Sugar Company as salary arrears and other emoluments amounting to KSh. 1,843,427,512 be worked out by the Ministry of Agriculture & Livestock Development and the National Treasury.

k. A payment plan for balances owed to other creditors of NSC amounting to KSh. 1,241,204,717 be worked out by the Ministry of Agriculture & Livestock Development and the National Treasury.

4.18 MUHORONI SUGAR COMPANY LIMITED (IN RECEIVERSHIP)

In a meeting with the Joint Committee held on Wednesday, 6th September 2023, Mr. Harun Kirui, the Joint Receiver Manager informed the meeting as follows:

137. MUSCO was incorporated in 1964 under an Act of Parliament Cap. 441 and started operations in 1966 with an initial factory capacity of 800 TCD. The milling capacity was first expanded to 1,800 TCD in 1978 and further to 2,200 TCD in 1990.

138. The total size of the Company's land is 2,002 Ha of which 1,600 Ha coverage is the Nucleus Estate. The Company is owned by the GoK through ADC with a shareholding of 74.17% and the Development Bank of Kenya with a shareholding of 8.61%. Private shareholders include UKETA Limited with a shareholding of 16.86% and other private shareholders with a shareholding of 0.36%.

139. The Company was placed under joint receivership in March 2001 by the then Kenya Sugar Board (now AFA) and NBK. The NBK has since been paid off hence AFA remains the sole debenture holder. The GOK and the debenture holder (AFA) have supported the Company's operations through refinancing loans, accruing interests and penalties to the tune of KSh. 9.7 billion before and during receivership with the hope that it will be turned around to profitability.

140. The Company has experienced several challenges among them:

a. **High debt portfolio:** As at 30th June 2023, MUSCO had a total debt of KSh. 26,133,890,927 made up of: KSh. 316,651,523 for farmers' arrears; KSh. 926,550,290 for general suppliers' dues; KSh. 1,080,444,410 for salary arrears and other emoluments; KSh. 14,120,931,330 as unpaid taxes (interest and penalties); KSh. 6,223,114,853 for GoK loans; and KSh. 3,466,198,521 as AFA/CF loans (principal and interest). KSh. 23,234,523,291 of the debt was accrued during the pre-receivership period while KSh. 2,899,367,636 was accrued during the post-receivership period.

b. **Inadequate factory maintenance**: As a result of the financial challenges, the Company has not been in a position to carry out scheduled factory rehabilitation. This has adversely affected the operational efficiency of the factory.

c. **Low cane supply**: There has been minimal cane development and maintenance due to a lack of funds at a time when the industry's milling capacity has tremendously increased. Consequently, cane demand in the region and the industry has far outstripped supply, leading to cane poaching and harvesting of immature cane. In addition, delayed payment to farmers has further aggravated cane development and maintenance at the farm level.

d. Lack of adequate policies and regulations in the sugar sector led to acute cane shortage, unregulated setting up of weighbridges, harvesting of underage cane, cane poaching, lack of farmer support in cane development and unregulated importation of sugar.

e. **Land Disputes**: encroachment of the company nucleus estate by the Koguta community who have been occupying about 454 acres of the nucleus estate as registered squatters since the 1960s.

COMMENTS ON THE TREASURY MEMORANDUM

141. MUSCO supported the Government's action plans to revive and commercialize the state-owned sugar companies. They requested the Joint Committee to consider the following proposals to enrich the process:

a. Approve the debt write-offs on GOK loans, interest and penalties as well as taxes, interests and penalties as at 30th June 2023 as recommended by the Cabinet.
b. Settlement of farmer's arrears amounting to KSh. 316,651,523, employees' salary arrears amounting to KSh. 1,080,444,410 and creditors amounting to KSh. 926,550,290 before the leasing process. This is necessary to avoid possible litigations that may impede the proposed leasing process. There is also a need for a smooth transition process that accommodates the concerns of the current workforce.
c. Enforce individual factory zoning to encourage cane development and prevent cane poaching.
d. The National Assembly to fast-track the Sugar Bill, 2022 and Sugar Industry Regulations to enhance development and order in the sugar sector.
e. Provide support to enhance cane development through farmer support and explore untouched areas estimated at 9,000 Ha for cane growing, and improve productivity thus no need to merge Muhoroni Sugar and Chemelil Sugar factories.
f. Consider the merger of MUSCO and Agro-Chemical and Food Company (currently listed for privatization). An existing distillery and ethanol plant which guarantees back-end diversification and sustainability for both institutions. The two companies used to be joint before.

4.19 MIWANI SUGAR COMPANY LIMITED (IN RECEIVERSHIP)

Mr. Harun Kirui, the Joint Receiver Manager appeared before the Committee on Wednesday, 6th September 2023 and submitted as follows:

142. Miwani Sugar Company is wholly owned by the Government of Kenya. Factory milling operations ceased in the year 2000 and in 2001, it was placed under receivership by the former Kenya Sugar Board (now AFA) which is the current sole debenture holder.

143. The company owns land measuring about 9,394 acres and 0.500 acres and which comprise the nucleus estate and factory of Miwani Sugar Company (1989) Limited respectively. The last valuation of the Company done in 2016 estimated the value of plant and machinery as KSh. 688,000,000 and land acreage of 9,394 acres at KSh. 2,200,000,000.

144. The company has a labour force of one hundred and two (102) employees mainly comprising of security personnel. The Company provides both direct and indirect employment to over two thousand (2,000) households.

145. Primary operations involve cane development within the Company's nucleus estate (the Company supplies an average of 54,000 MT of sugarcane for milling per year) and safeguarding its assets. The plant and machinery, encompassing milling, distillery, and a relatively new refinery, have predominantly remained inactive for 21 years, resulting in their deterioration and obsolescence.

146. The Company is faced with the following challenges:

a. **High debt portfolio:** As at 30th June 2023, the Company had total debt of KSh. 22,048,570,556 comprising of: creditors/suppliers' dues of KSh. 820,002,539; unpaid taxes (principal, interest and penalties) of KSh. 17,338,445,158; GoK loans (National Treasury and AFA/CF of KSh. 3,890,122,859 (KSh. 1,814,628,175 CF and KSh. 2,075,494,684 GoK).

b. **The Miwani land dispute:** There has been a protracted legal battle over the ownership of the Miwani land. The case is currently at the Court of Appeal and the appeal is supported by AFA and the Office of the Attorney General.

147. The current activities conducted in the company are cane development and tree planting:

a. **Cane development and maintenance:** The Company currently has 964.32 acres under cane at various stages of development. There is a need to accelerate cane development in the nucleus estate to improve the financial resources of the Company to meet its obligations including payment of the debenture holder loans.

b. **Tree planting:** The company has established a tree nursery and is engaged in tree planting and supplying seedlings to the locals.

COMMENTS ON THE TREASURY MEMORANDUM

148. The management of Miwani Sugar Company supported the Government's Action Plans to Revive and Commercialize the State-Owned Sugar Companies. They noted that Miwani Sugar Company had been excluded from the proposed leasing programme because of the on-going court cases and a decision on the Company will be made once the on-going court cases are determined. They requested the Committees to consider the following proposals:

a. Approve the debt write-offs on Miwani Sugar Company, GOK loans, interest and penalties as well as taxes, interests and penalties as at 30th June 2023 as recommended by the Cabinet.
b. Settlement of creditors (pre- and post-receivership) amounting to KSh. 820,002,539. This is necessary to avoid possible litigations that may impede the proposed leasing process.
c. The National Assembly is to fast-track the Sugar Bill, 2022 and Sugar Industry Regulations to enhance development and bring order in the sugar sector.
d. There is a need to expedite the on-going Miwani land case to release this very important and high-value asset of the Government of Kenya to enhance cane development and sugar production.

4.20 CHEMELIL SUGAR COMPANY

In a meeting with the Committee held on Thursday, 7th September 2023, Ms. Jacqueline Kotonya, the Interim Managing Director submitted as follows:

149. CSCL is located along the Awasi-Nandi Hills Road in Kisumu County. It is a State Corporation and was established in 1965. In 1974, the Company became a parastatal. The Company's shareholding is as follows: Government of Kenya through the Agricultural Development Corporation 96.21%, Development Bank of Kenya 1.42%, Minerva Holdings 1.42% and Kenya Shell (Vivo Energy) 0.95%.

150. The Company has a nucleus estate that covers 2,772 hectares of land and is surrounded by out-grower farms with a total cane-able land of approximately 20,759 hectares in Nyando, Tinderet and Nandi South Sub-Counties. The factory draws cane from Kisumu and Nandi counties, with 85% of the cane coming from the out-grower farms and 15% from the Company's nucleus estate.

151. CSCL's milling capacity is 3000 TCD and the Company produces mill brown sugar. The factory's performance steadily declined in the year 2017 majorly due to lack of adequate funds to carry out annual maintenance of the factory. The dismal performance, coupled with intermittent periods of severe cane shortage in the years 2017, 2018, 2019 and part of 2020 has made it increasingly difficult for the company to meet its financial obligations accruing to arrears.

152. In the year 2022, factory operations were suspended for 5 months due to a decline in performance to facilitate undertaking strategic annual maintenance of the plant and key online equipment. The Factory shut down for maintenance from 8th April 2022 to 20th August 2022 with milling operations resuming on 21st August 2022.

153. The Company's socio-economic programmes have impacted on cane transporters, cane harvesters, contractors and members of the local community engaged in diverse economic activities within the Chemelil cane catchment zone. The Company has infrastructure such as schools and a health center that support both employees and the surrounding community.

154. CSCL is faced with the following challenges:

a. **High debt portfolio:** Intermittent milling caused by the poor state of the factory and cane shortage resulted in low cash flow and thus low revenue generation which led to accrual of debts amounting to KSh. 9,928,025,399 broken down into: Farmers' arrears KSh. 263,017,939; salary arrears and other emoluments KSh. 1,116,195,344; taxes and penalties KSh. 3,739,893,783; SDL KSh. 3,740,868,462; and other creditors KSh. 1,068,049,871.

b. **Inadequate maintenance of the factory:** Sugar factories are highly mechanized and require regular annual maintenance. As a sugar practice, a recommended six weeks stoppage every year is needed for overhaul maintenance and at the same time give room for development. This used to take place during the heavy rain months. CSCL has not been able to maintain the practice due to low revenue generation.

c. **Lack of enforcement of regulatory framework for the sugar industry:** There has been a lack of enforcement of laws governing the sugar industry which has led to malpractice of harvesting immature cane, lack of zoning leading to cane poaching, an increase of illegal sugar imports and uncontrolled establishment of cane weighing and buying centers.

d. **Insufficient milling cane:** Currently, CSCL has shut down factory milling operations due to cane shortage. This has been as a result of continued insufficient support of cane development arising from a lack of enforcement of the regulatory framework of the sugar industry.

e. **Dilapidated sugar feeder roads:** In the initial arrangement, the sugar feeder roads were developed by both the state-owned millers and defunct local authorities using cess funds. The current arrangement of county governments handling sugar feeder roads cess funds (1% of the cost of cane) has not worked for the sugar industry.

COMMENTS ON THE TREASURY MEMORANDUM

155. The Company's management made the following recommendations with regard to the Treasury Memorandum:
   a. Whilst they supported the GoK action plans to commercialize the state-owned sugar companies, they sought clarification on the leasing model to facilitate a smooth transition. CSCL proposed the establishment of a Leasing Commission to establish a leasing framework with input from stakeholders.
   b. They sought for retention of the nucleus estate as a source of milling cane for the Company. It will also be used for seed cane bulking, research and development including demo plots. It is also not clear how an already leased factory will again have its plant disposed of as per existing procurement laws. They recommended the injection of funds to modernize the existing factories.
   c. The cane growing area available to Chemelil Sugar Company is 20,236.1 Ha which is inclusive of the Company's nucleus estate. Further, the Company has existing areas in Nyakach Sub-County and Ahero areas in Nyando Sub-County that present massive opportunities for expansion of cane able area to over 29,000 Ha thus no need for a merger of the two companies. This area will be enough to support expansion to a 4000 TCD milling capacity.
   d. Employee's salary arrears of KSh. 1,116,195,344 should be included in the restructuring of the Company's balance sheet.
   e. The National Assembly to fast-track the enactment of the Sugar Bill, 2022 into law to curb malpractice (such as cane poaching and harvesting of immature cane) in the sugar industry.

4.21 MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT (MOALD)

Mr. Kello Harsama, Principal Secretary, State Department for Crop Development appeared before the Committee on Thursday, 7th September 2023 and submitted as follows:

156. The sugar industry plays a vital role in the Kenyan economy. The sub-sector contributes significantly to food security, the creation of employment and is a source of livelihood for more than 8 million people. The sub-sector has the potential to produce enough sugar for domestic use and surplus for export. However, the sector has not performed to its potential partly due to the poor performance of the state-owned sugar mills.

157. The State-owned Sugar Companies have a combined crushing capacity of 13,200 TCD but only contributed a paltry 12% of all sugar produced in 2022. Their poor performance is mainly attributed to, a high debt portfolio, lack of capital for investment, poorly maintained equipment leading to frequent breakdowns and milling inefficiencies, poor governance and cane poaching.

158. Muhoroni and Miwani are currently under receivership due to the loans owed to the KSB. The proposed revitalization strategy seeks to achieve the following: Make the sugar industry competitive; make sugarcane farming profitable; and increase sugar production.

159. The proposed revitalization strategy will be achieved through: Institutional and legislative reforms like leasing of the state-owned sugar companies to private investors who will inject capital and expertise and establishment of the regulatory framework to bring harmony to the sugar industry; Financial restructuring through debt write-off to attract investors and tax and penalty write-off; Increase funding for research; Reduce cost of inputs; and Improve extension services delivery.

COMMENTS ON THE TREASURY MEMORANDUM

160. The State Department for Crop Development supported the Memorandum and made the following observations on the Memorandum:

a. Issue of permanent divesture mitigated through leasing. Lease the nucleus estate land to private investors for cane development only.
b. Lease proceeds are to be utilized for payment of outstanding debts (salary arrears, statutory deductions) not written off. Notably, the outstanding debts are not catered for in the proposed action plan.
c. The strategic investor injects capital to develop or modernize and operate the sugar company.
d. The individual sugar mills should be leased separately.
e. On the Chemilil Sugar Company and Muhoroni Sugar Company merger, the State Department proposed that the mills could operate viably as independent entities and hence should be leased separately.
f. Payment plans to be developed to address the debts not catered for in the revival action plan.
g. Supports the proposal to have legal reforms in the sector. The government to come up with mechanisms to enhance the efficient settlement of disputes to mitigate the numerous legal suits. Re-establish the Sugar Arbitration Tribunal.
h. Government to support smallholder cane farmers to develop the crop and enhance productivity.
i. Enforce zoning to incentivize investors in the sector to bring order and spur production. Expedite the Regulations to enforce zoning.
j. The Ministry supported the proposal for the appointment of a revitalization committee to work with the Board, County Government of Kakamega and other key stakeholders to restructure and operationalize Mumias Sugar Company.

4.22 THE NATIONAL TREASURY AND ECONOMIC PLANNING

In a meeting held on Thursday, 7th September 2023, Mr. Lawrence Kibet, Director General for Public Investments and Portfolio Management informed the Joint Committee as follows:

161. There have been previous efforts to revive the public mills. They are Sessional Paper No. 12 of (2012) which approved the restructuring of balance sheets through write-off of debts (KSh. 33,780,465,838) and tax penalties & interest (KSh. 4 billion); the National Assembly approved the privatization of state-owned sugar companies in 2015 but this stalled due to opposition by stakeholders because of sensitivities around land; and Sugar Industry Stakeholders Taskforce Report (2019) with strategic recommendations for sugar sector reforms.

162. The five state-owned companies have faced several challenges which include poor governance, failure in institutional structures, processes and policy, lack of capital & high debt (debts to farmers, suppliers, unserviced loans), aging plants, machinery, obsolete technologies & operational inefficiencies and Government bureaucracy in running commercial enterprises.

163. The National Treasury submitted that the Government of Kenya has 20% shareholding at Mumias Sugar Company and private shareholders have a shareholding of 80% and therefore not a public mill. The Company was placed under receivership by KCB in 2019, with PVR Rao appointed to manage its operations. CMA suspended trading of the Company's shares in 2019. The Company has KSh. 8.7 billion debts owed to the Government of Kenya.

164. The GoK, via BETA, aims to turn around Mumias through the leasing model adopted by KCB. Adopt the recommendations of the Sugar Industry Stakeholders' Taskforce Report (2019) on corporate re-organization and financial restructuring: Negotiate with banks and creditors for restructuring of debts; and put in place a revitalization committee to work with the Board, County Government and other key stakeholders to identify and implement an effective restructuring plan.

165. The Treasury Memorandum on Action Plans to Revive and Commercialise the State-Owned Sugar Companies proposes the following interventions:
   a. Onboard private capital, expertise & modernization of sugar mills.
   b. Enhance cane development, both nucleus & out-growers.
   c. Address stakeholder sensitivities on land issues: No permanent divestiture of land; and use proceeds from the lease of nucleus land to incentivize farmers.
   d. Unbundling the nucleus estate land and factory land: Disposal of existing run-down factories; and investors to lease land and construct modern factories.
   e. Leasing the five (5) state-owned mills to facilitate rehabilitation & expansion.
   f. Restructuring of sugar companies balance sheets: Write-off of loans owed to GoK and KSB/CF (KSh. 65,778,448,646 as at 30th June 2023) and accrued interest as at date of approval; write-off of tax penalties and interest (KSh. 50,144,801,608 as at 30th June 2023) and any accrued interest and penalties; and payment plan for balances owed to farmers (KSh. 1,715,129,404 (MOALD and NT&EP).
   g. Regulation of factory zones to ensure financial viability and future sustainability and ensure compliance.
   h. GoK supports farmers in developing the cane and enhancing productivity.
   i. Legal Reforms: GoK to develop mechanisms for efficient settlement of disputes.
   j. Merge Chemelil and Muhoroni Sugar Companies to achieve cane catchment of viable sizes (considering the minimum viable area of 29,914 Ha).

4.23 THE KENYA REVENUE AUTHORITY

The Commissioner General, Mr. Humprey Wattanga, appeared before the Committee on Thursday, 7th September 2023 informed the meeting as follows:

166. State-owned sugar mills are generally compliant and up to date in VAT and PAYE return filing. However, Corporation tax returns are always filed late and often on intervention by the Tax Service Office. The delays are attributed to the delayed conclusion of the financial statement audit. The table below shows the filing of tax returns:

Table 6: Filing of tax returns by the sugar companies

S/NO.	PIN	NAME	VAT	PAYE	CORPORATION TAX
1.	P0006092989	South Nyanza Sugar Company Limited	Up to date	Up to date	Up to date
2.	P000626467G	Chemelil Sugar Company Limited	Up to date	Up to date	Not up-to-date returns for 2021 and 2022 not filed
3.	P000626335V	Muhoroni Sugar Company Limited	Up to date	Up to date	Returns for years 2021 and 2022 not filed

4.	P000608568K	Nzoia Sugar Company Limited	Up to date	Up to date	Return for years 2019 to 2022 not filed
5.	P051091500D	Miwani Sugar Company Limited	Up to date	Up to date	The last return filed was for FY 2018
6.	P000626584I	Mumias Sugar Company Limited	Up to date	Up to date	The last return filed was for FY 2017

Source: Kenya Revenue Authority

167. The table below shows the breakdown of taxes due for payment

Table 7: Breakdown of taxes due for payment

PIN	TAXPAYER	PRINCIPAL TAX (KSH.)	PENALTY (KSH.)	INTEREST (KSH.)	TOTAL AMOUNT PAYABLE (KSH.)	REMARKS
P000626584I	Mumias Sugar Company Limited	7,133,719,635	4,342,635,503	8,764,330,734	20,240,685,872	KRA has registered its interest to the registrar
P000608568K	Nzoia Sugar Company Limited	4,186,369,531	57,188,128	2,899,356,655	7,142,914,315	The taxpayer defaulted on the payment plan of KSh. 5 M per month
P000626467G	Chemelil Sugar Company Limited	1,713,059,990	70,272	1,083,363,861	2,796,494,123	The cane informed KRA of the suspension of milling for 3 months via a letter dated 11.8.23
P000626335V	Muhoroni Sugar Company Limited	2,005,382,927	84,839,507	1,148,481,022	3,238,703,456	The taxpayer defaulted the payment plan of KSh. 5 M per month citing cashflow issues
P051091500D	Miwani Sugar Company Limited	678,236	836,400	591,585	2,106,221	For Corporation Tax, the taxpayer has carried forward losses amounting to KSh. 358,087,024
P0006092989	South Nyanza Sugar Company Limited	2,020,718,335	88,283,410	1,089,778,547	3,198,780,292	The taxpayer is under a payment plan of KSh. 30 M per month

PIN	TAXPAYER	PRINCIPAL TAX (KSH.)	PENALTY (KSH.)	INTEREST (KSH.)	TOTAL AMOUNT PAYABLE (KSH.)	REMARKS
TOTAL		17,059,928,654	4,573,853,221	14,985,902,404	36,619,684,278	

Source: Kenya Revenue Authority

168. Article 210 of the Constitution provides that taxes can only be waived by law. KRA can only waive taxes pursuant to the law. Previously, Section 37 of the Tax Procedures Act, 2015 provided for relief because of doubt or difficulty in recovery of tax. This provision gave the Commissioner powers with the prior approval of the CS for the National Treasury and Economic Planning to write off debts where the Commissioner determines that: It may be impossible to recover unpaid tax; there is undue difficulty or expense in the recovery of unpaid tax; there is hardship or inequality in relation to the recovery of unpaid tax; or there is any other reason occasioning inability to recover the unpaid tax. This provision was however repealed vide the Finance Act, 2023 effective 1st July 2023 and as such, the Commissioner has no power to write off tax debts.

169. Similarly, section 87(7) of the TPA provided that the Commissioner may upon an application by a taxpayer or on his own motion remit in whole or in part, any penalty or interest payable by a person if satisfied that the remission is because of: Consideration of hardship or equity; or impossibility or undue difficulty or expense of recovery of the tax. The aforementioned provision was also deleted by the Finance Act, 2023 effective 1st July 2023 and as such, the Commissioner has no power to waive any tax penalties or interest as was previously the case.

170. The Finance Act, 2023 however introduced a tax amnesty on interest and penalties for periods up to 31st December 2022. The amnesty runs from 1st September 2023 to 30th June 2024. Under the amnesty, a taxpayer is entitled to amnesty for penalties and interest upon payment of all outstanding principal taxes that were due for periods up to 31st December 2022. The sugar companies can take advantage of this amnesty by making payment arrangements with KRA to settle their outstanding principal taxes accrued up to 31st December 2022 by 30th June 2024 after which, the attendant penalties and interest for those periods will be waived. This will however still leave interest and penalties for the period January 2023 to date outstanding and payable.

171. The Government through the National Treasury can consider settling the principal taxes and non-waived penalties and interest to facilitate the restructuring.

4.24 HON. EMMANUEL WANGWE, CBS, MP

Hon. Emmanuel Wangwe, Member of Parliament for Navakholo Constituency and sponsor of the Sugar Bill (N.A. Bill No. 34 of 2022) appeared before the committee on Thursday, 7th September 2023 and submitted as follows:

172. The sugar sector is an industry that supports the livelihoods of over six million people. The decision to commercialize the 5 state-owned companies sets the sugar sub-sector on the path to revival by adopting the lease and operating framework after vacating the earlier decision of privatizing the state-owned factories, which made Kenyans imagine that the private investors were more motivated to grab the land than to revive the obsolete machines.

173. Enough consultation should be done between the Government and the county governments, sugar farmers, owners of the land and any other stakeholders not excluding the political leaders from the sugar belt since sugar is a politically sensitive product.

174. The following issues affect the sugar sector: High debt portfolio; low supply of cane; cane poaching; aging equipment and obsolete technology; farmers' arrears; staff salary arrears/non-remittance of deductions; lack of regulations (bring back the Sugar Act/Sugar Board); poor corporate governance; lack of sector funding; and excess sugar importation against bridge sugar supply deficit.

175. The model to lease out the five (5) government mills is well defined and supported, however, there is a need to address the outstanding salary arrears/non-remittance of deductions, since it is the same workforce that will be used during the transition.

176. There is a need for total reengineering of cane supply (to consider early maturing cane varieties) so that it synchronizes with factory demand. Cane poaching is a mirage that needs review.

177. On the Mumias Sugar Company issue, the company was at one point the largest sugar-producing mill with a capacity of 240,000 tons. Fortunately, to secure the company assets from the hands of auctioneers and maintain its operations it was placed under receivership by Kenya Commercial Bank Limited due to an unpaid loan of KSh. 545 million.

4.25 HON. JOHN WALUKE, MP

In a meeting with the Joint Committee held on Thursday, 7th September 2023, Hon. John Waluke, Member of Parliament for Sirisia Constituency and Chairperson of the Western Kenya Sugar Caucus of the National Assembly proposed the following ways to revive the sugar sector:

178. Farmers need to be incentivized to encourage them to go back to cane farming so that there is enough supply of sugarcane when the factories are revived.

179. Repackaging of sugar needs to be stopped because the packaging hardly indicates the actual origin of the repackaged sugar, expiry date and the KEBS mark of quality is for the supermarkets and not the manufacturers.

180. The Sugar (Imports, Exports and By-products) Regulations, 2020 (L.N. No. 125) needs to be repealed as it gives room for unscrupulous traders to smuggle sugar into the country and rebrand it thereby killing the local sugar industry.

181. Kenya should strictly apply the Common External Tariffs minimum of 35% on sugar imports coming from outside the COMESA region to safeguard local sugar.

182. The Government should implement the recommendations of the Sugar Stakeholders Taskforce Report of 2019.

4.26 MUMIAS OUTGROWERS COMPANY (1998) LIMITED

Mr. Gamaliel Anamanjia, CEO, appeared before the Committee on Thursday, 7th September 2023. He informed the Committee as follows:

183. MOCO is a sugarcane farmers' organisation initially set up through the initiative of GoK as a Limited Company by Government guarantee in 1975. The primary objectives of the Company were to raise funds for cane development and promote and protect the interests of small-scale sugarcane farmers. It has over 70,000 members and 300 employees.

184. MOCO farmers' Cane Development Fund was financed through loans from the British Government under the UK/Kenya Government Agreement No. 2 of 1976, GoK, Commonwealth Development Corporation, KSB, MOCO cane development levy of KSh. 6 per tonne of cane, MOCO interest and 15% net farmers retentions for a period of 12 months.

185. The Cane Development Fund was placed under the custody of MSC through an agreement drawn by the Government and signed by both MSC and MOCO on 28th May 1976. MOCO never had custody and neither did it manage the Fund.

186. MOCO was financially sound until 2008 when MSC decided to stop interest from cane development funds under their custody. During that time MOCO used to get monthly interest of KSh. 15 million. It was during this period that MOCO borrowed KSh. 200 million from KSB to purchase tractors. MOCO was unable to service the loan after the stoppage of remittances by MSC and their property is likely to be auctioned.

187. Efforts by KSB to run the tractors jointly with MUSCO were not successful because the Company also has financial problems. MSC refused to use the fleet as one of its transporters.

188. MOCO sought legal redress and the case is still ongoing. The Company is seeking KSh. 3.7 billion that was under the custody of MSC. MOCO was recently enjoined in the insolvency case against MSC.

189. They requested that the KSh. 3.7 billion is listed as one of MSC's debts to be cleared and the Government to waive the MOCO loan owed to KSB guaranteed by MSC as the tractors have been transferred back to KSB.

4.27 SUGAR RESEARCH INSTITUTE

The Institute Director, Ms. Betty Mulianga, appeared before the committee on Thursday, 7th September 2023 and submitted as follows:

190. Seed cane is an important input in sugarcane production and high seed cane quality is a prerequisite for increasing productivity. The optimal age for seed cane material in Kenya at higher altitudes is 8 to 13 months. In the Coastal Region where sugarcane is grown at low altitude optimal seed cane age is 6 to 8 months.

191. Multiplication of seed cane is carried out by the sugar research institute and the millers. However, the issue of high-quality, adequate seed cane has not been adequately addressed in the Kenya sugar industry as the quantities produced by the two institutions are inadequate. The Kenya sugar industry does not have a structured seed production and distribution system. Most of the seed cane

used in the industry originates from milling cane and thus not grown under appropriate seed cane conditions.

192. Further, the industry should adopt a three-tier model: Seed production; seed bulking; and seed distribution). Adoption of high-quality seed cane will contribute to benefits such as control of pests and diseases, improved varietal purity, increased productivity and income.

193. To alleviate this problem, there is a need to fund SRI to enhance seed cane production and certification. Infrastructural improvements such as upgrading the hot water seed cane treatment plant (HWTP), tissue culture laboratory and closed and open quarantine units at SRI will contribute immensely to rapid quality seed cane production.

Challenges in the Provision of Industry Support Services

194. **Inadequate funding for research:** Research financing relied on SDL up to 2016 when SDL was revoked. This led to a drastic reduction in funding of research activities. They proposed that the SDL be reinstated for funding and revitalization of the sugar sub-sector. A Sugar Development Fund should also be established consisting of: SDL, donor funds, funds from the National Government through the MOALD and funds from county governments. This fund will ensure the long-term sustainability of the sugar sub-sector.

195. **Low adoption of improved technologies:** Uptake of new technologies in the sugar industry has been low. There are 27 improved varieties currently yet the uptake is below 30%. This is largely attributed to low research funding and inadequate support from key partners (millers, farmers' organizations, regulators and county governments). Sugar Research Institute needs good economic and political goodwill to upscale the available technologies to farmers for a sustainable sugar industry.

196. **Inadequate participation of stakeholders in technology development:** The low funding of research activities has enormously affected the inclusion and involvement of relevant stakeholders in setting up of research priorities, and solution identification initiatives.

197. **Inadequate research capacity:** The industry has inadequate human, physical and financial capacity to undertake research that meets its requirements.

198. **Challenges in the provision of farm inputs**: The seed cane, pesticides and fertilizers and other farm operation services required by farmers are expensive; late supply and delivery of inputs and other farm services; and poor quality of supplied inputs.

199. **Challenges in the provision of advisory services:** High cost of private extension and advisory services; and poor research, extension and farmer linkages.

200. They proposed that research capacity be enhanced through the introduction of a sugar research levy through the upgrading of facilities at SRI, fastback development and equipping of molecular biotechnology laboratories at KALRO-SRI, upgrading of greenhouses at the sugarcane breeding center in Mtwapa, upgrading of the quarantine facility and replacing retired staff. Additionally, the sugar research value chain be broadened by supporting KALRO-SRI with the construction of a mini mill at Mtwapa and at Kibos for value addition and research of other sugar crops e.g. sugar beet, stevia and sweet sorghum.

PART FIVE

5 OBSERVATIONS AND FINDINGS

201. Having considered the Treasury Memorandum on Action Plans to Revive and Commercialise the State-Owned Sugar Companies, the Committees made the following observations and findings:

1. The Memorandum is silent on the treatment of staff salary arrears amounting to KSh. 5,234,465,033 and other creditors' payables of KSh. 26,717,029,621.12. Payment to other creditors includes monies owed to suppliers of goods and services.

2. The Memorandum tasked the MOALD and the National Treasury to come up with a payment plan for the farmers' arrears amounting to KSh. 1,715,129,404.

3. The amount of taxes, penalties and interest provided in the Memorandum are different from those submitted by KRA. According to the Memorandum, the total taxes, penalties and interest owed to KRA by the five (5) state-owned sugar mills amount to KSh. 50,144,801,608 while KRA submitted a total of KSh. 16,378,998,406, a difference of KSh. 33,765,803,202. However, the National Treasury wrote a letter, Ref. TNT/CONF 268/014 'J' dated 12th September 2023 *(annexed to the report)* stating that they agreed with the figures submitted to the Joint Committee by KRA. The total tax, penalties and interest owed to KRA by the five (5) state-owned sugar companies is therefore KSh. 16,378,998,406.

4. The position of the GoK on Miwani Sugar Company is not clear. The proposed strategic interventions in the Memorandum provide that a decision on the Company will be made once the ongoing cases are determined while on the other hand, the Company is included in the list of companies to be leased.

5. There is no legal framework governing the sugar industry in the country. The Sugar Bill (National Assembly Bill No. 34 of 2022) is scheduled to be considered in the Committee of the Whole House in the National Assembly. Consideration of the Bill needs to be fast-tracked in the two Houses of Parliament as the proposed legislation will provide solutions to most of the challenges in the sugar industry.

   The Bill proposes to re-introduce the KSB and SDL. Additionally, it puts in place the Kenya Sugar Research and Training Institute which will be funded by the SDL. This will go a long way in enhancing research in the sugar sub-sector and put in place sugarcane varieties that are fast maturing, high yielding and have high sucrose content. The Bill also proposes imposition of penalties on farmers and millers who will not honor the cane supply contracts offering a solution to the cane poaching menace. Further, a percentage of the SDL has been apportioned to cane development, a move that will play a role in improving cane yields in the country.

6. The Memorandum proposes to merge Chemelil and Muhoroni Sugar Companies into one factory. It is proposed that one investor will bid for both Companies.

7. Cane poaching is one of the main causes of most challenges in the sugar industry. Some state-owned sugar companies have cited cane poaching as the reason for the financial difficulties that they are faced with.

For instance, SONY Sugar Company highlighted that they had lost Ksh. 4 billion to the menace. This practice, perpetuated by unscrupulous millers has led to the harvesting of young cane therefore temporary closure of some sugar mills and subsequent sugar shortage in the country. It has also impacted negatively on cane development by millers because of the fear of losing their investment.

8. There is no funding for research in the sugar sub-sector in Kenya. Previously, the Kenya Sugar Research Foundation was funded by the Sugar Development Levy before the revocation of the Sugar Act. The Institute is currently a Directorate in KALRO and has no budgetary allocation for research.

9. All five (5) public sugar mills are faced with dire financial difficulties resulting in some having failed to undertake annual machinery maintenance for many years.

10. There is no legal framework for the sugar cane pricing committee and the pricing formula has no research backing. The Departmental Committee on Agriculture and Livestock to include the pricing formula in the Sugar Bill, 2022. The Pricing Committee will be required to approve the pricing model submitted by the Sugar Research Institute.

11. Out-grower organisations play a big role in the sugar industry. For instance, they do cane development for farmers, provide farm machinery, inputs at subsidised prices and are the link between farmers and other players in the sugar industry.

PART SIX

6 COMMITTEE RECOMMENDATIONS

202. The Joint Committee makes the following recommendations:

1. That, the House grants approval of the leasing model for the five (5) state-owned sugar companies within the provisions of the Public Private Partnerships Act (No. 14 of 2021). The provisions in the leasing model shall include the following:
   - I. The lease shall be for a period not exceeding thirty (30) years pursuant to section 21(2) of the Public Private Partnerships Act (No. 14 of 2021) for the sugar mills and the nucleus estates presently owned by the state-owned sugar companies whereby the nucleus land shall only be used for cane development and cannot be used as collateral by the lessees.
   - II. At the expiry of the lease period, the land will revert to the original owners;
   - III. The National Treasury shall cause the assessment of the lease shall be done after every five years to determine whether the lessee has adhered to the terms of the lease and if the lease can be renewed;
   - IV. The lessees shall modernize the sugar mills by installing new machines and technologies to revive the companies, improve the financial well-being of farmers, create employment (both direct and indirect) and increase Government revenue;
   - V. The lessees shall specify the CSR activities that they will set up for the local community as a requirement for the award of the lease;
   - VI. The fate of workers who are currently working in the mills shall be specified; and
   - VII. The leasing process shall be clearly outlined and shall include stakeholder engagement;

2. That, the House vacates the privatization model approved by the National Assembly in 2015.

3. That, the House approves the Cabinet's decision to write off total tax arrears of KSh. 16,378,998,407 comprising of KSh. 9,926,209,019 as principal tax, KSh. 231,217,718 as interest and KSh. 6,221,571,670 as penalties owed by all the five (5) state-owned sugar companies as follows:

Table 8: Breakdown of Taxes, Penalties and Interest

S/NO.	NAME OF COMPANY	PRINCIPAL TAX (KSH.	PENALTY (KSH.)	INTEREST (KSH.)	TOTAL AMOUNT PAYABLE (KSH.)
1.	Nzoia Sugar Company	4,186,369,531	57,188,128	2,899,356,655	7,142,914,315
2.	Chemelil Sugar Company	1,713,059,990	70,272	1,083,363,861	2,796,494,123
3.	Muhoroni Sugar Company Limited	2,005,382,927	84,839,507	1,148,481,022	3,238,703,456
4.	Miwani Sugar Company Limited	678,236	836,400	591,585	2,106,221

5.	South Nyanza Sugar Company Limited	2,020,718,335	88,283,410	1,089,778,547	3,198,780,292
TOTAL		9,926,209,019	231,217,717	6,221,571,670	16,378,998,407

Source: Kenya Revenue Authority

4. That, the House approves the Cabinet's decision to write off loans owed to the GoK and Kenya Sugar Board/Commodities Fund by the five (5) state-owned sugar companies amounting to KSh. 65,778,448,646 as follows:
   I. Nzoia Sugar Company – KSh. 47,066,777,011
   II. South Nyanza Sugar Company – KSh. 1,391,366,940
   III. Miwani Sugar Company – KSh. 3,890,122,859
   IV. Muhoroni Sugar Company – KSh. 9,689,313,374
   V. Chemilil Sugar Company – KSh. 3,740,868,462

5. That, within ninety (90) days of the House's resolution to adopt this report, the National Treasury to cause payment of KSh. 1,683,397,053.69 as arrears to the farmers in the five (5) state-owned sugar companies as follows:
   I. Nzoia Sugar Company – KSh. 269,606,265
   II. South Nyanza Sugar Company – KSh. 865,853,677
   III. Miwani Sugar Company – KSh. 0
   IV. Muhoroni Sugar Company – KSh. 316,651,523
   V. Chemilil Sugar Company – KSh. 231,285,588.69

6. That, within ninety (90) days of the House's resolution to adopt this report, the National Treasury to cause payment of KSh. 5,234,465,033 as salary arrears and other emoluments in the five (5) state-owned sugar companies as follows:
   I. Nzoia Sugar Company – KSh. 1,843,427,512
   II. South Nyanza Sugar Company – KSh. 1,194,397,767
   III. Miwani Sugar Company – KSh. 0
   IV. Muhoroni Sugar Company – KSh. 1,080,444,410
   V. Chemilil Sugar Company – KSh. 1,116,195,344

7. That, the House rejects the proposed merger of Chemelil Sugar Company and Muhoroni Sugar Company and that the two companies be leased as separate entities.

8. That, the House approves the introduction of five (5) cane development and farmer representation catchment areas i.e. Rift Region (Kericho, Nandi and Uasin Gishu Counties), Upper Western Region (Bungoma and Transnzoia Counties), Lower Western Region (Busia, Kakamega, Siaya and Vihiga Counties), Southern Region (Homa Bay, Kisumu, Migori and Narok Counties) and Coastal region (Kwale, Lamu and Tana River Counties) where cane supply contracts are signed between a farmer and miller. The cane supply contract should include the timelines and a cane pricing formula that is developed by the Sugar Research and Training Institute and approved by the Sugar Pricing Committee.

9. That, the National Treasury and the Ministry of Agriculture and Livestock Development should conduct an audit of the debt portfolio of the out-grower companies including Mumias Out-Growers Company (1998) Limited and Nzoia Out-Growers Company Limited and establish whether they are solvent and can be utilised for cane development

within sixty (60) days of the adoption of this report and table the report in the House for consideration and adoption.

10. That, within ninety (90) days of the adoption of this report, the National Treasury causes the allocation of KSh. 600 million to the Sugar Research Institute for multiplication and popularisation of the twenty seven (27) sugarcane varieties already generated through research.

11. That, within sixty (60) days of the adoption of this report the Ministry of Agriculture and Livestock Development puts in place regulations to protect the recommendations in this Report. The regulations shall be submitted to the National Assembly within sixty (60) days of adoption of this report for consideration as provided in the Statutory Instruments Act.

12. That, within sixty (60) days of the adoption of this report, the Auditor-General conducts a forensic audit of other debts amounting to KSh. 26,717,029,621.12 to ascertain its authenticity and table a report to the National Assembly to facilitate the budgeting for the settlement of the authenticated debts

Signed: .....

Date: 14th Sept. 2023

Hon. CPA. Kuria Kimani, MP
Chairperson, Departmental Committee on Finance and National Planning

Signed: .....

Date: 14-09-2023

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

THE NATIONAL ASSEMBLY
13TH PARLIAMENT - SECOND SESSION (2023)
COMMITTEE ON FINANCE & NATIONAL PLANNING
ATTENDANCE REGISTER

Date: 12/09/2023 **Venue:** MINI CHAMBER

Time Started: 3:47 PM **Time Ended:** 5:57PM

AGENDA: ADOPTION SCHEDULE FOR THE REPORT ON THE TREASURY MEMORANDUM TO REVIVE AND COMMERCIALIZE THE STATE OWNED SUGAR COMPANIES

No.	NAME	SIGNATURE
1.	Hon. (CPA). Kuria Kimani, MP - Chairperson	
2.	Hon. (Amb). Benjamin Kipkirui Langat, MP – Vice Chairperson	
3.	Hon. Dr. Adan Keynan Wehliye, MP	
4.	Hon. George Sunkuyia Risa, MP	
5.	Hon. (CPA) Joseph Maero Oyula, MP	
6.	Hon. Andrew Adipo Okuome, MP	
7.	Hon. David Mwalika Mboni, MP	
8.	Hon. Joseph Makilap Kipkoros, MP	
9.	Hon. Joseph Kamau Munyoro, MP	
10.	Hon. (CPA) Julius Kipletting Rutto, MP	
11.	Hon. Paul Kibichiy Biego, MP	
12.	Hon. Umul Ker Sheikh Kassim, MP	
13.	Hon. Dr. Shadrack Mwiti Ithinji, MP	
14.	Hon. Dr. John Ariko Namoit, MP	
15.	Hon. Mohamed Soud Machele, MP	

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

ADOPTION SCHEDULE FOR THE REPORT ON THE TREASURY MEMORANDUM TO REVIVE AND COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES

DATE: 12TH SEPTEMBER 2023 **VENUE: MINI CHAMBER, COUNTY HALL**

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

ANNEX ONE: ADOPTION SCHEDULE

ANNEX TWO: MINUTES OF THE COMMITTEE'S SITTINGS

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 7TH JOINT SITTING OF THE DEPARTMENTAL COMMITTEES: ON FINANCE AND NATIONAL PLANNING; AND AGRICULTURE AND LIVESTOCK HELD ON TUESDAY, 12TH SEPTEMBER 2023 IN MINI CHAMBER COUNTY HALL AT 2.30 P.M.

DEPARTMENTAL COMMITTEE ON FINANCE & NATIONAL PLANNING

PRESENT

1. Hon. CPA. Kuria Kimani, MP - **Chairperson**
2. Hon. (Amb.) Benjamin Kipkirui Langat, CBS, MP - **Vice-Chairperson**
3. Hon. George Sunkuyia Risa, MP
4. Hon. David Mwalika Mboni, MP
5. Hon. CPA. Joseph Maero Oyula, MP
6. Hon. Paul Kibichiy Biego, MP
7. Hon. Joseph Makilap Kipkoros, MP
8. Hon. (Dr.) John Ariko Namoit, MP
9. Hon. Joseph Munyoro, MP

ABSENT WITH APOLOGIES

1. Hon. (Dr. Adan Keynan Wehliye, CBS, MP
2. Hon. Andrew Adipo Okuome, MP
3. Hon. Mohamed Soud Machele, MP
4. Hon. (Dr.) Shadrack Mwiti Ithinji, MP
5. Hon. CPA. Julius Kipletting Rutto, MP
6. Hon. Umul Ker Sheikh Kassim, MP

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

PRESENT

1. Hon. (Dr.) John Kanyuithia Mutunga, MP - **Chairperson**
2. Hon. Brighton Leonard Yegon, MP - **Vice-Chairperson**
3. Hon. Sabina Wanjiru Chege, CBS, MP
4. Hon. Justice Kipsang Kemei, MP
5. Hon. David Kiplagat, MP
6. Hon. Gabriel Gathuka Kagombe, MP
7. Hon. Pamela Njoki Njeru, MP
8. Hon. Patrick Kibagendi Osero, MP
9. Hon. Peter Kalerwa Salasya, MP

10. Hon. Yussuf Mohamed Farah, MP

ABSENT WITH APOLOGY

1. Hon. Ferdinand Kevin Wanyonyi, MP
2. Hon. Jared Okello Odoyo, MP
3. Hon. Lawrence Mpuru Aburi, MP
4. Hon. Monicah Muthoni Marubu, MP

INATTENDANCE

SECRETARIAT

1.	Mr. Benjamin Magut	-	Senior Clerk Assistant
2.	Ms. Laureen O. Wesonga	-	Clerk Assistant I
3.	Mr. Benson Kamande	-	Clerk Assistant III
4.	Mr. Gerald Kadede	-	Legal Officer II
5.	Ms. Noelle Chelagat	-	Media Relations Office II
6.	Ms. Nelly Ondieki	-	Research officer III
7.	Mr. Mwangi Muchiri	-	Audio Officer
8.	Mr. Simon Ouko	-	Serjeant-at-Arms

AGENDA

1. Prayers
2. Preliminaries/Introductions
   i. Adoption of the Agenda
   ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Consideration of the report on the Treasury Memorandum on Action Plans to Revive and Commercialise the State-Owned Sugar Companies**
5. **Adoption of the report on the Treasury Memorandum on Action Plans to Revive and Commercialise the State-Owned Sugar Companies**
6. Any other Business
7. Adjournment/Date of the Next Sitting

MIN NO. DDC/JOINT/2023/28: PRELIMINARIES

The meeting was called to order at thirteen minutes to three o'clock with a word of prayer by the Chairperson. The Agenda of the meeting was adopted having been proposed by Hon. Joseph Kamau Munyoro, MP and seconded by Hon. David Mboni, MP.

MIN NO. DDC/JOINT/2023/29: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

Minutes of the following Sittings were adopted as a true reflection of the proceedings:

1. 1st Siting having been proposed by Hon. David Kiplagat, MP and seconded by Hon. John Munyoro, MP;
2. 2nd Sitting having been proposed by Hon. Joseph Oyula, MP and seconded by Hon. Pamela Njeru, MP;
3. 3rd Sitting having been proposed been proposed by Hon. Paul Kibichiy, MP and seconded by Hon. David Mboni, MP;

4. 4th Sitting having been proposed by Hon. Pamela Njeru, MP and seconded by Hon. Joseph Makilap, MP;
5. 5th Sitting having been proposed by Hon. Peter Salasya, MP and seconded by Hon. Patrick Kibagendi, MP; and
6. 6th Sitting having been proposed by Hon. Gabriel Kagombe, MP and seconded by Hon. Sabina Chege, CBS, MP.

MIN NO. DDC/JOINT/2023/30: **CONSIDERATION OF THE REPORT ON THE TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES**

The Committee deliberated and resolved that the recommendations must:

a) Provide the lease period of a maximum of 20 years.
b) Provide that both the factory and nucleus estates shall be leased.
c) Provide that the nucleus land shall be used specifically for cane farming.
d) Provide a recommendation to address the poaching menace.
e) Provide for an audit of debts owed by out-grower companies.
f) Provide for the assessment of the lease after every five years.
g) Provide that the land will revert back to the original owner after the lease period.
h) Provide that the nucleus land should not be used as collateral by the lessee.
i) Provide that the Ministry of Agriculture and Livestock Development shall issues regulations to protect the recommendations in the report.

MIN NO. DDC/JOINT/2023/31: **ADOPTION OF THE REPORT ON THE TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES**

The report on the Treasury Memorandum on the Action Plans to Revive and Commercialise the State-Owned Sugar Companies was adopted having been proposed by Hon. Sabina Chege, CBS, MP and seconded by Hon. Gabriel Kagombe, MP.

MIN NO. DDC/JOINT/2023/32: **ADJOURNMENT/DATE OF THE NEXT MEETING**

There being no other business, the meeting was adjourned three minutes to six O'clock. The next meeting will be held on notice.

Signed: .....

Date: 14th Sept. 2023

Hon. CPA. Kuria Kimani, MP
Chairperson, Departmental Committee on Finance and National Planning

Signed: .....

Date: 14-09-2023

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

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 6TH JOINT SITTING OF THE DEPARTMENTAL COMMITTEES ON FINANCE AND NATIONAL PLANNING; AND AGRICULTURE AND LIVESTOCK HELD ON THURSDAY, 7TH SEPTEMBER 2023 AT TWENDE CONFERENCE ROOM, BEST WESTERN HOTEL IN KISUMU COUNTY AT 3.00 PM

DEPARTMENTAL COMMITTEE ON FINANCE & NATIONAL PLANNING

PRESENT

1. Hon. (CPA.) Francis Kuria Kimani, MP - **Chairperson**
2. Hon. David Mwalika Mboni, MP
3. Hon. Paul Kibichiy Biego, MP
4. Hon. (CPA.) Joseph Maero Oyula, MP
5. Hon. (Dr.) John Ariko Namoit, MP
6. Hon. (CPA.) Julius Kipletting Rutto, MP
7. Hon. Joseph Makilap Kipkoros, MP
8. Hon. Joseph Munyoro, MP
9. Hon. George Sunkuyia Risa, MP
10. Hon. (Dr.) Shadrack Mwiti Ithinji, MP

ABSENT WITH APOLOGIES

1. Hon. (Amb.) Benjamin Langat, CBS, MP - **Vice-Chairperson**
2. Hon. (Dr.) Adan Keynan Wehliye, CBS, MP
3. Hon. Andrew Adipo Okuome, MP
4. Hon. Mohamed Soud Machele, MP
5. Hon. Umul Ker Sheikh Kassim, MP

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

PRESENT

1. Hon. (Dr.) John Kanyuithia Mutunga, MP - **Chairperson**
2. Hon. Brighton Leonard Yegon, MP - **Vice-Chairperson**
3. Hon. Sabina Wanjiru Chege, CBS, MP
4. Hon. Geoffrey Makokha Odanga, MP
5. Hon. Justice Kipsang Kemei, MP
6. Hon. David Kiplagat, MP
7. Hon. Gabriel Gathuka Kagombe, MP
8. Hon. Pamela Njoki Njeru, MP
9. Hon. Patrick Kibagendi Osero, MP
10. Hon. Peter Kalerwa Salasya, MP

ABSENT WITH APOLOGY

1. Hon. Ferdinand Kevin Wanyonyi, MP
2. Hon. Jared Okello Odoyo, MP
3. Hon. Lawrence Mpuru Aburi, MP
4. Hon. Monicah Muthoni Marubu, MP
5. Hon. Yussuf Mohamed Farah, MP

IN ATTENDANCE

COMMITTEE SECRETARIAT

1.	Mr. Benjamin Magut	-	Senior Clerk Assistant
2.	Ms. Laureen O. Wesonga	-	Clerk Assistant I
3.	Mr. Benson Kamande	-	Clerk Assistant III
4.	Mr. Victor Kanda Kilimo	-	Clerk Assistant III
5.	Mr. Gerald Kadede	-	Legal Counsel II
6.	Ms. Noelle Chelagat	-	Media Relations Officer II
7.	Mr. Mwangi Muchiri	-	Audio Officer
8.	Ms. Nelly Ondieki	-	Research officer III
9.	Mr. Simon Ouko	-	Serjeant-at-Arms
10.	Ms. Ivy Mumbi	-	Committee Intern

MEMBERS OF PARLIAMENT

1.	Hon. Emanuel Wangwe, CBS, MP	-	Member of Parliament Navakholo Constituency
2.	Hon. Koyi John Waluke	-	Member of Parliament Sirisia Constituency

KENYA REVENUE AUTHORITY (KRA)

1.	Mr. Humphrey Wattanga	-	Commissioner General
2.	Ms. Rispah Simiyu	-	Commissioner Domestic Taxes
3.	Ms. Pamela Ahago	-	Commissioner Customs & Border Control
4.	Ms. Grace Wandera	-	Deputy Commissioner
5.	Brian Steve Obonyo		

OTHER STAKEHOLDERS

1.	Dr. Betty Mulianga	-	Director, Sugar Research Institute
2.	Mr. Raphael Shiundu	-	Sugar Research Institute
3.	Mr. Gamaliel Anamanjia	-	Chief Executive Officer, MOCO

AGENDA

1. Prayers
2. Preliminaries/Introductions
    i. Adoption of the Agenda
    ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Meeting with Kenya Revenue Authority to consider the Treasury Memorandum on Action Plans to Revive & Commercialise the State-Owned Sugar Companies**
5. **Meeting with Kenya Revenue Authority other stakeholders to consider the Treasury Memorandum on Action Plans to Revive & Commercialise the State-Owned Sugar Companies**
6. Any other Business
7. Adjournment/Date of the Next Sitting

MIN NO. DDC/JOINT/2023/23: PRELIMINARIES

The meeting was called to order at sixteen minutes past three o'clock with a word of prayer by the Hon. Pamela Njeru, MP. The Chairperson, Departmental Committee on Finance and National Planning requested those present in the meeting to introduce themselves before inviting KRA to make their submission.

MIN NO. DDC/JOINT/2023/24: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

Agenda deferred

MIN NO. DDC/JOINT/2023/25: MEETING WITH KENYA REVENUE AUTHORITY TO CONSIDER THE TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE & COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES

Mr. Humphrey Wattanga, the Commissioner General gave a breakdown of the taxes owed to KRA by the five state-owned sugar mills. He informed the Committee that despite the proposal in the Memorandum for KRA to write-off the taxes, penalties and interests owed by the milling companies, the Commissioner General does not have the powers as Sections 37 and 87(7) of the Tax Procedures Act which previously gave him the power to write off tax debts were withdrawn following repealing of the above sections through the Finance Act, 2023.

COMMITTEE OBSERVATION

The Committee observed that there was a difference of over KSh. 33 billion between the tax debt provided in the Memorandum and that submitted by KRA. KRA stated that their figures had been derived from data on the iTax system and reflected arrears as at 31st August 2023.

MIN NO. DDC/JOINT/2023/26: MEETING WITH OTHER STAKEHOLDERS TO CONSIDER THE TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE & COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES

1. **Hon. Emanuel Wangwe, CBS, MP (Sponsor of the Sugar Bill, 2022)**
   Hon. Emanuel Wangwe, submitted that he was in support of the leasing of public mills but consultation with all relevant stakeholders should be done. He observed that there was need to address the salary arrears as it is the same workforce that will be used during transition.

2. **Sugar Research Institute**
   Dr. Betty Mulianga, Head of the Institute, submitted that the Institute was not able to discharge its mandate aptly because it had no funding. She noted that funding for the Institute should be considered in order to enhance research in the sugar sub-sector.

DELIBERATIONS

a. Dr. Mulianga stated that the Institute did not support zoning because some sugar companies were close together and therefore difficult to provide the radius.

b. The Institute was previously funded by the Government and the Sugar Development Levy but there is currently no funding for sugar research. A funding of KSh.700 million will be sufficient to run the Institute.
c. The Institute was in support of the Cane Testing Unit but its implementation is difficult because millers have cane buying centres where cane is collected from different farmers hance difficult to determine which sugarcane belongs to which farmer. The current pricing formula has no research backing, the 50/50 formula was a negotiated arrangement. CTUs will be a solution to this.

The meeting resolved that the pricing formula should be included in the Sugar Bill, 2022 as it had no legal backing. It was also resolved that the sugar pricing committee in the Memorandum will approve the pricing model stipulated by the Institute.

The Institute was directed to submit the pricing formula to the Committee.

3. **Hon. Koyi John Waluke, MP (Chairperson of the Western Sugar Caucus of the National Assembly)**
Hon. Waluke observed that farmers needed to be incentivized to go back to sugarcane farming, sugar repackaging stopped, strictly apply the CET maximum of 35% on sugar imports coming from outside the COMESA region to safeguard local sugar and recommendations of the Sugar Stakeholders Taskforce Report of 2019 implemented.

4. **Mumias Out-growers Company (MOCO) Limited**
Mr. Gamaliel Anamanjia, the Chief Executive Officer informed the meeting that the Cane Development Fund was placed under the custody of Mumias Sugar Company and MOCO neither had custody nor did it manage the Fund. MOCO was financially sound until 2008 when Mumias Sugar Company made a decision to stop remittance of interest from Cane Development Fund. This made MOCO unable to service their loan and their property is likely to be auctioned.

Mr. Anamanjia requested that the KSh. 3.7 billion listed as one of the Mumias Sugar Company debt be cleared and the MOCO KSB loan be waived.

MIN NO. DDC/JOINT/2023/27: ADJOURNMENT/DATE OF THE NEXT MEETING

There being no other business, the meeting was adjourned at at twenty-eight minutes to nine o'clock. The next meeting will be held on notice.

Signed: .....

Date: 12th Sept. 2023

Hon. (CPA.) Francis Kuria Kimani, MP
Chairperson, Departmental Committee on Finance and National Planning

Signed: .....

Date: 12 – 09 – 2023

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

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 5TH JOINT SITTING OF THE DEPARTMENTAL COMMITTEES ON FINANCE & NATIONAL PLANNING; AND AGRICULTURE AND LIVESTOCK HELD ON THURSDAY, 7TH SEPTEMBER 2023 IN TWENDE CONFERENCE ROOM, BEST WESTERN HOTEL IN KISUMU COUNTY AT 9.30 A.M.

DEPARTMENTAL COMMITTEE ON FINANCE & NATIONAL PLANNING

PRESENT

1. Hon. (CPA.) Francis Kuria Kimani, MP - **Chairperson**
2. Hon. David Mwalika Mboni, MP
3. Hon. Paul Kibichiy Biego, MP
4. Hon. (CPA.) Joseph Maero Oyula, MP
5. Hon. (Dr.) John Ariko Namoit, MP
6. Hon. (CPA.) Julius Kipletting Rutto, MP
7. Hon. Joseph Makilap Kipkoros, MP
8. Hon. Joseph Munyoro, MP
9. Hon. George Sunkuyia Risa, MP
10. Hon. (Dr.) Shadrack Mwiti Ithinji, MP

ABSENT WITH APOLOGIES

1. Hon. (Amb.) Benjamin Langat, CBS, MP - **Vice-Chairperson**
2. Hon. (Dr.) Adan Keynan Wehliye, CBS, MP
3. Hon. Andrew Adipo Okuome, MP
4. Hon. Mohamed Soud Machele, MP
5. Hon. Umul Ker Sheikh Kassim, MP

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

PRESENT

1. Hon. (Dr.) John Kanyuithia Mutunga, MP - **Chairperson**
2. Hon. Brighton Leonard Yegon, MP - **Vice-Chairperson**
3. Hon. Sabina Wanjiru Chege, CBS, MP
4. Hon. Geoffrey Makokha Odanga, MP
5. Hon. Justice Kipsang Kemei, MP
6. Hon. David Kiplagat, MP
7. Hon. Gabriel Gathuka Kagombe, MP
8. Hon. Pamela Njoki Njeru, MP
9. Hon. Patrick Kibagendi Osero, MP
10. Hon. Peter Kalerwa Salasya, MP

ABSENT WITH APOLOGY

1. Hon. Ferdinand Kevin Wanyonyi, MP
2. Hon. Jared Okello Odoyo, MP
3. Hon. Lawrence Mpuru Aburi, MP
4. Hon. Monicah Muthoni Marubu, MP
5. Hon. Yussuf Mohamed Farah, MP

IN ATTENDANCE

COMMITTEE SECRETARIAT

1.	Mr. Benjamin Magut	-	Senior Clerk Assistant
2.	Ms. Laureen O. Wesonga	-	Clerk Assistant I
3.	Mr. Benson Kamande	-	Clerk Assistant III
4.	Mr. Victor Kanda Kilimo	-	Clerk Assistant III
5.	Mr. Gerald Kadede	-	Legal Counsel II
6.	Ms. Noelle Chelagat	-	Media Relations Officer II
7.	Mr. Mwangi Muchiri	-	Audio Officer
8.	Ms. Nelly Ondieki	-	Research officer III
9.	Mr. Simon Ouko	-	Serjeant-at-Arms
10.	Ms. Ivy Mumbi	-	Committee Intern

MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT (MOALD)

1.	Mr. Kello Harsama	-	PS, State Department for Crop Development
2.	Mr. Jude Chesire	-	Head of the Sugar Directorate, AFA
3.	Mr. Timothy Ogwang	-	MOALD
4.	Mr. Samuel Kemboi	-	AFA, Sugar Directorate
5.	Mr. David Kithale	-	MOALD

THE NATIONAL TREASURY

1.	Mr. Lawrence Kibet	-	Director General, PIPM
2.	Mr. Anthony Mwirigi	-	Economist
3.	Ms. Isabella Kogei	-	Deputy Director Budget

AGENDA

1. Prayers
2. Preliminaries/Introductions
    i. Adoption of the Agenda
    ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Meeting with management of Chemelil Sugar Company to consider the Treasury Memorandum on Action Plans to Revive & Commercialise the State-Owned Sugar Companies**
5. **Meeting with Ministry of Agriculture & Livestock and National Treasury to consider the Treasury Memorandum on Action Plans to Revive & Commercialise the State-Owned Sugar Companies**
6. Any other Business
7. Adjournment/Date of the Next Sitting

MIN NO. DDC/JOINT/2023/18: **PRELIMINARIES**

The Co-chairperson called the meeting to order at 9.24 a.m. This was followed with a word of prayer and self-introductions

MIN NO. DDC/JOINT/2023/19: **CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING**

Agenda deferred.

MIN NO. DDC/JOINT/2023/20: **MEETING WITH CHEMELIL SUGAR COMPANY TO CONSIDER THE TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE & COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES**

Ms. Jacqueline Kotonya, the interim Managing Director informed the meeting that the Company supports the Government's action plans to commercialize the state-owned sugar companies but they sought clarity on the leasing model to facilitate smooth transition. The Company proposed that the government establishes a Leasing Commission to put in place a leasing framework with input from stakeholders.

The proposed lease model should be executed by unbundling the nucleus estate land and the factory land. The restructuring of the sugar company's balance sheet should include settlement of employees' salary arrears. Further, the National Assembly should fast-track consideration of the Sugar Bill, 2022

DELIBERATIONS

1. The salary arrears comprise of retirees' pension, NHIF, NSSF and salary arrears. The Company was engaging persons on contractual basis to carry out specific assignments and exits as a way of reducing the arrears.
2. The debts on account of SDL were monies borrowed for factory maintenance and the Company has not been able to pay back due to dismal performance.
3. The Company needs KSh. 700 million in order to break-even. The money will be used to improve efficiency of the Company by changing technology and for cane development.
4. The land under cane should be made commercially viable so as to make profits from the industry.

MIN NO. DDC/JOINT/2023/21: **MEETING WITH THE MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT AND THE NATIONAL TREASURY TO CONSIDER THE TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE & COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES**

Ministry of Agriculture and Livestock Development

Mr. Kello Harsama, the Principal Secretary, State Department for Crop Development stated that the proposed revitalization strategy seeks to make the sugar industry competitive, make sugarcane farming profitable and increase sugar production.

Mr. Harsama observed as follows on the Memorandum that the nucleus land should be leased for cane development only, lease proceeds to be used for payment of outstanding debts that will not be written-off, individual sugar mills should be leased separately, opposed the merger of Chemelil andMuhoroni Sugar Companies, payment plan to be developed to cater for debts not considered in the Memorandum and zoning should be enforced.

The National Treasury

Mr. Lawrence Kibet, Director General, Public Investments and Portfolio Management stated that Mumias Sugar Company is not a public mill because the Government has a shareholding of only 20%.

He explained that the Memorandum proposes the following interventions: onboard private capital, expertise and modernisation of sugar mills; enhance cane development; address stakeholder sensitivities on land issues; unbundling the nucleus estate and the factory land; leasing five public mills; restructuring balance sheets of public mills, zoning, legal reforms and merging of Muhoroni and Chemelil Sugar Company.

DELIBERATIONS

1. The meeting observed that assessment and proper financial audit should be done. Mr. Kibet stated that the figures provided in the Memorandum had been extracted from the Companies' audited accounts.
2. The leasing model will ensure that no party has advantage over the other and each party will use their strengths to improve the industry. Technology will be used to diversify the products
3. Mr. Kibet informed the meeting that the National Treasury did not have the leasing model. The National Treasury was directed to submit the leasing model to the Committee by nine o'clock the following day.

MIN NO. DDC/JOINT/2023/22: **ADJOURNMENT**

There being no other business, the meeting was adjourned at eighteen minutes past two o'clock. The next meeting will be held at 3.00 p.m.

Signed: .....

Date: 12th Sept: 2023

Hon. (CPA.) Francis Kuria Kimani, MP
Chairperson, Departmental Committee
on Finance and National Planning

Signed: .....

Date: 12/09/2023

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

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 4TH JOINT SITTING OF THE DEPARTMENTAL COMMITTEES ON FINANCE & NATIONAL PLANNING; AND AGRICULTURE AND LIVESTOCK HELD ON WEDNESDAY, 6TH SEPTEMBER 2023 IN TWENDE CONFERENCE ROOM, BEST WESTERN HOTEL IN KISUMU COUNTY AT 4.00 P.M.

DEPARTMENTAL COMMITTEE ON FINANCE & NATIONAL PLANNING

PRESENT

1. Hon. (CPA.) Francis Kuria Kimani, MP - **Chairperson**
2. Hon. David Mwalika Mboni, MP
3. Hon. Paul Kibichiy Biego, MP
4. Hon. (CPA.) Joseph Maero Oyula, MP
5. Hon. (Dr.) John Ariko Namoit, MP
6. Hon. (CPA.) Julius Kipletting Rutto, MP
7. Hon. Joseph Makilap Kipkoros, MP
8. Hon. Joseph Munyoro, MP
9. Hon. George Sunkuyia Risa, MP
10. Hon. (Dr.) Shadrack Mwiti Ithinji, MP

ABSENT WITH APOLOGIES

1. Hon. (Amb.) Benjamin Langat, CBS, MP - **Vice-Chairperson**
2. Hon. (Dr.) Adan Keynan Wehliye, CBS, MP
3. Hon. Andrew Adipo Okuome, MP
4. Hon. Mohamed Soud Machele, MP
5. Hon. Umul Ker Sheikh Kassim, MP

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

PRESENT

1. Hon. (Dr.) John Kanyuithia Mutunga, MP - **Chairperson**
2. Hon. Brighton Leonard Yegon, MP - **Vice-Chairperson**
3. Hon. Sabina Wanjiru Chege, CBS, MP
4. Hon. Geoffrey Makokha Odanga, MP
5. Hon. Justice Kipsang Kemei, MP
6. Hon. David Kiplagat, MP
7. Hon. Gabriel Gathuka Kagombe, MP
8. Hon. Pamela Njoki Njeru, MP
9. Hon. Patrick Kibagendi Osero, MP
10. Hon. Peter Kalerwa Salasya, MP

ABSENT WITH APOLOGY

1. Hon. Ferdinand Kevin Wanyonyi, MP
2. Hon. Jared Okello Odoyo, MP
3. Hon. Lawrence Mpuru Aburi, MP
4. Hon. Monicah Muthoni Marubu, MP
5. Hon. Yussuf Mohamed Farah, MP

IN ATTENDANCE

COMMITTEE SECRETARIAT

1.	Mr. Benjamin Magut	-	Senior Clerk Assistant
2.	Ms. Laureen O. Wesonga	-	Clerk Assistant I
3.	Mr. Benson Kamande	-	Clerk Assistant III
4.	Mr. Victor Kanda Kilimo	-	Clerk Assistant III
5.	Mr. Gerald Kadede	-	Legal Counsel II
6.	Ms. Noelle Chelagat	-	Media Relations Officer II
7.	Mr. Mwangi Muchiri	-	Audio Officer
8.	Ms. Nelly Ondieki	-	Research officer III
9.	Mr. Simon Ouko	-	Serjeant-at-Arms
10.	Ms. Ivy Mumbi	-	Committee Intern

MANAGEMENT OF SUGAR COMPANIES

1.	Mr. Rakesh Bvats	-	General Manager, Mumias Sugar Company
2.	Mr. Paul Russo	-	Chief Executive Officer, KCB
3.	Mr. Harun Kirui	-	Joint Receiver Manager, Muhoroni & Miwani
4.	Ms. Jacqueline Kotonya	-	Interim Managing Director, Chemelil
5.	Mr. Stephen Ligawa	-	Ag. Managing Director
6.	CPA Ezron Kotut	-	Ag. Managing Director, Nzoia Sugar Company
7.	Mr. Vitalis Oduor	-	Ag. General Manager, Muhoroni/Miwani
8.	Mr. Stephen Kihumba	-	Mumias Sugar Company
9.	Mr. George W. Onyango	-	Muhoroni/Miwani

AGENDA

1. Prayers
2. Preliminaries/Introductions
   i. Adoption of the Agenda
   ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Meeting with Management of State-Owned Sugar Companies to consider the Treasury Memorandum on Action Plans to Revive & Commercialise the State-Owned Sugar Companies**
5. Any other Business
6. Adjournment/Date of the Next Sitting

MIN NO. DDC/JOINT/2023/14: PRELIMINARIES

The meeting was called to order at thirteen minutes past four o'clock prayer said by Hon. Paul Kibichy Biego. The Chairperson Departmental Committee on Finance and National Planning called for introduction of those present in the meeting before inviting stakeholders to make submissions.

MIN NO. DDC/JOINT/2023/15: **CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING**

Agenda deferred

MIN NO. DDC/JOINT/2023/16: **MEETING WITH MANAGEMENT OF STATE-OWNED SUGAR COMPANIES TO DELIBERATE ON THE TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE & COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES**

1. **Mumias Sugar (2021) Limited**

The Managing Director, Mr. Rakesh Bvats informed the meeting that the following should be included in the Memorandum to enrich it: Implementation of zones; protection of investors; availability of nucleus land for all sugar companies; reduction of cost of farm inputs; availability of credit facility; investment in technology; payment of farmers; the Government should facilitate the industrial environment as a policy maker, facilitator and advisor; miller code of conduct; and utilization of other indirect taxes.

DELIBERATIONS

There is no zoning in Uganda because more land in Uganda can support sugarcane production unlike Kenya where sugarcane can only be grown in a few areas.

2. **Kenya Commercial Bank Limited**

The CEO, Mr. Paul Russo, the Chief Executive Officer of KCB stated that he supported the proposals in the Treasury Memorandum because KCB had taken the same approach with Mumias Sugar Company in order to recover their loans. He observed that leasing is a perfect option because it brings on board competencies that are able to turn around fortunes of a company.

Companies that have track records of social good should be engaged, the financial status of the company should also be taken into account and most importantly their ability to get working capital. Stakeholder engagement should be done during the leasing process and policy put in place for predictability.

3. **South Nyanza Sugar Company Limited**

Mr. Stephen Ligawa, the Managing Director submitted that politicisation of the boards of directors should be added to the list of challenges facing public owned sugar mills. He added that the Government needs to reduce its role in running commercial entities hence their support to lease the public mills. The Company did not support divestiture of nucleus estate because it will make the company vulnerable to external factors.

DELIBERATIONS

a. The figures submitted to the National Treasury (contained in the Memorandum) had gaps hence the new figures submitted in the meeting. There was an omission of KSh. 291 million on account of SDL, the taxes had been underreported by KSh. 386 million upon confirmation from iTax.
b. Poaching can be reduced by ensuring that a company has established a raw material base before it is licensed.

c. Most of the Company's debt were accrued between 2016 and 2021 because of the drought that affected crops between 2017 and 2018 and there was unregulated sugar importation between 2016 and 2018 which made it difficult for local sugar to be sold.
d. Sugarcane in the nucleus estate can keep the factory running for two months on optimum production. The Company gets 10 to 15% of its cane requirement from the nucleus land and the difference from out-growers.

4. **Nzoia Sugar Company (NSC) Limited**

CPA. Ezron Kotut, the Ag. Managing Director proposed inclusion of the following strategies in the proposed strategic interventions: Zoning; enhanced collaboration between the Sugar Research Institute and sugar millers in research to develop better yielding and early maturity cane varieties; unbundling of the nucleus estate land and factory land shall also include the unbundling of public utilities; in case of sugar deficit in the country, government millers be apportioned sugar import quotas based on their production capacity; and restructuring of the company's balance sheet to include a payment plan for as salary arrears and what is owed to other creditors.

DELIBERATIONS

a. The Company was in support of factory zoning because cane poaching had led to losses in the Company due to investment made on cane development. Zoning will improve the quality of cane because millers will be sure that they are in control.
b. The Company proposed that millers should be allowed to import sugar because there are times when the mill is closed and there are no other revenue streams. Millers are best placed to import sugar because they know market needs.
c. There is inadequate cane in the country because some millers harvested immature cane, there is no cane development, competing crops, drought, cane fires among other reasons.
d. Staff arrears had accrued because of acute sugarcane shortage and factory breakdown. The Board was not in place and therefore not possible to let go of extra staff.
e. The Company's asset base is worth KSh. 10.6 billion and the liabilities amount to KSh. 66.2 billion. The Company is therefore insolvent.

5. **Muhoroni Sugar Company Limited**

Mr. Harun Kirui, the Joint Receiver Manager informed the Committee that the Company supported the Governments plans to revive and commercialise state-owned sugar companies. He requested the Joint Committee to: approve the debt write-offs on Government loans, interest and penalties as well as taxes, interests and penalties; settle farmers' and salary arrears; enforce individual factory zoning to encourage cane development and prevent cane poaching; fast-track the Sugar Bill and sugar industry regulations; provide support to enhance cane development through farmer support; and consider merger of Muhoroni Sugar Company Ltd and Agro-Chemical and Food Company (currently listed for privatization).

DELIBERATIONS

a. The following needs to be done in order to experience the potential of the area, utilise proper land development equipment, plant high yielding sugarcane varieties that have high ratoon ability, avail farm inputs in time, sugarcane variety development by the Sugar Research Institute, use irrigation and proper utilisation of land.
b. Most of the taxes owed by the Company are historical, they were accrued between 1991 and 2000. The taxes were accrued as a result of erratic operations.

6. **Miwani Sugar Company Limited**
   The Joint Receiver Manager, Mr. Harun Kirui submitted that the Company supported the government action plans to revive and commercialize the state-owned sugar companies. He however observed that the Company had been excluded from the proposed leasing programme because of the on-going court cases.

   Mr. Kirui requested the Committee to approve debt write-offs on the company i.e. GOK loans, interest and penalties as well as taxes, interests and penalties as at 30th June 2023, Settlement of creditors (pre- and post-receivership), fast track the Sugar Bill and sugar industry regulations and expedited the on-going Miwani land case.

2. **Chemelil Sugar Company**
   The Committee observed that the Company's report was inadequate and requested the management to prepare a comprehensive report and appear before the Committee in the morning to make their presentation.

MIN NO. DDC/JOINT/2023/17: ADJOURNMENT

There being no other business, the meeting was adjourned at sixteen minutes past eight o'clock. The next meeting will be held on 7th September 2023 at 9.30 am.

Signed: .....

Date: 12th Sept, 2023

Hon. (CPA.) Francis Kuria Kimani, MP
Chairperson, Departmental Committee on Finance and National Planning

Signed: .....

Date: 12/09/2023

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

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 3RD JOINT SITTING OF THE DEPARTMENTAL COMMITTEES ON FINANCE & NATIONAL PLANNING; AND AGRICULTURE AND LIVESTOCK HELD ON WEDNESDAY, 6TH SEPTEMBER 2023 IN TWENDE CONFERENCE ROOM, BEST WESTERN HOTEL IN KISUMU COUNTY AT 9.30 A.M.

DEPARTMENTAL COMMITTEE ON FINANCE & NATIONAL PLANNING

PRESENT

1. Hon. (CPA.) Francis Kuria Kimani, MP - **Chairperson**
2. Hon. David Mwalika Mboni, MP
3. Hon. Paul Kibichiy Biego, MP
4. Hon. (CPA.) Joseph Maero Oyula, MP
5. Hon. (Dr.) John Ariko Namoit, MP
6. Hon. (CPA.) Julius Kipletting Rutto, MP
7. Hon. Joseph Makilap Kipkoros, MP
8. Hon. Joseph Munyoro, MP

ABSENT WITH APOLOGIES

1. Hon. (Amb.) Benjamin Langat, CBS, MP - Vice-Chairperson
2. Hon. George Sunkuyia Risa, MP
3. Hon. (Dr.) Adan Keynan Wehliye, CBS, MP
4. Hon. Andrew Adipo Okuome, MP
5. Hon. Mohamed Soud Machele, MP
6. Hon. (Dr.) Shadrack Mwiti Ithinji, MP
7. Hon. Umul Ker Sheikh Kassim, MP

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

PRESENT

1. Hon. (Dr.) John Kanyuithia Mutunga, MP - **Chairperson**
2. Hon. Brighton Leonard Yegon, MP - **Vice-Chairperson**
3. Hon. Sabina Wanjiru Chege, CBS, MP
4. Hon. Justice Kipsang Kemei, MP
5. Hon. Geoffrey Makokha Odanga, MP
6. Hon. David Kiplagat, MP
7. Hon. Gabriel Gathuka Kagombe, MP
8. Hon. Pamela Njoki Njeru, MP
9. Hon. Patrick Kibagendi Osero, MP
10. Hon. Peter Kalerwa Salasya, MP

ABSENT WITH APOLOGY

1. Hon. Ferdinand Kevin Wanyonyi, MP
2. Hon. Jared Okello Odoyo, MP
3. Hon. Lawrence Mpuru Aburi, MP
4. Hon. Monicah Muthoni Marubu, MP
5. Hon. Yussuf Mohamed Farah, MP

INATTENDANCE

SECRETARIAT

1.	Mr. Benjamin Magut	-	Senior Clerk Assistant
2.	Ms. Laureen O. Wesonga	-	Clerk Assistant I
3.	Mr. Benson Kamande	-	Clerk Assistant III
4.	Mr. Victor Kanda Kilimo	-	Clerk Assistant III
5.	Mr. Gerald Kadede	-	Legal Officer II
6.	Ms. Noelle Chelagat	-	Media Relations Office II
7.	Ms. Nelly Ondieki	-	Research officer III
8.	Mr. Mwangi Muchiri	-	Audio Officer
9.	Mr. Simon Ouko	-	Serjeant-at-Arms
10.	Ms. Ivy Mumbi	-	Committee Intern

FARMERS

1.	Mr. Argwens Otieno Odongo	-	Federation of Farmers Sony
2.	Mr. John Odondi Omolo	-	Federation of Farmers Sony
3.	Mr. Martin Dauglas	-	MCA, Chemelil/Chemase
4.	Mr. Kigai wamnwaja	-	Nzoia Outgrowers
5.	Mr. Christopher Sifuna	-	Chairman Nzoia Outgrowers
6.	Mr. Bonface Nyongesa	-	Farmer Mumias
7.	Eng. Robert Limuli	-	Farmer Miwani
8.	Rev. Samson Keino	-	Farmer Chemelil
9.	Mr. Zedekiah Akella	-	Farmer Chemelil
10.	Mr. Thomas Choge	-	Kenya National Federation of Sugarcane Farmers
11.	Mr. Paul Owuok	-	Kenya National Federation of Sugarcane Farmers
12.	Mr. Lewnard Ajala	-	Farmer Nyando
13.	Mr. Denis Odhiambo	-	Kisumu Sugarbelt Cooperative Union
14.	Mr. Zedekiah Odhiambo	-	Kisumu Sugarbelt Cooperative Union
15.	Hon. Saulo W. Busolo	-	Sugar Campaign for Change
16.	Mr. Richard Ogendo	-	Kenya Sugarcane Growers Association
17.	Mr. Lincoln Aveza Isagi	-	Kenya Union of Sugar Plantation & Allied W.
18.	Mr. Kiplagat Cherutich	-	Kenya Union of Sugar Plantation & Allied W.

AGENDA

1. Prayers
2. Preliminaries/Introductions
   i. Adoption of the Agenda
   ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Meeting with Farmers and Farmers representatives to consider the Treasury Memorandum on Action Plans to Revive & Commercialise the State-Owned Sugar Companies**

5. Any other Business
6. Adjournment/Date of the Next Sitting

MIN NO. DDC/JOINT/2023/10: PRELIMINARIES

The meeting was called to order at twenty-nine minutes to ten o'clock with a word of prayer by the Chairperson, Departmental Committee on Agriculture and Livestock. He then called for introduction of those present in the meeting before inviting stakeholders to make their submissions.

MIN NO. DDC/JOINT/2023/11: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

Agenda deferred.

MIN NO. DDC/JOINT/2023/12: MEETING WITH FARMERS TO CONSIDER THE TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE & COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES

1. **Kenya National Federation of Sugarcane Farmers (KNFSF) SONY Branch**
   Mr. Argwengs Adongo, Branch Chairperson informed the meeting that state-owned sugar companies experienced several challenges including poor governance, legal frameworks that do not adequately respond to sugar industry needs, high level of indebtedness and low sugarcane productivity and quality for the industry sustainability.

   The Federation supported the debt write-off as proposed in the Memorandum. They however averred that the fate of the SONY Sugar Company nucleus estate needs to be stated, terms and condition of the leasing laid bare and public participation conducted before the leasing is done.

2. **Nzoia Out-Growers Company Limited**
   Mr. Christopher Sifuna, Chairperson of Nzoia Out-growers Company Limited, informed the meeting that cane production had reduced from 90 tonnes per hectare to 40 tonnes per hectare mainly due to high cost of farm inputs, poor seed cane among other reasons.

   He observed that farmers should be paid bonuses when sugar prices go up to encourage sugarcane farming. Additionally, millers and farmer organisations should be allowed to import sugar when there is a deficit in the country.

3. **Kenya National Federation of Sugarcane Farmers Chemilil Branch**
   The Branch Secretary, Mr. Caleb Ochieng' submitted that they did not support the merger of Chemelil and Muhoroni Sugar Companies. They supported regional zoning i.e. Central Region, Upper Western Region, Lower Western Region, Southern Region and Coastal Region.

   He stated that the leasing process should be made open with a clear criteria of selection and shareholding details of the lessee. The National Agricultural Extension Services Policy should be strengthened and implemented at the county level.

4. **Sugar Campaign for Change (SUCAM)**
Hon. Saulo Busolo informed the meeting that SUCAM supported the leasing of sugar mills because it will transform the industry through modernization of factories, improve operational efficiencies, address technical expertise and bring on board effective management and good governance.

Policies should be put in place to ensure optimal tonnage of sugarcane per acre. The policy should address sugar imports, seed cane, cane payment, insurance, cane transport policy and weighbridges.

5. **Kenya National Federation of Sugarcane Farmers Muhoroni Branch**
Mr. Jerim Odada, Branch Chairman submitted that Muhoroni Sugar Company should be removed from receivership and placed under regular management. He supported leasing of the factory land to companies with a track record in management and agriculture and not briefcase companies. The Branch did not support merger of Muhoroni and Chemelil Sugar Companies.

6. **Kenya National Federation of Sugarcane Farmers Miwani Branch**
The Branch supported leasing of Miwani Sugar Company as long as proper public participation is conducted, farmers and staff arrears paid before leasing takes place, the nucleus land is not leased and the lessee is not a sugar factory owner in Kenya. They opposed the merging of Muhoroni and Chemelil Sugar Factories.

They observed that Miwani Sugar Company has been having court cases from 2008 and this has impacted negatively on development at the Company.

7. **Mumias Sugar Company Farmers**
Ms. Everlyne Wakhusama submitted that there is need to regulate licensing of new sugar factories, a factory should prove that they have raw material before they are licensed. She added that farmers should be represented in the Kenya Sugar Board and have societies where their issues can be canvassed.

8. **Kenya Union of Sugar Plantation and Allied Workers union**
Mr. Lincoln Aveza submitted that workers in the state-owned sugar companies had not been paid their salaries for months. For instance, employees at Chemelil Sugar Company had not been paid salaries for 53 months, those at Nzoia for 19 months and SONY Sugar for 15 months. Additionally, retirees went home with unpaid salaries and no pension.

He observed that most private sugar companies had poor working conditions and did not adhere to labour laws. Some even had two payrolls, one for black skinned persons and the other for light skinned persons.

Mr. Aveza stated that debts owed to different parties were as a result of mismanagement of the companies. Investigations should be done and the culprits brought to book.

Regarding the Memorandum, Mr. Aveza noted that merging of Muhoroni and Chemelil Sugar Companies will lead to job losses and therefore the Union did not support it. He observed that farmers should be represented in the taskforce that will oversee the leasing process.

MIN NO. DDC/JOINT/2023/13: ADJOURNMENT/DATE OF THE NEXT MEETING

There being no other business, the meeting was adjourned the meeting at quarter past three o'clock. The next meeting will be held at 4.00 p.m.

Signed: .....

Date: 12th Sept, 2023

Hon. (CPA.) Francis Kuria Kimani, MP
Chairperson, Departmental Committee
Finance & National Planning

Signed: .....

Date: 12/09/2023

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

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 2ND JOINT SITTING OF THE DEPARTMENTAL COMMITTEES ON FINANCE AND NATIONAL PLANNING; AND AGRICULTURE AND LIVESTOCK HELD ON TUESDAY, 5TH SEPTEMBER 2023 IN TWENDE CONFERENCE ROOM, BEST WESTERN HOTEL IN KISUMU COUNTY AT 3.00 P.M.

DEPARTMENTAL COMMITTEE ON FINANCE & NATIONAL PLANNING

PRESENT

1. Hon. (CPA.) Francis Kuria Kimani, MP - **Chairperson**
2. Hon. David Mwalika Mboni, MP
3. Hon. Paul Kibichiy Biego, MP
4. Hon. (CPA.) Joseph Maero Oyula, MP
5. Hon. (Dr.) John Ariko Namoit, MP
6. Hon. (CPA.) Julius Kipletting Rutto, MP
7. Hon. Joseph Makilap Kipkoros, MP
8. Hon. Joseph Munyoro, MP

ABSENT WITH APOLOGIES

1. Hon. (Amb.) Benjamin Langat, CBS, MP - **Vice-Chairperson**
2. Hon. George Sunkuyia Risa, MP
3. Hon. (Dr.) Adan Keynan Wehliye, CBS, MP
4. Hon. Andrew Adipo Okuome, MP
5. Hon. Mohamed Soud Machele, MP
6. Hon. (Dr.) Shadrack Mwiti Ithinji, MP
7. Hon. Umul Ker Sheikh Kassim, MP

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

PRESENT

1. Hon. (Dr.) John Kanyuithia Mutunga, MP - **Chairperson**
2. Hon. Brighton Leonard Yegon, MP - **Vice-Chairperson**
3. Hon. Sabina Wanjiru Chege, CBS, MP
4. Hon. Geoffrey Makokha Odanga, MP
5. Hon. Justice Kipsang Kemei, MP
6. Hon. David Kiplagat, MP
7. Hon. Gabriel Gathuka Kagombe, MP
8. Hon. Pamela Njoki Njeru, MP
9. Hon. Patrick Kibagendi Osero, MP
10. Hon. Peter Kalerwa Salasya, MP

ABSENT WITH APOLOGY

1. Hon. Ferdinand Kevin Wanyonyi, MP
2. Hon. Jared Okello Odoyo, MP
3. Hon. Lawrence Mpuru Aburi, MP
4. Hon. Monicah Muthoni Marubu, MP
5. Hon. Yussuf Mohamed Farah, MP

IN ATTENDANCE

COMMITTEE SECRETARIAT

1.	Mr. Benjamin Magut	-	Senior Clerk Assistant
2.	Ms. Laureen O. Wesonga	-	Clerk Assistant I
3.	Mr. Benson Kamande	-	Clerk Assistant III
4.	Mr. Victor Kanda Kilimo	-	Clerk Assistant III
5.	Mr. Gerald Kadede	-	Legal Counsel II
6.	Ms. Noelle Chelagat	-	Media Relations Officer II
7.	Mr. Mwangi Muchiri	-	Audio Officer
8.	Ms. Nelly Ondieki	-	Research officer III
9.	Mr. Simon Ouko	-	Serjeant-at-Arms
10.	Ms. Ivy Mumbi	-	Committee Intern

MEMBERS OF PARLIAMENT

1.	Hon. Walter Owino, MP	-	MP, Awendo Constituency
2.	Hon. John Makali, MP	-	MP, Kanduyi Constituency
3.	Hon. James Oyoo, MP	-	MP, Muhoroni Constituency

AGENDA

1. Prayers
2. Preliminaries/Introductions
   i. Adoption of the Agenda
   ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Meeting with Members of Parliament to consider the Treasury Memorandum on Action Plans to Revive & Commercialise the State-Owned Sugar Companies**
5. Any other Business
6. Adjournment/Date of the Next Sitting

MIN NO. DDC/JOINT/2023/06: PRELIMINARIES

The meeting was called to order at thirteen minutes past three o'clock with a word of prayer from the Chairperson of the Departmental Committee on Agriculture and Livestock.

The Chairperson then called for introduction of those present in the meeting before inviting the Members of Parliament to make their submissions.

MIN NO. DDC/JOINT/2023/07: CONFIRMATION OF MINUTES

Agenda deferred.

MIN NO. DDC/JOINT/2023/08: **MEETING WITH MEMBERS OF PARLIAMENT TO CONSIDER THE TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALISE STATE-OWNED SUGAR COMPANIES**

HON. WALTER OWINO, MP AWENDO CONSTITUENCY (SOUTH NYANZA SUGAR COMPANY)

In his submission, Hon. Owino stated that farmer's arrears and salary arrears dating back to 2019 should be paid before the leasing process begins. He added that the factory and nucleus land should not be separated, measures should be put in place to encourage farmers to go back to sugarcane farming, stakeholder engagement should be part of the process, the CSR activities that the investor will initiate in the areas should be communicated and employees assured that their jobs are safe and informed of the benefits that they will bet after the process.

HON. JAMES K'OYOO, MP, MUHORONI CONSTITUENCY (MUHORONI, CHEMELIL AND MIWANI SUGAR COMPANIES)

Hon. K'Oyoo stated that he will support the leasing process if it is conducted in a transparent manner and members of the public involved in the process through their leaders.

He further stated that 98.3% of the Chemelil Sugar Company land is owned by the Agricultural Development Corporation (ADC). Part of the land was grabbed by prominent persons. The land needs to be returned to ADC.

He observed that the many cases at Miwani Sugar Company had impacted negatively on the performance of the Company and needed to be withdrawn. Additionally, sugar importing barons should be eliminated from the sector.

HON. JOHN MAKALI, MP, KANDUYI CONSTITUENCY (NZOIA SUGAR COMPANY)

Hon. Makali informed the meeting that Nzoia Sugar Company is faced with a myriad of challenges including: non-payment of farmers for ten months, non-payment of salaries for the last 11 months, an underutilized nucleus, governance issues, obsolete technology, cane poaching among others.

He stated that he was in support of the proposal in the Memorandum to write-off debts owed to the Government and taxes but was not in support of the leasing of Nzoia Sugar Company. He proposed that the Company should be handed over to the County Government of Bungoma if the Government is unable to run it.

DELIBERATIONS

The Members of Parliament stated that they will support the leasing model if:
1. The lease period does not exceed 20 years.
2. New and modern plants are installed.
3. Farmers' arrears and salary arrears are cleared before the leasing process begins.
4. The lessee neither imports sugar nor poaches sugarcane.

5. The nucleus estates are not sold and neither should they be put under any other use besides growing sugarcane.
6. The lessee undertakes to undertake cane development for farmers.
7. Stakeholder engagement is conducted.

The Members of Parliament observed that millers should not be involved in sugar importation. Additionally, farmers need to be involved in management of the sugar companies and the companies given capital for revitalisation. Further, the sugar pricing committee should be empowered.

MIN NO. DDC/JOINT/2023/09: ADJOURNMENT

The meeting was adjourned at two minutes past five o'clock. The next meeting will be held on 6th September 2023 at 9.30 am.

Signed: .....

Date: 12th Sept. 2023

Hon. (CPA.) Francis Kuria Kimani, MP
Chairperson, Departmental Committee
on Finance & National Planning

Signed: .....

Date: 12/09/2023

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

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 1ST JOINT SITTING OF THE DEPARTMENTAL COMMITTEES ON FINANCE & NATIONAL PLANNING; AND AGRICULTURE AND LIVESTOCK HELD ON TUESDAY, 5TH SEPTEMBER 2023 IN TWENDE CONFERENCE ROOM, BEST WESTERN HOTEL IN KISUMU COUNTY AT 9.30 A.M.

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

PRESENT

1. Hon. (CPA.) Francis Kuria Kimani, MP - **Chairperson**
2. Hon. David Mwalika Mboni, MP
3. Hon. Paul Kibichiy Biego, MP
4. Hon. (CPA.) Joseph Maero Oyula, MP
5. Hon. (Dr.) John Ariko Namoit, MP
6. Hon. (CPA.) Julius Kipletting Rutto, MP
7. Hon. Joseph Makilap Kipkoros, MP
8. Hon. Joseph Munyoro, MP

ABSENT WITH APOLOGY

1. Hon. (Amb.) Benjamin Langat, CBS, MP - **Vice-Chairperson**
2. Hon. George Sunkuyia Risa, MP
3. Hon. (Dr.) Adan Keynan Wehliye, CBS, MP
4. Hon. Andrew Adipo Okuome, MP
5. Hon. Mohamed Soud Machele, MP
6. Hon. (Dr.) Shadrack Mwiti Ithinji, MP
7. Hon. Umul Ker Sheikh Kassim, MP

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

PRESENT

1. Hon. (Dr.) John Kanyuithia Mutunga, MP - **Chairperson**
2. Hon. Brighton Leonard Yegon, MP - **Vice-Chairperson**
3. Hon. Sabina Wanjiru Chege, CBS, MP
4. Hon. Justice Kipsang Kemei, MP
5. Hon. Geoffrey Makokha Odanga, MP
6. Hon. David Kiplagat, MP
7. Hon. Gabriel Gathuka Kagombe, MP
8. Hon. Pamela Njoki Njeru, MP
9. Hon. Patrick Kibagendi Osero, MP
10. Hon. Peter Kalerwa Salasya, MP

ABSENT WITH APOLOGY

1. Hon. Ferdinand Kevin Wanyonyi, MP
2. Hon. Jared Okello Odoyo, MP
3. Hon. Lawrence Mpuru Aburi, MP
4. Hon. Monicah Muthoni Marubu, MP
5. Hon. Yussuf Mohamed Farah, MP

INATTENDANCE

SECRETARIAT

1.	Mr. Benjamin Magut	-	Senior Clerk Assistant
2.	Ms. Laureen O. Wesonga	-	Clerk Assistant I
3.	Mr. Benson Kamande	-	Clerk Assistant III
4.	Mr. Victor Kanda Kilimo	-	Clerk Assistant III
5.	Mr. Gerald Kadede	-	Legal Counsel II
6.	Ms. Noelle Chelagat	-	Media Relations Office II
7.	Ms. Nelly Ondieki	-	Research officer III
8.	Mr. Mwangi Muchiri	-	Audio Officer
9.	Mr. Simon Ouko	-	Serjeant-at-Arms
10.	Ms. Ivy Mumbi	-	Committee Intern

MEMBERS OF COUNTY ASSEMBLY

1.	Hon. Osewe Collince	-	Migori County
2.	Hon. Vitalis O. K'omudho	-	MCA Muhoroni Koru Ward, Kisumu County
3.	Hon. Warindu Geofrey	-	MCA Miwani Ward, Kisumu County
4.	Hon. Peter Oiko	-	Kisumu County
5.	Hon. Fredrick O. Adonya	-	MCA Chemelil/Tamu Ward, Kisumu County

AGENDA

1. Prayers
2. Preliminaries/Introductions
   i. Adoption of the Agenda
   ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Briefing on the Treasury Memorandum on Action Plans to Revive & Commercialise State-Owned Sugar Companies**
5. **Meeting with Members of County Assemblies to consider the Treasury Memorandum on Action Plans to Revive & Commercialise the State-Owned Sugar Companies**
6. Any other Business
7. Adjournment/Date of the Next Sitting

MIN. NO. DDC/JOINT/2023/01: PRELIMINARIES

The meeting was called to order at quarter to ten o'clock with a word of prayer by the Hon. Peter Salasya, MP. The Chairperson of the Departmental Committee on Finance and National Planning called for introduction of those present in the meeting.

The Chairpersons of the two Committees thanked Members for creating time to attend the retreat. They called on Members to attend the meetings with an open mind with the aim of making decisions that will revive the sugar sector in the country.

The Programme for the retreat was then adopted having been proposed by Hon. David Mboni, MP and seconded by Hon. Patrick Osero, MP.

MIN NO. DDC/JOINT/2023/02: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

There were no minutes to be confirmed.

MIN NO. DDC/JOINT/2023/03: BRIEFING ON THE TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE & COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES

The Chairperson of the Finance & National Planning invited the Research Officer and the Legal Counsel to brief the meeting on the Memorandum.

The Research Officer, Ms. Nelly Ondieki, informed the meeting that the objective of the action plan is to create a competitive sugar sub-sector with the ability to withstand withdrawal of COMESA safeguards with a focus on modernization of sugar milling plants which will improve production and operation efficiency, enhance cane development in both nucleus estates and small-holder farms and improve cane sucrose content to 13-14%.

The Memorandum proposes a leasing model that will bring on board private capital, expertise and modernization of sugar mills for efficient commercial operations; leasing the nucleus estates and factory land to private investors; writing-off debts owed to the GoK and Kenya Sugar Board (KSB)/the Commodities Fund; and writing-off taxes, penalties and interest owed to the Kenya Revenue Authority (KRA).

The Memorandum was also proposing to merge Chemelil Sugar Company and Muhoroni Sugar Company into one factory and that bidding for the two factories will be done by one investor.

The Memorandum highlighted the challenges facing the public mills, objectives of the Action Plan, proposed strategic interventions, status of Mumias Sugar Company, benefits of the proposed leasing model and the request to the National Assembly.

Ms. Ondieki observed that the Memorandum was silent on the treatment of staff salary arrears of KSh. 5,234,465,033 and other creditors' payables of KSh. 5,202,552,937. The Memorandum tasked the Ministry of Agriculture and Livestock Development and the National Treasury to come up with a payment plan for farmers' arrears of KSh. 1,715,219,404.

Legal Brief

Mr. Gerald Kadede, the Legal Counsel, highlighted sections of the Privatisation Act (No. 2 of 2005) which provide for methods of privatisation. He focused on sections 17, 22, 23 and 25.

He observed that the Joint Committee could either recommend to the National Assembly to approve the method approved by the Cabinet if they are convinced that it is sufficient and require the CS National Treasury and Economic Planning to table reports on the progress made on each approved privatisation method or recommend to the National Assembly not to approve the

method approved by Cabinet and instead recommend for a privatization programme to be developed and implemented by the Privatization Commission in accordance to the Act.

Further, if the Committee is convinced by the method approved by the National Assembly in 2015 it can recommend to the National Assembly to decline to vacate the privatization model approved in 2015 as recommended by the Cabinet and instead approve its implementation.

MEMBERS' OBSERVATIONS

From the briefings, Members made the following observations:

1. Proper due diligence should guide the leasing process.
2. Proposals in the Privatisation Bill, 2023 need to be considered during the leasing process.
3. Writing-off debts doesn't necessarily mean that the companies will be profitable.
4. Tight mechanisms should be put in place to discourage running down of other public companies with the hope of being bailed out by the Government.
5. Farmers need to be supported to plant high yielding, fast maturing and high sucrose sugarcane.
6. Encourage production of by-products by the sugar company in order to diversify their revenue streams.
7. Other crops that can be used for sugar production should be identified.
8. The persons responsible for running down the public sugar mills should be identified and brought to book.

MIN NO. DDC/JOINT/2023/04: **MEETING WITH MCAS ON THE TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE & COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES**

The MCAs were in support of all proposals in the Memorandum except the proposal to merge Muhoroni Sugar Company and Chemelil Sugar Company because the merger will lead to job losses.

They observed that importation of sugar was an impediment to development of the local sugar industry. They also observed that the court cases at Miwani Sugar Company need to be withdrawn.

They stated that terms and conditions of leasing should be set out clearly. Records of the paid liabilities should be made public. Good managers should be appointed to manage the companies.

DELIBERATIONS

1. On the payment of farmers' arrears, the MCAs observed that this will encourage farmers to go back to sugarcane farming, a practice that most of them had abandoned.
2. On sugar importation, the MCAs informed the meeting that the process of sugar importation should be clear and open.
3. Regarding improving sugarcane varieties, the MCAs noted that there should be a link between sugarcane farmers and research institutions for access to good sugarcane varieties by farmers.

MIN NO. DDC/JOINT/2023/05: ADJOURNMENT/DATE OF THE NEXT MEETING

There being no other business, the meeting was adjourned at ten minutes past two o'clock. The next meeting will be held at three o'clock.

Signed: .....

Date: 12th Sept. 2023

Hon. (CPA.) Francis Kuria Kimani, MP
Chairperson, Departmental Committee on Finance & National Planning

Signed: .....

Date: 12/09/2023

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

ANNEX THREE: TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALISE STATE-OWNED SUGAR COMPANIES

REPUBLIC OF KENYA



TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALIZE THE STATE-OWNED SUGAR COMPANIES

AUGUST 2023

1. BACKGROUND

a) The Kenya sugar sub-sector plays a vital role in the agricultural sector and the Kenyan economy. The industry contributes to food security, employment creation, regional development and improved livelihoods for more than 8 million Kenyans.

b) Kenya has the potential to produce enough sugar to satisfy her domestic demand and provide surplus for export. Sugarcane is grown in 14 counties spread across Western, Nyanza, Rift Valley and Coastal regions mainly on small-scale farms.

c) The Kenya sugar industry comprises sixteen milling factories with an installed capacity of 41,000 TCD, five of which are public owned. The public mills are; Chemelil Sugar Company, Miwani Sugar Company (In Receivership), Muhoroni Sugar Company (In receivership), Nzoia Sugar Company, South Nyanza Sugar Company and Mumias Sugar Company where the National Treasury is the single largest shareholder.

d) By late 1990s, the Public owned sugar mills were already in financial distress and the situation has persisted to date.

e) The Sessional Paper No. 12 of 2012 approved the restructuring of the public owned sugar mills balance sheets through;

   a. A debt write-off of Kshs. 33,780,465,838.00 for the five sugar companies owed to GoK and Kenya Sugar Board (Commodities fund).

   b. Write off of tax penalties and interest estimated at Kshs. 4.0 billion as at 30th June 2009 and any additional interest and penalties that have accrued since then.

f) The National Assembly in 2015 approved the privatization of the state-owned sugar Companies.

g) The implementation of the privatization process was not concluded as it was opposed by stakeholders especially the communities because of sensitivities around permanent divestiture of land.

2. CHALLENGES FACING PUBLIC OWNED SUGAR MILLS.

The public owned sugar mills in Western Region continue to face several challenges which include lack of annual plant maintenance, poor governance, lack of capital and high debt portfolio, ageing plants and equipment's, obsolete technology and operational inefficiency, declining cane yields, low value addition initiatives, reduced incomes to farmers and weak regulatory framework.

a) **Poor Governance**-The governance issues are characterized by mismanagement of public resources, blotted workforce, non-adherence to procurement laws, dysfunctional organization structure and inadequate capacity and requisite experience to turn around these institutions.

b) **Failure in Institutional structures, processes and policy to address current issues in the sugar industry.**

i. Research and development into more productive cane varieties and methods of cane husbandry has

not been given the attention it deserves, particularly in this era of globalization and intense competition. Factories have, by and large, left this important aspect of cane development and production in the hands of agricultural research institutions; which, due to lack of resources and negligible lobbying by sugar industry stakeholders, have not made much headway in cane research and development. The sucrose content of cane grown by Kenyan farmers is much lower than that found in sugar exporting countries such as Sudan and Brazil.

ii. Extension services for cane farmers are limited in scope and not nearly enough resources are allocated to this important aspect of good cane husbandry. Evidence shows that access by farmers to extension officers dramatically improves and sustains good quality crop yields. The lack of significant investment in this vital area of cane

growing is partly responsible for the poor cane yields and quality produced by farmers in a number of sugar growing areas.

iii. Given the rising costs of farm inputs, it would be prudent to facilitate the easier access to cheap credit by farmers to enable them by purchase the necessary inputs and make improvements to their farms. However, this has not materialized, leaving farmers with no choice but to scale back their acreage under sugar, or abandon sugar altogether for an economically sustainable crop. Stakeholder and shareholder institutions, such as factories and grower cooperatives, have been slow to take the initiative and provide farmers with the much-needed credit.

iv. The Government, despite being a major shareholder and stakeholder in the sugar sub-sector, has been unable to address the problems

bedevilling the industry in a satisfactory manner. Its involvement in the sugar industry, together with the lack of private sector orientation and political interference in the running of sugar companies has been cited as one of the main reasons for low levels of productivity and investment in this sector. In contrast, the private sector management and orientation, has been able to post an operating profit and make substantial investments in its equipment and out grower activities. Government levies and taxes on sugar inputs (fuel, fertilizers, implements) are excessive and contribute heavily to the high and uncompetitive price of local sugar vis-à-vis imported sugar.

v. For proper industry aggregation to be effective, contract farming approach must be adopted, where they invest in farms and deduct a profit following production. While this is a feasible

model, cane poaching has proven to be an imminent problem. Sugar companies invest in a farmer in a bid to get some proceeds from the cane which takes roughly 18 months to mature, however it is not uncommon for farmers to sell the cane on to another company causing the original investor to lose out, in most cases, they do not realize for months. Regulation and monitoring of investments have been difficult for these companies to track.

c) **Lack of capital and high Debt**-Public mills owe substantial amounts of money to farmers, suppliers for goods and services rendered, employees salary arrears, huge un-serviced loans and interest to financiers, loss making operations and failed projects that have left these companies with huge debt burden without corresponding assets. This has made it very difficult for these mills to attract fresh funds

particularly from commercial financial institutions. Statutory deductions have not also been remitted to the relevant agencies including Pay as You Earn (PAYE), National Hospital Insurance Fund (NHIF), National Social Security Fund (NSSF), Cooperative and welfare deductions. The debts status as follows;

	CHEMELIL	SOUTH NYANZA	NZOIA	MUHORONI	MIWANI
Farmers Arrears	263,017,939	865,853,677	269,606,265	316,651,523	-
Salary Arrears + other emoluments	1,116,195,344	1,194,397,767	1,843,427,512	1,080,444,410	-
Taxes and Penalties	3,739,893,783	2,682,825,089	12,262,706,248	14,120,931,330	17,338,445,158
SDL	3,740,868,462	503,244,772	3,637,056,220	3,466,198,521	-
Govt Loans		888,122,168	43,429,720,791	6,223,114,853	3,890,122,859
Other Creditors	1,068,049,871	1,146,745,520	1,241,204,717	926,550,290	820,002,539
TOTAL	**9,928,025,399**	**7,281,188,993**	**62,683,721,753**	**26,133,890,927**	**22,048,570,556**
GRAND TOTAL					**128,075,397,628**

d) **Ageing plants, machineries, obsolete technologies and operational inefficiencies-**The public owned mills operate ageing plants and equipment with obsolete technologies. This is exacerbated by lack of annual maintenance of mills hence operates below fifty percent of their installed capacities. As a result, these mills cannot break even and consequently accumulate debt on a daily basis.

3. **Challenges of Government Bureaucracy in running commercial enterprises:** Government owned and run enterprises are highly constrained by bureaucratic requirements, lack of commercial incentives and centralized decision making. Control of businesses by government bureaucracies or by legislation is at best done in the context of the needs of the whole nation and at the worst in the context of commercial objectives or in a competitive environment. In this

case decisions are slow and unresponsive to the needs of the company.

4. OJECTIVES OF THE ACTION PLANS

The proposed action plans are targeted to achieve the following objectives:

i. **Creation of a competitive sugar sector: The Government intends to create a competitive sugar sector that can withstand the withdrawal of the COMESA safeguards.**

ii. **Enhance the profitability of sugar farming: The plans are aimed at increasing the incomes of sugar farmers to ensure sustainability of the sector. The key outcome should be to provide farmers with adequate, dependable and sustainable incomes hence addressing the issue of poverty in the sugar growing zones.**

iii. **Enhance productivity in the sector: Productivity will be focused on four key areas:**

   a) **By Investing on modern sugar milling plants which will enhance production efficiency,**

diversified product range: sugar, molasses, ethanol and green power through co-generation.

b) By increasing the tonnes of cane harvested per acre from the current average of to an average 35 tonnes per acre.

c) Increase the sugar recovery rate from the current average of 12.5% to 6-8% per tonne of cane.

d) Increase the cane sucrose content to 13-14%.

iv. Achieve economies of scale: Competitiveness shall be achieved by delivering economies of scale by ensuring adequate supply of cane to meet optimal factory operations. Delivery of made sugar at competitive rates will allow the sector to thrive even with removal of COMESA safeguards.

5. PROPOSED STRATEGIC INTERVENTIONS

As part of the sugar industry reforms and in the implementation of the sugar industry stakeholder's

taskforce report 2019, it is recommended that corporate re-organization and financial restructuring of public sugar mills be done as proposed below:

i) Bring onboard private capital, expertise and modernization of sugar mills with adequate suga to allow them to run efficiently and operate on commercial principles.

ii) Enhance cane development in both nucleus estates and small-holder out-grower farms.

iii) Address stakeholder and community sensitivities on permanent divestiture of land: The recommendation is to seek for utilization of nucleus estate lease proceeds to incentivize small holder farmers to enhance production through a payment of a loyalty bonus and in community development projects by funding CSR projects.

iv) The proposed lease model shall be executed by unbundling the nucleus estate land and the factory land. The existing run-down factories shall be disposed in compliance with existing

procurement regulations and the successful investors shall be provided with land which they can lease and construct a modern factory. In this case, it makes it possible for the factory to be run by the private sector without permanently divesting the nucleus estates hence meeting the stakeholder and community requirements.

v) Expedite the leasing of the five sugar companies to facilitate rehabilitation and expansion with a view to enhancing competitiveness of the industry prior to lapsing of the Common Market for Eastern and Southern Africa (COMESA) sugar safeguards;

vi) Achieve cane catchment of viable sizes, hence the need for consolidation: Creation of financially viable sugar companies, able to access adequate cane, considering minimum viable size of area of 29,914 hectares required to supply cane to one factory. The minimum land size was arrived at by taking into account the break-even

crushing factory capacity required per annum, the average cane yield per hectare, cane maturity period and the planted cane area required to break even;

vii) It is recommended that Nzoia and South Nyanza Sugar Companies which have a cane growing area of 49,862 hectares and 81,415 hectares, respectively to be retained as they are;

viii) Chemelil Sugar Company and Muhoroni Sugar Company which have cane growing areas of 18,437 hectares and 22,134 hectares, respectively to be merged to form one zone with a total cane growing area of 40,571 hectare;

ix) The decisions on the Miwani Sugar Company to be made once on-going court cases are determined;

x) Investors interested in either Chemelil or Muhoroni Sugar Companies will be required to bid for both. This will facilitate a leasing

arrangement that allows for the two factories/zones merging;

Proposed Merging of Existing Sugar Zones

FACTORY	ASSUMED TOTAL AREA AVAILABLE BEFORE MERGER	ASSUMED TOTAL AREA AVAILABLE AFTER MERGER
Chemelil Sugar Company	18,487	40,571
Muhoroni Sugar Company	22,134	
Miwani Sugar Company	9,143	9,143
Nzoia Sugar Company	49,862	49,862
Sony Sugar Company	31,415	31,415

Total	131,041	131,041

xi) Restructuring of the sugar Companies balance sheets as follows:

a) That the total of the total Kshs. 65,778,448,646.00 owed to Government of Kenya and Kenya Sugar Board as at 30th June 2023 by the five sugar companies be written off. A write off approval of Kshs. 33,780, 465,838.00 was granted by Parliament in January 2013. However, the Government has not executed Parliament's approval as it was tied to the privatization process.

b) Write off of tax penalties and interest estimated at Kshs.50,144,801,608.00 as at 30th June, 2023.

c) A payment plan for balances owed to farmers amounting to Kshs.1,715,129,404.00 be worked out by the Ministry of Agricultures & Livestock Development and the National Treasury.

xii) Regulation of Factory Zones to ensure financial viability and future sustainability of the sugar companies by clearly defining each factory zone prior to inviting final bids for the leasing program and ensuring that the zones are complied with by all stakeholders.

xiii) Government to support small holder cane farmers to develop the crop and enhance productivity.

xiv) Legal Reforms in the sector: Government to come up with mechanisms to enhance efficient settlement of disputes efficiently to mitigate the numerous legal suits filed by sector players in court.

xv) Enforce Zoning to incentivize investors in the sector to bring order and spur production.

6. STATUS OF MUMIAS SUGAR COMPANY AND WAY FORWARD

The near collapse of Mumias Sugar Company has adversely affected the residents of Kakamega County as sugarcane farming is the main cash crop in the area.

The Government holds 306,000,000 shares out of the 1,530,000,000 shares issued representing 20% while the other 80% is held by private shareholders. The Company was listed at the Nairobi Securities Exchange in 2001 and constituted the top 20 most valuable Companies at the exchange up to 2014 when its performance deteriorated due to mismanagement.

The Company was placed under receivership by KCB Bank on September 20, 2019. The Board was then dissolved and a consultancy PVR Rao was appointed to run the operations. The Capital Markets Authority (CMA) suspended the Company's shares from trading in line with the Capital Markets regulations.

Based on the above tabulation, the debts relating to the Government of Kenya sum up to Kes 8.7 billion.

The turn-around of Mumias Sugar Company is a matter of great concern to the Kenya Kwanza administration it is anchored in the bottom-up economic agenda (BETA) aimed at creating jobs, promoting exports and more importantly foster development in the western region. The Government supports the leasing model adopted by KCB in its bid to turn-around the Company by inviting private sector to take up the operations of the Company.

The paper seeks to implement the recommendations of the sugar industry stakeholder's taskforce report of 2019, which recommended that corporate re-organization and financial restructuring of public sugar mills in the case of Mumias Sugar Company the following observations were made:

i. Negotiate with banks and other creditors for the restructuring of other debts.

ii. In cognizance of the fact that Mumias Company is no longer a public mill, it is recommended that a revitalization committee be appointed to work with the Board, County Governments and other key stakeholders to identify and implement an effective restructuring plan.

7. THE NATIONAL BENEFITS ACCRUING FROM THE PROPOSED LEASING MODEL

The benefits of leasing are:

a) Allows for private sector participation without undertaking a permanent divestiture process.

b) Enhance the livelihoods of farmers, Employees and Communities-Make sugar cane farming profitable and sustainable.

c) Modernization of the sugar mills-Efficiency and hence profitability.

d) Development of the nucleus estates.

e) Generation of taxes.

f) Improve competitiveness and increased sugar production to meet domestic demand hence save on Forex occasioned by imports.

g) Enhance product diversification-Co-generation and ethanol production.

h) Cut Public Sector Financing through Private sector participation.

i) Improve Business environment in Kenya-Mitigate conflicts/Regulation and Commercial roles.

8. REQUEST TO THE NATIONAL ASSEMBLY

The National Assembly is invited to;

i. **Consider and approve** as follows;

a) Write off of loans owed by the five (5) public mills to GoK and KSB/Commodities fund amounting Kshs.65,778,448,646.00 as at 30th

June 2023 and any other accrued interest as at the date of approval.

ii. **Approve the cabinet decision directing** the Cabinet Secretary, the National Treasury to write off the tax penalties and interest as approved by parliament amounting to Kshs. 50,144,801,608.00 billion as at 30th June 2023 and any additional interest and penalties that have accrued since then.

iii. **Approve** the Vacation of the privatization model approved by parliament in 2015.

iv. **Approve** the leasing model for the five (5) public owned sugar mills (Nzoia Sugar Company, Chemelil Sugar Company, Miwani Sugar Company (In Receivership), Muhoroni Sugar Company (In receivership) and South Nyanza Sugar Company).

ANNEX FOUR: NATIONAL TREASURY LETTER ON TAXES, PENALTIES AND INTEREST

REPUBLIC OF KENYA
THE NATIONAL TREASURY AND ECONOMIC PLANNING

Telegraphic Address: 22921
FINANCE – NAIROBI
Fax No. 315779
Telephone: 2252299

THE NATIONAL TREASURY
P.O. Box 30007 - 00100
NAIROBI
KENYA

Ref: TNT/CONF 268/014 'J' (80)

Date: 12th September, 2023

Samuel Njoroge
Clerk of National
Parliament of Kenya.
Nairobi.

Dear Clerk,

Re: FOLLOW-UP ON THE JOINT MEETING - CONSIDERATION OF THE NATIONAL TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES

This is in reference to your letter No. NA/DDC/A&L/2023/057 dated 30th August, 2023. The Cabinet Secretary, National Treasury and Economic Planning had been invited to a meeting with the two Committees of National Assembly; Departmental Committees on Finance and National Planning and Agriculture and Livestock. The agenda of the meeting is to submit the Ministry's comments on the '**National Treasury Memorandum of Action Plans to Revive and Commercialize the State-Owned Sugar Companies**' on **Thursday, 7th September, 2023 in Kisumu County.**

The National Treasury hereby commits itself to the figures from KRA on taxation and penalties owed by the Sugar companies under discussion. A copy of the same is attached for your perusal and reference

Yours sincerely

for

Dr. CHRIS KIPTOO, CBS
PRINCIPAL SECRETARY/NT

NATIONAL ASSEMBLY
RECEIVED
13 SEP 2023
CLERK'S OFFICE
P. O Box 41842, NAIROBI

Copy: **Hon. (CPA) Francis Kuria Kimani, M.P**
The Chairperson
Departmental Committee on Finance and National Planning
National Assembly, Parliament Buildings
Nairobi

Mr. Benjamin Magut
Pls deal urgently.

Copy: **Hon. Mutunga John Kanyuithia, M.P**
The Chairperson
Departmental Committee on Agriculture and Livestock
National Assembly, Parliament Buildings
Nairobi

https://mail.google.com/mail/u/0/#inbox?projector=1

9/12/23, 3:01 PM

Table 2: Breakdown of total taxes due

PIN	Taxpayer	Principal Tax (Ksh)	Penalty (Ksh)	Interest (Ksh)	Total Amount Payable (Ksh)	Remarks
P000626584I	Mumias Sugar Company	7,133,719,635	4,342,635,503	8,764,330,734	20,240,685,872	Case is under Receivership. KRA has registered our interest to the registrar.
P000608568K	Nzoia Sugar Company	4,186,369,531	57,188,128	2,899,356,655	7,142,914,315	Taxpayer defaulted the payment plan of Kshs.5M per month citing suspension of operations at the company
P000626467G	Chemili Sugar Company	1,713,059,990	70,272	1,083,363,861	2,796,494,123	The company via letter dated 11.08.2023 indicating suspended milling operations for a period of 3 Months, to allow for adequate cane development in the affected sugar belts
P000626335V	Muhoroni Sugar Company	2,005,382,927	84,839,507	1,148,481,022	3,238,703,456	Taxpayer defaulted the payment plan of Kshs.5M per month citing cash flow issues.
P051091500D	Miwani Sugar Company	678,236	836,400	591,585	2,106,221	For Corporation tax, the taxpayer has carried forward losses amounting to Kshs. 358,087,024.
P000609298P	South Nyanza Sugar Company	2,020,718,335	88,283,410	1,089,778,547	3,198,780,292	The taxpayer is under a payment plan of Kshs 30M per month.
TOTAL		**17,059,928,654**	**4,573,853,221**	**14,985,902,404**	**36,619,684,278**	

KENYA REVENUE AUTHORITY
Confirmed
P. O. Box 48240 - 00100, NAIROBI
Date: 06/09/2023
Sign:

IMG-20230912-WA0002.jpg

Approved SNA 14/9/23

VOLUME II: ANNEXURES TO THE REPORT ON THE NATIONAL TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES

1. ANNEX FIVE: SESSIONAL PAPER NO. 12 OF 2012
2. ANNEX SIX: LETTERS INVITING STAKEHOLDERS FOR THE MEETINGS
    A. LETTER TO GOVERNORS
    B. LETTER TO MPS, SENATORS AND WOMEN REPRESENTATIVES
    C. LETTER TO MANAGEMENT OF STATE-OWNED SUGAR COMPANIES
    D. LETTER TO COMMISSIONER GENERAL KRA
    E. LETTER TO NATIONAL TREASURY AND MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT
3. ANNEX SEVEN: WITNESS ATTENDANCE REGISTERS
4. ANNEX EIGHT: SUBMISSIONS FROM STAKEHOLDERS
    A. KENYA NATIONAL FEDERATION OF SUGARCANE FARMERS SONY BRANCH
    B. KENYA NATIONAL FEDERATION OF SUGARCANE FARMERS CHEMELIL BRANCH
    C. SUGAR CAMPAIGN FOR CHANGE
    D. KENYA SUGARCANE GROWERS ASSOCIATION
    E. KENYA NATIONAL FEDERATION OF SUGARCANE FARMERS MUHORONI BRANCH
    F. MUMIAS SUGAR COMPANY FARMERS
    G. MUMIAS SUGAR (2021) LIMITED
    H. SONY SUGAR COMPANY
    I. NZOIA SUGAR COMPANY
    J. MUHORONI SUGAR COMPANY (IN RECEIVERSHIP)
    K. MIWANI SUGAR COMPANY (IN RECEIVERSHIP)
    L. CHEMELIL SUGAR COMPANY
    M. MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT
    N. THE NATIONAL TREASURY
    O. KENYA REVENUE AUTHORITY
    P. HON. EMMANUEL WANGWE, MP
    Q. HON. JOHN WALUKE, MP
    R. MUMIAS OUT-GROWERS COMPANY (1998) LIMITED
    S. SUGAR RESEARCH INSTITUTE

ANNEX FIVE: SESSIONAL PAPER NO. 12 OF 2012

ANNEX FIVE

REPUBLIC OF KENYA

MINISTRY OF FINANCE

PAPER LAID By the Minister for Finance Hon. Githae on 6/12/2012

SESSIONAL PAPER NO. 12 OF 2012 ON WRITE OFF OF EXCESS GOVERNMENT OF KENYA DEBT OWED BY THE PUBLIC SECTOR OWNED SUGAR COMPANIES

1. The following information is laid before the National Assembly for consideration and approval.

2. Kenya's sugar sub-sector which supports over six million Kenyans and has a critical role in achieving Vision 2030 objectives is likely to collapse when the COMESA sugar safeguards lapse, in view of the sector's inability to compete effectively with sugar from other countries, unless radical urgent reforms are put in place to facilitate rehabilitation and expansion necessary to make the industry competitive. Problems currently affecting the sector's competitiveness adversely include:

   (a) Low productivity which is traceable to the whole cane and sugar production chain. This results in a vicious circle since the factories are unable to reinvest and operate efficiently and farmers are not paid on time making it difficult for them to invest adequately at farm level. It also results in poor factory maintenance and breakdowns at factory level and low quality sugar cane at farm level, culminating in poor sucrose content and recovery and low incomes for farmers.

(b) Poor state of infrastructure which contributes significantly to the high transport costs, currently accounting for up to 40% of cane production costs.

(c) Un-economical land sizes with farm units of two (2) to three (3) acres which restricts mechanization and makes it difficult to enjoy economies of scale enjoyed by many sugar producers as nearly 90% of sugar in the world is grown on large sugar plantations.

(d) Variable and low yields due to over-dependence on rain-fed sugarcane.

(e) Poor post-harvest management owing to delays in cane harvesting and milling, cane spillage and low processing efficiencies resulting in cane and sucrose losses as high as 50%.

(f) Weak research-extension-farmer linkages resulting in low adoption of modern technologies and continued planting of low yield cane varieties.

(g) Inadequate funding of the industry which manifests itself in obsolete factory mills, inefficient operations and delayed payments to farmers.

(h) Low crushing time efficiency (time in a year when factory is operating) due to use of very old machinery and equipment and in some cases shortage of sugar cane to be crashed.

(i) Policy inadequacies such as the price control regime with regard to which price adjustments were not always made on time to cushion the companies from increasing costs of production and financing without due regard to appropriate

leverage ratios and ability of the factories to service the debt.

(j) Poor Management of the Sugar Industry particularly in the areas of employment and procurement of uncompetitive goods and services. In many cases appointments for senior management were made without due regard to merit, qualifications, experience and appropriate skills in leadership.

(k) Over-employment and corresponding high wage bills that erode the resources that could have been utilized to reinvest in the factories to reduce financial stress for the companies.

(l) High levels of debt mainly attributed to the nature of financing most of which was in the form of debt, mismanagement, competition from imports, loss making operations and related liquidity problems which made it difficult to repay the debt and failed projects that left the companies (especially Nzoia Sugar Company) with huge debt burden without corresponding assets. The amounts owed to the Kenya Government and the Kenya Sugar Board are indicated in the table attached as Appendix 1 to this Paper.

(m) Involvement of sugar factories in non-core activities such as running of big football clubs and schools.

3. In its meeting held on 14th October 2010 the Cabinet considered recommendations submitted to it by the Deputy Prime Minister & Minister for Finance and the Minister for Agriculture on the measures necessary to make the sugar companies competitive by 2012 and approved the following recommendations:

(i) Expediting of the privatization of the five sugar companies to facilitate rehabilitation and expansion with a view to enhancing competitiveness of the industry prior to lapsing of the Common Market for Eastern and Southern Africa (COMESA) sugar safeguards in line with Government commitments in 2008 when the COMESA safeguards were extended that it would:

(a) Adopt a privatization plan and grant the necessary approval for the privatization of all remaining publicly owned sugar mills by November 2008;
(b) Undertake verifiable steps towards the privatization of the publicly owned mills by November 2009; and
(c) Adopt an energy policy aimed at promoting co-generation and other forms of bio-fuel energy production that will contribute to making the sugar sector more competitive.

(ii) Creation of financially viable sugar companies, able to access adequate cane, considering minimum viable size of area of 29,914 hectares required to supply cane to one factory. The minimum land size was arrived at by taking into account the breakeven crushing factory capacity required per annum, the average cane yield per hectare, cane maturity period and the planted cane area required to break even. Nzoia and South Nyanza Sugar Company which have a cane growing area of 49,862 hectares and 31,415 hectares, respectively to be retained as they are, Chemelil Sugar Company and Muhoroni Sugar Company which have cane growing areas of 18,437 hectares and 22,134 hectares, respectively to be merged to form one company with a total cane growing area of 40,571 hectares and decisions on the Miwani Sugar Company to be made once on-going court cases are determined.

(iii) Restructuring of the sugar Companies balance sheets as follows:

(a) Out of the total Kshs.41, 825,786,485 owed to GOK and Kenya Sugar Board by the five sugar companies, as at 31st March & 30th June 2009, Kshs.33,780,465,838, be written off as at that date to clear excess debt from the books of the companies with excess debt (debt in excess of assets) i.e. Nzoia Sugar Company, Muhoroni Sugar Company and Miwani Sugar Company. The Kshs.33.8 billion to be written off to be divided proportionally between GOK and Sugar Board based on the respective amounts owed.

(b) That out of the remaining Kshs.8,045,320,647 after the debt write off to clear the excess debt, as at 31st March and 30th June 2009, an additional Kshs.5,952,000,000, equivalent to the asset value of plant and machinery, be written off to facilitate reconstruction of the sugar mills (new plant and equipment) if entire change in existing technology is necessary to enhance the sector's competitiveness.

(c) That all the remaining GOK debt in Nzoia Sugar Company, as at 30th June 2009 and in SONY Sugar Company and Chemelil Sugar Company as at 31st March 2009 be converted to equity to reduce the debt burden to the companies. Liquidity in the companies to be created through issuing of new shares whose proceeds will be retained by the companies.

(d) That when converting the GOK loans to equity, at the time of conversion, the value of shares held by the

other existing shareholders remain as it was prior to write off of the GOK and Sugar Board debt.

(e) The remaining Sugar Board debt as at 31st March and 30th June 2009 be repaid once adequate liquidity has been created in the sugar companies and the payments to staff and the farmers have been concluded.

(f) All surplus funds attributed to GOK ownership, after payment of farmers and employees to be remitted to the Exchequer.

(g) Write off of tax penalties and interest estimated at Kshs. 4.0 billion as at 30th June 2009 and any additional interest and penalties that have accrued since then.

(iv) Regulation of Factory Zones to ensure financial viability and future sustainability of the sugar companies by clearly defining each factory zone prior to inviting final bids for the privatization transactions and ensuring that the zones are respected by all stakeholders.

(v) Formation of an Outgrowers and Employees Investment Trust through which the farmers and employees will buy all the shares set aside for them. The farmers and employees will be allowed to trade the shares among themselves.

(vi) Write off of land rates and related penalties amounting to Kshs 117,884,303 as at 30th June 2009 and additional rates and related penalties that have accrued since then to enable Nzoia Sugar Company to obtain title deeds for its nucleus estate.

(vii) Sale of 51% shareholding of each of the sugar companies to a strategic partner/s. This takes into account the fact that the farmers are unlikely to be able to pay for their shares at the time of sale and that the law prohibits sale of shares on credit hence the shares reserved for farmers will remain under Government warehousing. It also takes into account the fact that, any sale to the strategic partner that is less than 51% is likely to maintain the company as a state corporation making it difficult to attract a strategic partner.

(viii) Sale of 24% of the shares to Outgrowers and Employees Trust with a further 6% shareholding reserved for the Trust if the Government decides to sale its remaining shares at a later date. As the farmers are unlikely to mobilize adequate resources to buy the allotted shares immediately, the shares will continue to be held for them by the Government and released as and when the Trust is ready to buy. In this respect, a moratorium of three years is recommended during which the Trust will be able to buy the shares at the price at which they were sold to the strategic partner. After the moratorium period, the shares will be sold to the Trust at market price that will reflect the market valuation of the shares of the rehabilitated companies.

(ix) Retention by the Government of 25% of the sugar companies' shareholding which it may decide to sell later through an Initial Public Offer (IPO) or any other method determined at the time of sale to meet the sugar industry's and the country's strategic objectives. In a future sale, part of this shareholding will be reserved for farmers, depending on their ability to buy and the needs of the companies.

(x) Amendment of the Sugar Act to repeal the clause which requires that the Outgrowers should hold 51% of a privatized sugar company shareholding as well as appoint

51% of directors of the privatised companies. This provision could only be realistic if farmers were able to raise funds to purchase 51% of the current shareholding of the company and also mobilize at least 51% of the resources required for the rehabilitation and expansion of the factories. Investors are unlikely to invest the amount of resources required in the sugar companies unless they have control over the operational management decisions.

4. The National Assembly is requested to note the recommendations approved by the Cabinet to enhance the viability of the sugar companies and ensure their continued viability and to approve the write-off of the Government and Sugar Fund loans as follows:

(i) Write off of Kshs. 1,536,783,331 and Kshs.1,400,221,630 due from Miwani Sugar Company to GOK and the Sugar Fund (as at 31st March 2009), respectively;

(ii) Write off of Kshs. 6,103,989,745 and Kshs.2,048,226,132 due from Muhoroni Sugar Company to GOK and the Sugar Fund (as at 31st March 2009), respectively;

(iii) Write off of Kshs.21,782,366,530 and Kshs.908,878,470 due from Nzoia Sugar Company Limited to GOK and the Sugar Fund (as at 30th June 2009), respectively;

(iv) Write off of additional Kshs.5,952,000,000 as at 30th June 2009 to facilitate reconstruction of the sugar mills (new plant and equipment) if entire change in existing technology is necessary to enhance the sector's competitiveness as indicated below. This excludes Miwani and Muhoroni Sugar Companies as all the GOK

and Sugar Board debt would be written off as at 31st March and 30th June 2009 to clear the excess debt.

(a) Nzoia Sugar Company: Kshs. 3,052,000,000

(b) South Nyanza Sugar Company Limited: Kshs. 1,600,000,000; and

(c) Chemelil Sugar Company Limited: Kshs. 1,300,000,000

HON. NJERU GITHAE, EGH, MP
MINISTER FOR FINANCE

Appendix 1

(i) Kenya Government and Kenya Sugar Board Debts

Actual Debt	GoK Debt	KSB debt	Total
Miwani	1,536,783,331	1,400,221,630	2,937,004,961
Muhoroni	6,103,989,745	2,048,226,132	8,152,215,877
Nzoia	27,300,186,971	1,139,111,865	28,439,298,836
SONY	558,723,228	641,198,443	1,199,921,671
Chemelil	-	1,097,345,140	1,097,345,140
TOTAL	35,499,683,275	6,326,103,210	41,825,786,485

(ii) Excess Debt proposed for write off based on proportions of GoK and KSB debts

KShs '000s	GoK Debt (kshs.'000)	KSB debt(kshs.'000)	TOTAL(kshs.'000)
Miwani	1,536,783	1,400,222	2,937,005 (Total amount written off)
Muhoroni	6,103,990	2,048,226	8,152,216 (Total amount written off)
Nzoia	21,782,367	908,878	22,691,245
TOTAL	29,423,140	4,357,326	33,780,466

ANNEX SIX: LETTERS INVITING STAKEHOLDERS FOR THE MEETINGS

ANNEX 6A

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: NA/DDC/A&L/2023/052 **30th August 2023**

H.E. RT. Hon. Kenneth Lusaka, EGH
Governor
Bungoma County
P.O. Box 437-50200
BUNGOMA
info@bungoma.go.ke

H.E. (Dr.) Ochillo Ayacko, EGH
Governor
Migori County
P.O. Box 195-40400
SUNA, MIGORI
info@migori.go.ke

H.E. (Prof.) Hon. Anyang' Nyong'o, EGH
Governor
Kisumu County
P.O. Box 2738-40100
KISUMU
info@kisumu.go.ke

H.E. (FCPA) Fernandes Barasa
Governor
Kakamega County
P.O. Box 36-50100
KAKAMEGA
info@kakamega.go.ke

Dear Sirs,

RE: CONSIDERATION OF THE NATIONAL TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES BY THE DEPARTMENTAL COMMITTEES ON FINANCE AND NATIONAL PLANNING; AND AGRICULTURE AND LIVESTOCK

The Departmental Committees on Finance and National Planning and Agriculture and Livestock are established pursuant to Standing Order 216 and are mandated *inter alia*, *"investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House"*.

Pursuant to the above mandate, the Speaker of the National Assembly referred the National Treasury Memorandum on Action Plans to Revive and Commercialise the State-Owned Sugar Companies (*copy attached*) to the Departmental Committees on Finance and National Planning and Agriculture and Livestock for consideration and reporting-back to the House.

The purpose of this letter is to invite you for a meeting to submit your comments on the Memorandum. The meeting will take place on **Tuesday, 5th September 2023** (*as per the attached programme*) at a venue to be confirmed in **Kisumu County.**

The Committees also request you to inform Members of the respective County Assemblies (MCAs) whose wards host the following sugar milling companies to attend the meetings: Chemelil Sugar Company; Muhoroni Sugar Company; Miwani Sugar Company; Nzoia Sugar Company; Mumias Sugar Company (MSC) and South Nyanza (SONY) Sugar Company.

The respective county government will meet the cost of travel for the Governor and Members of the County Governments.

You are requested to appear before the Committees with thirty (30) hard copies of your submission.

The liaison officers for this meeting are **Mr. Benjamin Magut** who may be contacted on **Tel. No. 0712974966** or **email: benjamin.magut@parliament.go.ke** or **Ms. Laureen Omusa Wesonga** on **Tel. No. 0710820442** or **email: laureen.wesonga@parliament.go.ke**.

Yours Sincerely,

DANIEL MUTUNGA
For: CLERK OF THE NATIONAL ASSEMBLY

ANNEX 6B

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: NA/DDC/A&L/2023/053

30th August 2023

Hon. John Waluke Koyi
Member of Parliament
Sirisia Constituency
Parliament Buildings
NAIROBI

Hon. Emmanuel Wangwe
Member of Parliament
Navakholo Constituency
Parliament Buildings
NAIROBI

Hon. James O. K'oyoo, MP
Member of Parliament
Muhoroni Constituency
Parliament Buildings
NAIROBI

Hon. Ruth Busia Odinga, MP
Member of Parliament
Kisumu County
Parliament Buildings
NAIROBI

Hon. John Walter Owino, MP
Member of Parliament
Awendo Constituency
Parliament Buildings
NAIROBI

Hon. Fatuma Z. Mohammed, MP
Member of Parliament
Migori County
Parliament Buildings
NAIROBI

Hon. John Makali, MP
Member of Parliament
Kanduyi Constituency
Parliament Buildings
NAIROBI

Hon. Catherine Wambilianga, MP
Member of Parliament
Bungoma County
Parliament Buildings
NAIROBI

Sen. (Prof.) Tom Ojienda, MP
Senator
Kisumu County
Parliament Buildings
NAIROBI

Sen. Eddy Oketch, MP
Senator
Migori County
Parliament Buildings
NAIROBI

Sen. David Wakoli Wafula, MP
Senator
Bungoma County
Parliament Buildings
NAIROBI

Hon. Johnson Naicca, MP
Member of Parliament
Mumias West Constituency
Parliament Buildings
NAIROBI

Hon. Peter Kalerwa Salasya, MP
Member of Parliament
Mumias East Constituency
Parliament Buildings
NAIROBI

Sen. Boni Khalwale, MP
Senator
Kakamega County
Parliament Buildings
NAIROBI

Hon. Elsie Muhanda, MP
Member of Parliament
Kakamega County
Parliament Buildings
NAIROBI

Dear Hon. Waluke,

RE: CONSIDERATION OF THE NATIONAL TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES BY THE DEPARTMENTAL COMMITTEES ON FINANCE AND NATIONAL PLANNING; AND AGRICULTURE AND LIVESTOCK

The Departmental Committees on Finance and National Planning and Agriculture and Livestock are established pursuant to Standing Order 216 and are mandated *inter alia*, *"investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House".*

Pursuant to the above mandate, the Speaker of the National Assembly referred the National Treasury Memorandum on Action Plans to Revive and Commercialise the State-Owned Sugar Companies (*copy attached*) to the Departmental Committees on Finance and National Planning and Agriculture and Livestock for consideration and reporting-back to the House.

The purpose of this letter is to invite you for a meeting to submit your comments on the Memorandum. The meeting will take place on **Tuesday, 5th September 2023** (*as per the attached programme*) at a venue to be confirmed in **Kisumu County.**

The liaison officers for this meeting are **Mr. Benjamin Magut** who may be contacted on **Tel. No. 0712974966** or **email: benjamin.magut@parliament.go.ke** or **Ms. Laureen Omusa Wesonga** on **Tel. No. 0710820442** or **email: laureen.wesonga@parliament.go.ke**.

Yours Sincerely,

DANIEL MUTUNGA
For: CLERK OF THE NATIONAL ASSEMBLY

ANNEX 6C

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: NA/DDC/A&L/2023/054 **30th August 2023**

Mr. Chrispine Omondi
Managing Director
Nzoia Sugar Company
P.O. Box 285-50200
BUNGOMA
md@nzoiasugar.com

Ms. Jacqueline Kotonya
Interim Managing Director
Chemelil Sugar Company
P.O. Box 177-40107
MUHORONI

Mr. Stephen Ligawa
Managing Director
South Nyanza Sugar Company
P.O. Box 107-40405
SARE-AWENDO
administration@sonysugar.co.ke

Mr. Fredrick Ooko
Joint Receiver Manager
Miwani/Muhoroni Sugar Companies
MUHORONI
miwanisugar@gmail.com/info@musco.co.ke

Mr. Sarbjit Singh Rai
Managing Director
Mumias Sugar (2021) Limited
P.O. Box 750-50102
MUMIAS
operations@mumuassugar.com

Mr. Paul Russo, EBS
Chief Executive Officer
Kenya Commercial Bank
8th Floor, Kencom House
Moi Avenue
NAIROBI
kcbhq@kcb.co.ke

Dear Mr. Omondi,

RE: CONSIDERATION OF THE NATIONAL TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES BY THE DEPARTMENTAL COMMITTEES ON FINANCE AND NATIONAL PLANNING; AND AGRICULTURE AND LIVESTOCK

The Departmental Committees on Finance and National Planning and Agriculture and Livestock are established pursuant to Standing Order 216 and are mandated *inter alia*, "*investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House*".

Pursuant to the above mandate, the Speaker of the National Assembly referred the National Treasury Memorandum on Action Plans to Revive and Commercialise the State-Owned Sugar Companies (*copy attached*) to the Departmental Committees on Finance and National Planning and Agriculture and Livestock for consideration and reporting-back to the House.

The purpose of this letter is to invite you for a meeting to submit your comments on the Memorandum. The meeting will take place on **Wednesday, 6th September 2023** (*as per the attached programme*) at a venue to be confirmed in **Kisumu County.**

You are requested to inform representatives of sugarcane farmers that supply sugarcane to your companies to attend the meeting.

You are further requested to appear before the Committees with thirty (30) hard copies of your submission.

The liaison officers for this meeting are **Mr. Benjamin Magut** who may be contacted on **Tel. No. 0712974966** or **email:** benjamin.magut@parliament.go.ke or **Ms. Laureen Omusa Wesonga** on **Tel. No. 0710820442** or **email:** laureen.wesonga@parliament.go.ke.

Yours Sincerely,

DANIEL MUTUNGA
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to:

Mr. Lawrence Njiru
Chairman
Kenya Commercial Bank
8th Floor, Kencom House,
Moi Avenue
NAIROBI

ANNEX 6D

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: NA/DDC/A&L/2023/055 **30th August 2023**

Mr. Humphrey Wattanga Mulongo
Commissioner General
Kenya Revenue Authority
30th Floor, Times Towers
Haile Selassie Avenue
NAIROBI

Dear Mr. Mulongo,

RE: CONSIDERATION OF THE NATIONAL TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES BY THE DEPARTMENTAL COMMITTEES ON FINANCE AND NATIONAL PLANNING; AND AGRICULTURE AND LIVESTOCK

The Departmental Committees on Finance and National Planning and Agriculture and Livestock are established pursuant to Standing Order 216 and are mandated *inter alia*, *"investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House".*

Pursuant to the above mandate, the Speaker of the National Assembly referred the National Treasury Memorandum on Action Plans to Revive and Commercialise the State-Owned Sugar Companies (*copy attached*) to the Departmental Committees on Finance and National Planning and Agriculture and Livestock for consideration and reporting-back to the House.

The purpose of this letter is to invite you for a meeting to submit your comments on the Memorandum. The meeting will take place on **Thursday, 7th September 2023** (*as per the attached programme*) at a venue to be confirmed in **Kisumu County.**

You are requested to appear before the Committees with thirty (30) hard copies of your submission.

The liaison officers for this meeting are **Mr. Benjamin Magut** who may be contacted on **Tel. No. 0712974966** or **email:** benjamin.magut@parliament.go.ke or **Ms. Laureen Omusa Wesonga** on **Tel. No. 0710820442** or **email:** laureen.wesonga@parliament.go.ke.

Yours Sincerely

DANIEL MUTUNGA
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to:

Mr. Anthony Mwaura
Board Chairperson
Kenya Revenue Authority
Times Towers
Haile Selassie Avenue
NAIROBI

ANNEX 6E

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: NA/DDC/A&L/2023/057 **30th August 2023**

Dr. Chris Kiptoo, CBS
Principal Secretary
The National Treasury
The National Treasury and
Economic Planning
Treasury Building
Harambee Avenue
NAIROBI

Mr. Phillip Kello Harsama
Principal Secretary
State Department for Crop Development
Ministry of Agriculture &
Livestock Development
Kilimo House, Cathedral Road
NAIROBI

Dear Principal Secretary,

RE: CONSIDERATION OF THE NATIONAL TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES BY THE DEPARTMENTAL COMMITTEES ON FINANCE AND NATIONAL PLANNING; AND AGRICULTURE AND LIVESTOCK

The Departmental Committees on Finance and National Planning and Agriculture and Livestock are established pursuant to Standing Order 216 and are mandated *inter alia*, "*investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House*".

Pursuant to the above mandate, the Speaker of the National Assembly referred the National Treasury Memorandum on Action Plans to Revive and Commercialise the State-Owned Sugar Companies (*copy attached*) to the Departmental Committees on Finance and National Planning and Agriculture and Livestock for consideration and reporting-back to the House.

The purpose of this letter is to invite the Cabinet Secretaries for a meeting to submit their Ministry's comments on the Memorandum. The meeting will take place on **Thursday, 7th September 2023** (*as per the attached programme*) at a venue to be confirmed in **Kisumu County.**

You are requested to appear before the Committees with thirty (30) hard copies of your submission.

The liaison officers for this meeting are **Mr. Benjamin Magut** who may be contacted on **Tel. No. 0712974966** or **email:** benjamin.magut@parliament.go.ke or **Ms. Laureen Omusa Wesonga** on **Tel. No. 0710820442** or **email:** laureen.wesonga@parliament.go.ke.

Yours Sincerely

DANIEL MUTUNGA
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to:

Prof. Njuguna Ndung'u
Cabinet Secretary
The National Treasury and
Economic Planning
Treasury Building
Harambee Avenue
NAIROBI

Hon. Mithika Linturi
Cabinet Secretary
Ministry of Agriculture and
Livestock Development
Kilimo House, Cathedral Road
NAIROBI

ANNEX SEVEN: WITNESS ATTENDANCE REGISTERS

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – 2023
DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING
WITNESS ATTENDANCE REGISTER

DATE: 05/09/2023 VENUE:

AGENDA:

NO.	NAME	DESIGNATION/INSTITUTION	CELLPHONE	SIGNATURE
1.	HON. OSEME COLLINCE	M.C.A. MIGURI COUNTY	0715818289	[signature]
2	VITALIS O. K'OMUDHO	M.C.A MUHORONI KORU WARD	0721497672	VOK.
3	WARINDY GEOFREY	M.C.A KISUMU COUNTY MINANI WARD	0725 513 115	[signature]
4	Hon. Pete Oiko	MCA- Kobotto Kombigwal Ward	0708457130	[signature]
5	Hon. Fredrick O. Adonija	MCA Chemelil/Tamu ward	0724204343	[signature]

ANNEX SEVEN

NO.	NAME	DESIGNATION/INSTITUTION	CELLPHONE	SIGNATURE
1.	Hon Walter Owino	M P Awendo	0722397408	[signature]
2.	Hon. John Makali	M.P. Kanduyi.	0712540282	[signature]
3.	Hon. James O. Koyoo	M.P. Muhurani Const	0722775809	[signature]

3

(1)

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – 2023
DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING
WITNESS ATTENDANCE REGISTER

DATE: 06/09/2023 **VENUE:** BEST WESTERN HOTEL KISUMU

AGENDA: Farmers & Farmers Rally

NO.	NAME	DESIGNATION/INSTITUTION	CELLPHONE	SIGNATURE
1	JOHN ODONDI OMOLO	CHAIRMAN FED. SONY	0720432547	
2	ARUWENGA OTIENO ADONGO	BRANCH SECRETARY OF FEDERATION OF FARMERS SONY	0715543985	
3	Mulati Khuyefwa	NOCO Director	0725525303	
4	TOBIAS OJUKI	KSBCU (DIRECTOR)	0722973106	
5	MARTIN DOUGLAS	M.C.A CHEMELIL/CHEMOSIT	0720870769	
6	David Yego	SOCIETY REP. KANDI	0720809565	
7	Kikai wa MWanja	Director N2ola Outgrowers Co	0728769545	
8	ALBERT MACHO	NOCO	0713255858	
9	CHRISTOPHER SIFUNA	Chairman N2ola outgrowers	0705600436	

Farmers & Farmers Reps

NO.	NAME	DESIGNATION/INSTITUTION	CELLPHONE	SIGNATURE
10	MOSES S. KHAEMBA	Ag. G/MANAGER – MOCO	0759152730	
11	PHILIMONA S. BITONYALE	DIRECTOR – NOCO	0716152957	
12	HON. JOSIT WA MANGOLI	DIRECTOR – NOCO	0722772759	
13	BONFACE NYONGESA	FARMER-MUMIAS	0722562809	
14	ZEBIO JUMA KWEMU	FARMER - MUMIAS	0714690226	
15	STEPHEN C. KHAMBA	OPERATIONS MUMIAS	0722-223450	
16	EVALYN WAKHUSAMA	FARMER - MUMIAS	0724109600	
17	HONORY D'ONZEE	FARMER MUMIAS	0703972727	
18	GEORGE W. SAGALLA	FARMER MANAGER	~~0724~~ 0726938887	
19	PAUL OCUOK	~~KEO~~ TREASURER KENYA FEDERATION OF SUGAR CANE FARMERS	0713662022	
20	THOMAS K. CHOGE	KENYA NATIONAL ~~FEDERATION~~ SUGAR CANE FARMERS D/Organizing Sec	0725211799	
21	JACKSON KEMBOI	Value Chain Officer (Nandi)	0722213460	
22	Eng. Robert Limo.	Farmer Miwani	0725522487	
23	REV SAMSON KEINO	FARMER – Chemelil	0721749838	
24	ZEDEKIA O. AKELLA	FARMER CHEMELIL	0721513059	

NO.	NAME	DESIGNATION/INSTITUTION	CELLPHONE	SIGNATURE
25	Isaack-O-Ondiek	KSBCU (DIRECTOR) NYANDO	0718123431	
26	KIMNGETICH CHEPKWONY	SEC K.N.F.S.F. MIWANI (NYANDO)	0745115850	
27	Eng. Gilbert Ondis	Technical Advisor	0720206226	
28	KILION TSUR ANYANGO	SECRETARY GENERAL. KENYA NATIONAL FEDERATO	0711216200	
29	CHARLES ANYUMBA	CHAIRMAN, MUSOCO LIMITED	0721470227	
30	WILSON K. YERO	SECRETARY CHEBUNGUNGON	0723200093	
31	ROBERT CHIRCHIR	V. CHAIR CHEBUNGUNGON	0799886377	
32	PATROBA OUTU	Sec Olukolon Farmer C. society	0726130529	
33	BOAZ ARAKO	NYALANDI PLANTERS LTD	0710641383	
34	BERNARD ALISO	KEYO CO-OP SOCIETY	0723270934	
35	CLEOPHAS OLLOCH	NYALANDI PLANTERS	0726433228	
36	Wellington .O. OKUMU	Obunga F.C.	0722218749	
37	Dennis Odhiambo	Kisumu Sugarbelt Co-op UNION	0712077579	
38	LEONARD AJALA	Private Farmer - Nyando	0721977768	
39				

NO.	NAME	DESIGNATION/INSTITUTION	CELLPHONE	SIGNATURE
39	ZEDEKIAH ODHIAMBO	KISUMU SUGARBELT CO. OP. UNION	0727712016	[signature]
40	Santo W. Busolo	Sugar Campaign for Change	0733812008 0719895881	[signature]
41	Richard O'Cogendo	Kenya Sugarcane growers Asso	0716-227272	[signature]
42	LINCOLN AVEZA ISAKI	Kenya union of Sugar Plantation & Allied workers	0720259189	[signature]
43	James Agumbah	Kenya union of Sugar Plantation workers	0706233825	[signature]
44	Kiplagat Chenstich	KENYA UNION OF SUGAR PLANTATION WORKERS - CHEMELIL	0708178920	[signature]
45	Arnolker Jerono Ketar	Kenya union of Sugar plantation workers Chemelil	0722791259	[signature]
46	RAKESH KR BYATS	MUMIAS SUGAR (2021) LTD	0733249015	[signature]

NO.	NAME	DESIGNATION/INSTITUTION	CELLPHONE	SIGNATURE
47	Philip Kimaiyo	Deputy Secretary Federation Chemelil Branch	0722434400	[signature]
48	Bunyo Samuel	CHAIRMAN CHEMELIL OUTGROWER Co.	0722794295	[signature]
49	DAVID K. KITUR	DIRECTOR CHEMELIL SUGAR Co. LTD	0722223488	[signature]
50	Noah K. Cheruiyot	Chairperson Kenya federation of sugar cane farmers, Chemelil Branch	0721878227	[signature]
51	Michael O Gombe	National treasurer / KUSPAW	0720948285	[signature]
52	Dr. Paul K. Sanga	CG-Nandi - CO - Agriculture	0720243777	PKSange
53	Hon. Edwin Konir	MCA Kapsimotwo WARD	0715206153	[signature]
54	CHARLES ATIANG ATYANG	KENYA ASSOCIATION OF SUGARCANE & ALLIED PRODUCTS	0720483651 KASAP.	C.D Agriculture
55	JERIM. O. ODADA	CHAIRMAN - Kenya Federation of Sugar Cane Farmers	0725536384	[signature]
56	CPA EZRON KOTUT	Ag. MD - NZOIA SUGAR Co.	0720877055	[signature]
57	JACQUELINE KOTONYA	INTERIM MD - CHEMELIL SUGAR CO.	0722267071	[signature]
58	Stephen Ligawa	Ag MD - Sonybrigar	0792049920	[signature]
59	Paul Russo	Group CEO, KCB	0722280098	[signature]
60	Harun Kimi	Receiver Manager Miwani & Muhoroni Sugar Co. Ltd (IR)	0720312753	[signature]
61	Vitalis Odun	General Manager (Ag) Muhoroni Sugar.	0722215389	Odun

NO.	NAME	DESIGNATION/INSTITUTION	CELLPHONE	SIGNATURE
62	GEORGE W ONYANGO	MUHORONI SUGAR.	0728517541	
63	JORIM O. OSEWE	CHEMELIL SUGAR CO. HEAD OF AGRICULTURE	0724344252	
64	JOSEPH M. KILLU	HEAD OF FACTORY CHEMELIL SUGAR CO.	0723641957	
65	Bosco Magare	Chemelil Sugar Co. Ltd	0702168199	
66	Moffat Omondi	Chemelil Sugar Co Ltd Strategy Manager	0718175171	
67	Duncan Madindou	Somsugar Co. Ltd Corporate Planning & Strategy Mngr	0722940832	

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – 2023
DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING
WITNESS ATTENDANCE REGISTER

DATE: 07/09/2023 **VENUE:** BEST WESTERN HOTEL KSM

AGENDA: stake holders engagement for consideration of the treasury memorandum on action plans to revive & commercialize state owned sugar companies

NO.	NAME	DESIGNATION/INSTITUTION	CELLPHONE	SIGNATURE
1	Stephen Ligama	MD (Ag) - Sony Sugar	0792049920	[signature]
2	SAMSON MBAYI	HOF - SONYSUGAR	0722677804	[signature]
3	Duncan Madindsu	CPSM - Sony Sugar	0722940832	[signature]
4	JACQUELINE KOTONYA	INTERIM MD-CHEMELIL	0722267071	[signature]
5	DAVID K. KITUR	DIRECTOR CHEMELIL SUGAR Co.	0722 223 488	[signature]
6	Walter KINANA	QUALITY ASS. OFFICER - CSC	0722568497	[signature]
7	JORIM O. OSEWE	HEAD OF AGRICULTURE CHEMELIL SUGAR CO. LTD	0724344252	[signature]
8	Bosco Magare	Chemelil Sugar Co. Ltd	0702168199	[signature]
9	Richard O'Ogendo	KESCA	0716227272	[signature]

NO.	NAME	DESIGNATION/INSTITUTION	CELLPHONE	SIGNATURE
10	Antony Mwirigi	Economist – National Treasury	0721801164	
11	Elizabeth Shungula	Ass. Director Inv – TNT	0721701301	
12	Harun Kinii	Receiver Manager Muhoroni & Miwani Sugar Co Ltd (R)	0720312753	
13	Vitalis Oduor	GM(Ag) Muhoroni Sugar	0722215389	
14	George W. Onyango	Muhoroni Sugar	0725517541	
15	Timothy Ogwang	MOALD-SDCD	0733378276	
16	CPA Ezron Kotut	AG. MD Nzoia Sugar Co.	0720827055	
17	SAMUEL KEMBOI	AFA - SUGAR DIRECTORATE	0713262641	
18	David Kithale	ADA - SDCD	0726201436	
19	Kello Harsama	P.S Crops	0716418193	
20	LAWRENCE KIBEI	DG - PIPM - TREASURY	0722911296	
21	Osumo T. Anal	Ag Director Public Investment Mgt	0710248027	
22	Moffat omondi	Chemelil Sugar Co Ltd Strategy Manager	0718175171	
23	Joseph M. Kitili	Head of Factory Ag. Chemelil Sugar Co. Ltd	0723641957	
24	Gamaliel Anamanjo	CEO MOCO 98 LTD	0728765396	

NO.	NAME	DESIGNATION/INSTITUTION	CELLPHONE	SIGNATURE
25	Raphael Shinoli	KALRO-SUGAR RESEARCH	0728490435	
26	Humphrey Wattanga	Commissioner General KRA	cg@kra.go.ke	
27	Rispah Simiyu	Commissioner Domestic Taxes	rispah.simiyu@kra.go.ke	
28	Pamela Ahago	Commissioner customs & Border control.	Pamela.ahago@kra.go.ke	
29	Grace Wandera	Deputy Commissioner	0722904686	G. Wandera
30	Dr Betty Muliànga	Director, Sugar Research Institute	0720737275	
31	Brian Steve Obonyo	KRA.	0722889563	

NO.	NAME	DESIGNATION/INSTITUTION	CELLPHONE	SIGNATURE

ANNEX EIGHT: SUBMISSIONS FROM STAKEHOLDERS

ANNEX 8A

KENYA NATIONAL FEDERATION OF SUGARCANE FARMERS (KNFSF) SONY BRANCH.

AWENDO OFFICE OPPOSITE DEPUTY COUNTY COMMISSIONER'S OFFICE.
C/o P.O 268-40405SARE –AWENDO, TEL+254 15543985/+254 20432547
EMAIL: fedsonyfarmers@gmail.com

MEMORANDUM TO DEPARTMENTAL COMMITTEES ON FINANCE AND NATIONAL PLANNING; AND AGRICULTURE AND LIVESTOCK ON ACTION PLANS BY THE NATIONAL TREASURY TO REVIVE AND COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES DATED 6TH SEPTEMBER, 2023 KISUMU COUNTY.

INTRODUCTION

The Kenya National Federation of Sugarcane Farmers (KNFSF) is a registered farmers' institution under societies Act cap 108 laws of Kenya, and Sony Branch has been in existence since its inception. Our roles are advocacy, representation, and train/educate sugarcane farmers who are members on sugarcane matters where necessary.

Sony branch has been in the forefront to make sure that farmers' rights are well protected at all costs, and further collaborate with other stakeholders as much as possible for the benefits of sugarcane farmers and the industry at large.

Hon. Chairman Sir; over the years, the performance of the industry has been constrained by a number of challenges. These includes:-

a. *Poor governance*
b. *Legal and regulatory frameworks that does not adequately respond to sugar industry needs*
c. *Lack of capital and high level of indebtedness among the public owned sugar companies*
d. *Inefficient processing of both Sugar and sugar co-products*
e. *Government bureaucracy in running commercial enterprises*
f. *In adequate sugar technology development, dissemination and adoption.*
g. *Low sugarcane productivity and quality for the industry sustainability.*
h. *High costs of production.*
i. *Poorly maintained support infrastructure.*
j. *Unstructured marketing of sugar and sugar co-products that resulting to malpractices.*

Hon. Chairman; in other countries, protection of sugar industries is instutionalized by the reigning regimes for instance USA, EU, South Africa, Australia, Malawi, Pakistan, Brazil, Swaziland, Mauritius, Zambia amongst others. Government protection and/or intervention is through the following:-

1. *Favorable policy and/or legal framework.*

2. *Tax rebates on farm inputs.*
3. *Zero taxation on the sugar.*
4. *Straight government subsidies.*
5. *Government enabled infrastructures.*
6. *Government support for ethanol and cogeneration policies.*

We do recognize the noble work that is being done by the Departmental Committees on Finance and National Planning; and Agriculture and Livestock to establish the Sugar Industry Constrains and further make recommendation and/or find a lasting solution to the existing problems within the aforesaid sugar industry.

Due to the matters aforementioned herein as in paragraphs 3 (a-j) and 4 (1-6) above, and with respect to the ***TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALIZE THE STATE-OWNED SUGAR COMPANIES***, we shall focus only on the serious chronic constrains/challenges bedeviling the state-owned sugar companies and sugar industry in respect to the Treasury Memorandum on action plans to revive and Commercialize the State-Owned Sugar Companies as herein below;

1. **Poor Governance**

   Hon. Chairman Sir; we are in support with the Treasury concerned over this matter, that due to mismanagement of the public resources by the people who are tasked with the responsibilities of managing these state-owned sugar companies has seriously affected the said sugar companies. We propose that the companies act be amended to factor in the role of the County Government, Farmers who supply raw materials to these companies and their representation to the board of management.

2. **LEGAL AND REGULATORY FRAMEWORKS THAT DOES NOT ADEQUATELY RESPOND TO SUGAR INDUSTRY NEEDS**

   Hon. Chairman; it's only in Kenya where Sugar Sub-sector is operating without proper laws and/or regulations to effectively manage the industry. Since the existing laws i.e. Afa Act, 2013, crops Act, 2013 and the regulations 2022 respectively does not address the Sugar Industry needs and instead encourages chaos within the industry and has really hampered growth in the sugar industry and has put the sugar industry in a total mess.

   Proposal
   We propose that the government to initiate a legal reform framework through an act of parliament that will eventually give directions and/or instill

discipline in the sugar industry in totality and with independent regulatory body thereof.

3. **Debt Write-Off of Kshs. 65, 778, 448,646.00**

Hon. Chairman; this has been long overdue, and sugarcane farmers have been wondering what might be the problem with the sugar industry in Kenya, when coffee, tea and other scheduled crops' debts were being written-off and the sugar industry debts were also approved by the National Assembly in the year 2015 to be written-off, why has it not been done to date? This leads to many questions whether or not Sugar Cane Farmers are Kenyans?

We are in agreement and support of the same to de done as early as yesterday so that the companies to start on a clean balance sheet.

4. **High Level Of Indebtedness Among The Public Owned Sugar Companies**

Hon. Chairman; state-owned sugar companies owes sugarcane farmers a lot of money resulting from the unpaid farmers' arrears, for instant; Sony Sugar Company Limited currently owes farmers a total of Kshs. 1.1 Billion, which still pending to date. We are aware that the same resulted from mismanagement by the previous managements, loss of revenue by respective millers resulting from cane poaching, rampant court litigation against millers and luck of factory efficiency.

We are in support to the proposed **Action Plans** as laid down by the treasury that the government to bail out state-owned sugar companies by paying sugarcane farmers the outstanding arrears as indicated in the treasury memorandum.

5. **Low sugarcane productivity and quality for the industry sustainability**

To ensure sustainable and adequate supply of quality cane that meets milling requirements and guarantees favorable returns on farmers' investments, the following strategies needs to be taken into consideration:-

a. ***Promote cluster and/or block farming arrangements.***
b. ***Facilitate the provision of affordable credit.***
c. ***Implementing programs to facilitate multiplication and distribution of certified seed cane.***
d. ***Providing subsidy on farm inputs.***
e. ***Improving cane varieties and use of appropriate agronomic practices.***

f. Facilitate effective research for the early maturing sugarcane.

Proposal.
Parliament to make laws that will give directions on the implementation of the same and in consideration of proper farmers' participation.

6. **Privatization/Leasing of State-Owned Sugar Companies**

Hon. Chairman Sir; it is indicated in the Treasury Action Plans to either Privatize and/or Lease the state-owned sugar companies. But in the said proposal, the treasury has failed to provide the terms and condition of the same for farmers to know and understand better what will be required from them on the process.

Proposal

As you are aware that there is serious land injustices in the Republic of Kenya, we still needs to be told the fate of Nuclear estate of Sony Sugar Company Limited, farmers be told the terms and condition of the said lease and/or privatization to that effect. We only support leasing but not privatization.

Proper public participation and sensitization to be done to sugarcane farmers and the local communities as enshrined in the Constitution of Kenya 2010 in furtherance to the laid down procedures and implementation of the same. Let all the stakeholders understand the process better.

→ submit third proposal

Hon. Chairman Sir, we urge you to consider all the above stated proposals and act promptly and accordingly where necessary for an effective revival of State-owned sugar companies.

Last but not least, we are very optimistic that with the support of the ***Departmental Committees On Finance And National Planning; And Agriculture And Livestock,*** we shall be able to change the way Sugar Industry should perform and instill discipline within the entire sugar industry in Kenya.

Finally, we thank the committees' team members for taking their time to listen to us and hope that a lasting solution to the sugar industry constrains will be found through the initiative taken by the National Treasury, and further help poor sugarcane farmers who are left at the mercies of sugar cartels.

It's our trust that whatever shall be passed in this meeting shall take effect immediately without any further delays, and we will support the government in every move to finalize the entire laid down Actions plan to the completion.

May our good and loving God provide you with wisdom, courage and knowledge to spearhead the sugar industry reforms and to make the industry viable and productive.

Yours in regards;

.....

John Odondi Omolo
Branch Chairman

.....

Argwengs Otieno Adongo
Branch Secretary

For Sony Sugarcane Farmers

Cc;

1. *All participants*
2. *National Federation of sugarcane farmers' secretariat*

ANNEX 8B

September 6, 2023

The Departmental Committee on Finance and National Planning and Agriculture and Livestock.

The National Assembly,

Parliament Buildings,

Nairobi.

Dear Sir,

RE: MEMORANDUM ON THE ACTION PLAN TO REVIVE AND COMMERCIALIZE THE STATE OWNED SUGAR FACTORIES.

Challenges faced by the sugar factories

The sugar industry has gone through a myriad of problems partly due to the following problems:

(i) Poor farmer representation.

Agriculture and Food Authority has not been able to control the growth of brokers and lobby groups within the industry.

The thriving of these groups has brought total confusion and disorder inhibiting growth and development of the industry.

(ii) High cost of farm inputs.
The cost of farm inputs has increased the cost of cane development to approx. ksh. 80,000 per acre.
This is out of reach to most farmers and therefore need subsidy and support from both government and millers.

(iii) Lack of certified seedcane and suitable cane varieties from the sugar research institute (SRI).
The institute lacks funding and therefore doesn't perform their mandate.
Farmers are planting poor quality seedcane material and poor cane varieties leading to very low yields.

(iv) Lack of extension services from the county governments.

The farmer/customer demand driven extension model is not viable for cane development.
The millers are constrained to offer the services adequately because of huge staffing cost required.
Hence the farmer is lacking knowledge and expert guidance to profitably benefit from cane farming business.

Recommendations

We as the bonafide representatives of cane farmers recommend the following:

1. **We are against the merger of chemelil and Muhoroni sugar factories** to form one zone.
   We as farmers consider this as encouraging monopoly within the region and kill competition.
   Note that due to thriving competition within the region, services to farmers have improved, there is prompt sugarcane payments and good cane prices. Farmers are encouraged to grow cane because they have alternative markets within the region.
   We propose that each of these factories to be offered to a separate investor capable of turning them round to profitable viable ventures. These should be investors with proven sugar milling and sugar industry experience.
2. **We support regional zoning** as proposed in the sugar industry stakeholders task force report of 2019 as follows:
   (i) Central Region(Kisumu, Kericho and Nandi counties)
   (ii) Upper Western Region(Bungoma, Kakamega, Transnzoia and Uasin Gishu counties)
   (iii) Lower Western Region(Busia, Mumias and Siaya counties)
   (iv) Southern Region(Homabay, Kissii, Migori and Narok Counties)
   (v) Coastal Region (Kwale, Lamu and Tana River counties)
   There should be free marketing of farmers cane produce to millers within the same catchment areas/zones.
   Lack of enforcement of this regional zoning has created total anarchy in the sugar industry.

It is a common feature to meet trucks crisscrossing the regions in search of cane.
This encourages cane poaching and discourages millers in investing in cane development for fear of poaching by others.
It is important to note that millers from the same region say Chemelil, Muhoroni and Kibos for that matter can always come together and agree among themselves through some form of MOU on how to manage their cane development and supply business.
But the coming of an outsider causes panic and confusion.
We have witnessed situations where the outside miller harvests very young cane left by local millers to mature.
This has partly led to the cane shortage being experienced now.
Therefore regional zoning is highly recommended and not factory zoning / zone less free markets.

3. **Government need to support cane farmers to mitigate against high input costs** in order to increase their cane productivity.
   This will be achieved by availing subsidized GOK fertilizer to sugarcane farmers through the sugar millers.
   Cane yields have drastically dropped to below 30tons per acre due to lack of adequate fertilization by farmers among other high input costs.
   Farmers who experience negative debit balances due to low break even yields eventually abandon cane farming altogether.
4. Farmers experience difficulties in delivering cane to the factories due to **inaccessible roads**.
   They are not benefitting at all from the **cess funds** collected by millers and remitted to the county governments.
   We therefore recommend that the law be amended to allow millers to retain the funds and only release to cess committees or use the funds to repair roads within their regions directly or outsourcing the services but under supervision of cess committees.
   Currently there is lack of accountability by the county governments on the usage of cess funds.
5. We fully support and recommend the restructuring of the state owned sugar factories balance sheets by writing off all the debts.

This will encourage private investors who will come in to alleviate the suffering of cane farmers, employees and other stake holders.
This will also spur cane development growth, increase cane and sugar production hence help preserve the dollar hitherto used to import sugar deficits.

6. As stated earlier, thriving busy bodies who act as mercenary on hirer are on the loose within the sugar industry.
   You find them attending high end sugar industry forums and shouting their voice hoarse to push the agenda of their masters.
   This is the genesis of the woes bedeviling the sugar industry.
   We therefore implore this honorable committee not to accept recommendations or memorandum from such groups or groups not affiliated to the **Kenya National Federation of sugarcane farmers.**
   This is the apex umbrella body recognized by AFA and which brings together all sugarcane farmers / Unions / Co-operatives.
7. **Weighing of sugarcane at the farm gates is highly recommended.** We therefore recommend that millers operating in the same region eg the central region put as many weighbridges as possible closer to the farms as stated in the sugar act.
   This will reduce the cane haulage distance to the farms, reduce the transport costs and increase the net farmer take home.
   In return there will be more funds at the farmer's disposal for cane maintenance and development.
8. The SRI should work in collaboration with millers, farmer organizations and county Governments, to ensure availability and modalities for increased adoption of appropriate and affordable planting materials; Research into sugarcane zones based high yielding sugar cane varieties by SRI will increase yields and the net take home farm gate prices.
   Therefore SRI needs to be funded by the government to fulfill their mandate.
9. Provide or strengthen extension services:
   Strengthen & implement the National Agricultural Extension Services Policy and ensure the implementation of the policy at County levels

10 When it comes to leasing (strategic inve
These should be properly advertised
openly with clear criteria for
selection which include share-holdr..
details.
KNTC and should be allowed to import

Signed:..... Date:.....

Calleb Ochieng

Secretary , Kenya National Federation Of Sugar cane farmers, Chemelil Branch

Signed:..... Date: 06/09/2023

Zedekia Otene

Chairman , Kisumu Sugarbelt co-operative union

ANNEX 8C

6/9/2023

LEASING OF THE FIVE PUBLIC SUGAR COMPANIES: CHEMELIL, NZOIA, SONY, MUHORONI AND MWANI

Sugar Campaign for Change (SUCAM) Submission to the joint Parliamentary Committee on Finance and Agriculture

BY HON SAULO BUSOLO AND MICHAEL ARUM
EMAIL: INFO@SUCAM.CO.KE, 0733812088, AND 0722691900

Introduction:

It is highly anticipated that the entry of private sector players in the sugar sub sector will transform the industry by injecting the necessary capital for stimulating modernization of the factories, improving operational efficiencies, addressing technical expertise, and bringing on board effective management and good governance styles. These reforms will enhance competitiveness of the industry while at the same time containing political patronage, official bureaucracy, corruption and wastes.

This paper is divided into 2 sections:

1. Interpretation of the objectives in the farmer perspective, and
2. Response to strategic interventions proposed to implement the leasing programme.
3.

INTERPRETATION OF THE OBJECTIVES IN THE FARMER PERSPECTIVE:

ACTION PLAN OBJECTIVE #I: ENHANCE THE PROFITABILITY OF THE SUGAR FARMING

To farmers, the preconditions of achieving this objective include a framework for;

1. **Sugar Industry Agreement:** The traditional enforcement of arbitrary millers' designed contracts reap economic benefits while exploiting the farmers with impunity. Further, erosion of the farmers' economic development has been manifested in:
    a. Delay or non-harvesting of contracted sugarcane;
    b. Delay or non-payment for sugarcane delivered to the mills;
    c. Excessive and compounded interest charges;
    d. Arbitrary, falsified deductions and poor weighbridge records;

Farmer's fear:

1. Departmental Committee on Agriculture proposed amendments on the Sugar Bill 2022 has deleted Schedule 3 where the regulations were provided
2. The Crops (sugar) General Regulations 2020, was suspended by a sponsored court order and finally rejected by Senate Committee on Delegated Legislation

Our request: ***Provide a timeline for gazzetment of the Sugar Regulations as part of key output.***

2. **Cane Payment System:** The philosophy behind cane pricing system is to evolve a cane payment that ensures equitable distribution of industry proceeds. The objectives of an equitable payment system should include interlia:

- Provision for an accurate assessment of sugarcane by weight or by sucrose content
- Setting up of a base price for standard sugar
- Dividing the proceeds to cover:
    - Growers costs
    - Milling costs
    - Distribute the balance according to each stakeholder input (e.g. farmer's ≥ 64%: Miller's ≤ 36%)
- Provision for efficiency incentives that rewards above standard and penalize below standard

Our request: **Before leasing state owned sugar factories, it will be necessary that the government put in place systems that will provide for equitable distribution of industry proceeds.**

ACTION PLAN OBJECTIVE #2: ENHANCE THE PRODUCTIVITY OF THE SECTOR BY INCREASING THE TONNES OF CANE HARVESTED PER ACRE FOR THE CURRENT TO THE AVERAGE OF 35 TONNES PER ACRE

1. **Policy:**

The productivity at the farm level requires a policy backup to ensure achievement of optimal tonnage per acre. In this case, there need to be a proposed framework for specific policies along the value on: 1) sugar import, 2) seed cane policy, 3) cane payment, 4) insurance, 5) cane transport policy, 6) weighbridges

Above all, whether this country need a sugar or a sugarcane industry.

The policy decision should be guided by the principle of what is the greatest good for the greatest number, and should go through a tedious process of public participation by the stakeholders and not by the bureaucrats.

A commitment from the joint committee to bring to desired conclusion of the Sugar Bill 2022

2. **The out-grower institutions:**

When the out-grower institutions were active, the extension services were being provided, efficient cane productions were undertaken and access of affordable farm input and services were witnessed.

The current reporting channels and organization structures portrays a conflict between the apex body and the primary societies/companies in reaching for audience with regulatory body AFA, government ministries and the millers.

Our prayer: there should a statement with a timeline for the revitalization

3. **Industry financing:**

To achieve productivity again, we need reintroduction of the Sugar Development Levy domiciled within the proposed Kenya Sugar Board and not Commodity Fund as proposed in the Committee Report.

Secondly, contribution from imported should be at domestic value of the sugar imported and NOT CIF value.

PROPOSED STRATEGIC INTERVENTIONS:

Merger of Chemelil and Muhuroni:

The economies of scale cannot be designed by legal framework in liberalized industry. Best practice is, achieving economies is gradual, designed by good management, and modern technology and innovation.

Planning to achieve an average of 35 tonnes per Ha will resolve the deficit experienced by both Chemelil and Muhuroni sugar factories.

Our prayer: Focus on increasing yield per acre to achieve the requirement of the specific mill

Miwani Sugar Company:

Revival of Miwani suffers a setback as a result of mischief by sugar cartels.

Requires a similar force employed against the sugar cartels that held Mumias Sugar Company hostage

MPs should have a decision irrespective of court cases

Debt write-off:

An investigative audit to examine the reality of the debt, because we believe some of the them are not genuine. In case of culpability, the culprits should be charged in a court of law for recovery of the public funds.

ANNEX 8D

KENYA SUGARCANE GRO[illegible]ERS ASSOCIATION (KESG[illegible])

National Secretariat P.o.Box [illegible] 40100, KISUMU

Email: kesga1978@gmail.com

COMMITTEE OF FINANCE AND NATIONAL PLANNI[illegible] COMMITTEE OF AGRICULTURE AND LIVESTOCK;

MEMORANDUM ON REVIVAL AND COMMERCIA[illegible]N OF GOVERNMENT SUGAR FACTORIES.

BACKGROUND:

KENYA SUGARCANE GROWERS ASSOCIATION is a f[illegible]ocacy organization founded in 1978 and has consistently represented farmer's on critical matters [illegible] sugar industry we are pro-business and encourage farmer's on climate safe agricultur[illegible]

The journey to commercialize government owned sugar Mil[illegible] more than 20 years ago and successive regimes have tried to implement this policy with zero success, [illegible] failing to understand the local dynamics and why this Mills were put up in the first place. The [illegible] concept was

1. To stem rural urban migration

2. To create a cadre of skilled workers in the rural areas

3. To improve the socio-economic conditions in the rural ar[illegible]

This the government owned factories have performed exem[illegible]ly on the profit making front which was never part of the inception plan that they have failed mi[illegible]erefore in an ever changing environment it is necessary to come up with a diffraction fra[illegible] ensure the sustainability of this institution's, we therefore support in pri[illegible]ple the governme[illegible] revive this industry but with a rider .

1. The successful leasee should only be allowed to manage [illegible] this process.

2. The lease shall only apply for the mill however for the nu[illegible] their shall be a different arrangement with Counties who hold the land in trust for the[illegible]

3. The lease shall be for a period of a maximum of 20 years [illegible]ed every five years after signing the lease.

4 All the debts owed to workers, suppliers and farmers shall [illegible] full before the commencement of the process.

5. Members of the board of this sugar mills shall be elected [illegible] from farmer's akin to the KTDA model.

6. The process of leasing shall be open and above board.

7. Muhoroni and Chemelil shall not be merged and each shall be bided separately.

a) Muhoroni was built for seven schemes namely

- TAMU
- GOD ABUORO
- SONGHOR
- ODUWO
- MUHORONI
- KORU
- FORT TERNAN

The government should also move with speed and reposes parts of the nucleus estate which was given to politically correct individuals.

b) Chemelil was largely built for large scale farmer's and covers a huge area right from Tindiret, Aldai, muhoroni and Nyando Constituencies it has more than enough land, Chemelil is 98%owned by the ADC (African development corporation), the government must also move with speed to reposes land which was allocated to politically correct individuals. It is therefore not factual and does not make sense to merge the two factories the socio-economic impact will be devastating to the communities living and deriving their livelihoods from the mill.

8. **MIWANI** is not in the package and we urge this committee to ask the president to use the "same methods" aka "mambo ni matatu" to talk to the individuals who have lodged numerous court cases on land that is held in trust for the people by government we believe if **MIWANI IS NOT IN THE PACKAGE THEIR WILL BE NO DEAL ON LEASING.**

9. All out grower debts owed by out grower companies should also be written off, reason being these are the structures the investors will rely on in boosting productivity at the farm level.

Previously out growers have suffered from

a) Governance challenges

b) Under-capitalization

c) Ripple effect of none performing Mills.

10. TRAINING ;The leasee must put up a training facility within the sugar mill and must also commit to taking 10 individuals from the local community for apprentice training every year this will help to develop skill sets and local capacity within the community.

Zoning whether mill or regional has the potential of stifling growth and innovation what we should be addressing is the falling farm productivity which stands at 35 tons per acre now a far cry from what it should be at 60 tons.

In order to anchor the above clear policies anchored on the law must be developed especially when it comes to land use, seed cane development and propagation, sugar cane transport and import export policies in short

the policies developed along the value chain should form the basis to develop a frame work that will be the pillars of the revival.

Systems must be put in place to address the above.

Finally it is our firm belief that government should get out of the sugar industry by providing a time line on when it will start to progressively exit, in this lease arrangement farmers are willing to have a portion of their income deducted to go towards purchasing shares in this company we believe that for a long time it is government that has caused problems by deliberately appointing political rejects and layabouts and thus the same government cannot again continue to superintend over the industry, it is the same government that issues sugar import permits that have had a devastating effect on the industry riding roughshod over laws and processes that are supposed to protect the vulnerable farmers .

6/09/23

Secretary General

Richard Ogendo

6/9/2023

Chairman

Christopher Sifuna

ANNEX 8E

KENYA NATIONAL FEDERATION OF SUGARCANE FARMERS
MUHORONI BRANCH.
P.O. BOX 234-40107, MUHORONI.

Date : 05/09/2023

MEMORANDUM TO THE TREASURY /AFA FROM MUHORONI ZONE SUGARCANE FARMERS / STAKEHOLDER THROUGH PARLIAMENTARY COMMITTEE ON AGRICULTURE.

a) The Muhoroni Sugar Company Limited plays a vital role in the Agriculture Sector and the Muhoroni Economy. The industry contributes to food security, employment creation and improved livelihood of member of the Muhoroni and its environment.

b) Muhoroni Sugar Company Limited was built for Muhoroni 7 schemes comprising of ;-

(i). Muhoroni Scheme.
(ii). Tamu Scheme
(iii). Songhor Scheme
(iv). Koru & Fort-Ternan scheme
(v). God Abuoro Scheme.
(vi). S.B.C.U and its environs.

The schemes were enough to supply cane to the company to make it perform efficiently.

We therefore **"Reject** in **TOTALLITY"** anything called **"MERGER". "MUHORONI NI MIRON"** while **"CHEMELIL NI CHEMEL".**

c) As we write this memorandum there are mushrooming weighbridges in the **Muhoroni Zone** in the name of **West- Kenya, Kibos Sugar & Allied Industry** and **Sukari Industry.** This leaves **Muhoroni Sugar Company** with **no mature cane** and this company ends up, harvesting pre-mature cane because of the scramble for the cane.

The mushrooming of weighbridges has ended in Roads destructions with no proper plans for sugar roads network reconstruction. The farmers are forced to accept harvesting of pre-mature cane which make the farmers even poorer and debt ridden.

d) The Kenya Sugar Research Institute is not effectively in operations in this zone hence there are no new cane varieties in the region that is fast maturing that can sustain sugarcane farming in the region. The farmers are left hangry with the old varieties hence we demand for reinstatement of the Sugar Development Levy (SDL).

e) There are no reliable source of funding for the sugarcane development in the last decade and farmers are left hanging with no funding alternative hence the farms are not developed.

We demand for reinstatement of the sugar Act.

SOLUTIONS TO MUHORONI ZONE SUGARCANE AGRONOMY PROBLEMS.

a) The sugarcane farmers should be supported by cheap source of funds for cane development hence the re-reinstatement of the Sugar Act (Bringing back Kenya Sugar Board). The Kenya Sugar Board was scrapped off by Parliament some years back. This Act left the farmers hanging with no sugarcane development strategy.

b) The government (Ministry of Agriculture) should stamp its authority and restrict authorizing building of new milling sugar companies within Muhoroni Zones. The mushrooming of the new weighbridges has caused cane poaching that has proven to be an imminent problem to the sugar company. Cane poaching has left **Muhoroni Sugar Company** with no mature cane for milling.

c) The government should pay-off debts and pay un-secured creditors and reinstate a Board of Management to manage operations of the company.

The debts are as follows;(Not very accurate the company to confirm).

(i).	Farmers & Transporters Arrears ranging to	- Kshs. 316,657,523.00
(ii).	Salary Arrears and other emoluments ranging to	- Kshs. 6,080,444,410.00
(iii).	Taxes and penalties	- Kshs. 14,120,931,330.00
(iv).	Other Creditors	- Kshs 6,223,114,853.00

d) Muhoroni Sugar company has been in receivership for too long. We therefore recommend that Muhoroni Sugar Company be removed from receivership to regular Management by paying off the above debts.

e) We also recommend the leasing of the Factory and its land to companies **with track records in Management and Agriculture** but not ***"Briefcase Companies"*** holding for other unknown fraudulent companies.

f) We therefore "**REJECT IN TOTALITY**" anything called **"MERGER"** and we demand "**MUHORONI SUGAR COMPANY TO REMAIN MORONI"** with "**CHEMELIL SUGAR COMPANY** remaining **CHEMEL".**

.....
Chairman
JERUM. O. ODADA

.....
Secretary
Michael Sidigo

ANNEX 84

MUMIAS SUGAR

OUR PROSPECTIVE ON

"TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALIZE THE STATE-OWNED SUGAR COMPANIES"

MUMIAS SUGAR (2021) LIMITED

P. O. Box 750 - 50102
Mumias, Kenya

info@mumiassugar.com

www.mumiassugar.com

+254 701 000 025
+254 701 000 026
+254 755 000 025

MUMIAS SUGAR 2021 LIMITED- ADVISORY TO THE TREASURY MEMORANDUM ON ACTION PLANS

BACK GROUND

Factory Land	:	117 HA
Nucleus Land	:	4295 HA (but physical available area 3,495 HA)
Crushing Capacity	:	8,500 TPD
Cease Operation	:	2017

Revival Status of Mumias Sugar

Sarrai Group Limited was awarded the lease as *financially highest qualified bidder out of three (3) qualified bidder on 22nd December 2021.*

OBJECTIVE SET BY LESSOR (KCB BANK OF KENYA) -

i – REVIVAL OF MUMIAS SUGAR

- Achieved but much more to be done

ii – FARMERS FINANCIAL UPBRINGING,

- 12,570 Farmers are enrolled getting value of their cane delivery every Thursday

iii- GENERATION OF EMPLOYMENT

- 880Direct & 2500 indirect employment generated – 94% employment from Old Mumias Employees & None of our work force is Ugandan

iv – INCREASE IN GOVERNMENT REVENUE COUNTY & GOK

- *Kshs 433 Million Contributing GOK as VAT, CESS, PAYE, NHIF, NSSF etc*

REHABILITATION & IT'S BENEFIT TO ECONOMY -

Despite multiple court cases to block the revival of Mumias Sugar and multiple court orders about stopping of plant (one of them is still effective as on date and that is why Mumias Sugar is closed); Mumias Sugar 2021 Limited in 90 days (i.e. Stay of high Court order by Court of Appeal on 6th June 2022 and 1st production of sugar bag on 13th September 2022) re-revived Mumias Sugar (

which was closed for 5 years) and brought back the ***"Natural Kenyan Sweeteners – Mumias Sugar"*** to the common man table.

i- ***Nucleus estate developed over 2139 acres.*** – 0 cane when they took over

ii- ***To date investment is over KSH 1.359billion***

iii- ***Kshs 1.5 Billion paid to farmers in their Bank Account by making weekly payment***

iv- ***Over Kshs 433 Million contributed to GOK***

v- ***Crushed 300,000 Ton cane in 9 months***

vi- ***Produce 20,000 Ton of sugar***

v- ***Bringing Mumias Sugar Back to common man of the country after 7 years***

10th may were ordered to stop cane production by Court.

AGENDA OF THE MEETING

In our understanding, the Agenda of this meeting is about ***"TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALIZE THE STATE-OWNED SUGAR COMPANIES"*** and our views about this in particular -

1. Creation of Competitive Sugar Sector
2. Enhance Profitability of Sugar Farming
3. Enhance Profitability in the Sector
4. Achieve economies of scales

PROPOSED INPUT FOR THE CONSIDERATION

Sugar is one the oldest agricultural product used all over the world. Global Sugar per Capita Consumption is 21.4 Kg however in our country it is 18.8Kg. By increasing population, the contry's demand will increase and therefore a long, foresighted & sustainable sugar policy must be in place.

Sugar is a product of Sugar Cane which takes 18 months to sugar with minimum of 2 (maximum of 3) crops of ratoons. So cycle wise it is minimum of 54 months (maximum of 72 months) crop planning.

Sugar cane is most sustainable and profitable cash crop in agriculture sector and that is why a long, foresighted & sustainable sugar policy is required in place.

Mumias Sugar 2021 Limited went through the provided documents *"TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALIZE THE STATE-OWNED SUGAR COMPANIES"* and would like to appreciate the effort made by The Treasury. The documents have taken care of all the required concern of the Sugar Sector for the long, foresighted & sustainable sugar policy.

However Mumias Sugar 2021 Limited would like to do a bit value addition and our inputs are as follows -

I. ***Implementation of Zones*** – Globally Zone is the back bone of Sugar Industry. For the quick and sustainable revival Mumias Sugar 2021 Limited need it's old Zone back so that it can bring the old glory of Mumias Sugar back. It is important to note that in 9 months of our operation and despite of doing all our efforts, our average availability of cane per day was 1,000 Ton however the capacity of the plant is 8,500 TPD (i.e. only 11.76% utilization).

Zoning give discipline in the sector for all stake holders. It develops

a) Ownership – Farmers feel factory belong to the Famer & Millers feel farms belong to the Miller and this belongingness of each other make the relationship more stronger which is ultimately beneficial to both Farmers and Millers in their profitability as partner.

b) Financial Help by Miller to Farmers – Millers will be more comfortable to invest in Farmers input (Seed Cane, Fertilizer etc.) as they will be sure that their investment after 18 months will give a good crop for their factory.

c) Increase of Consideration value of the Farmers – Being a partner in business Farmers and Millers will develop crop planning is such a way that it should be beneficial to both by supporting better variety of seed cane, providing fertilizer at right time, supporting famers for weeding, harvesting cane at right age etc. Below table is self-explanatory –

Description	Out-put (Without Zoning)	Out-put (With Zoning)
1st harvesting	60 Ton / HA	90 Ton / HA
1st Ratoon harvesting	50 Ton / HA	80 Ton / HA
2nd Ratoon harvesting	40 Ton / HA	75 Ton / HA
Ttoal Cane Recoverd	150 Ton / HA	245 Ton / HA

Total Cost	Kshs 485,535 / HA	Kshs 485,535/ HA
Total Sale (at present value i.e. Kshs 5,500 Per Ton)	Kshs 825,000	Kshs 1,347,500
Growth of Profit to the Farmers		63%

d) Better Recovery: The zoning model is also beneficial to the millers because at right input by the farmers and at the right age of harvesting recovery which is normally as 6.5% to 7% will increase to 9.5% to 10% which is 42% increase to their revenue.

e) Reduction in deficit of Sugar Availability : Every year we are in net deficit of sugar and have to import from all over the world however we have capacity to produce adequate sugar as well we can export. Zoning will ultimately facilitate in reduction of deficit of sugar by increasing 42% productivity in recovery as well as 63% in sugar cane yield

f) Saving of Foreign Exchange: As a country Balance of Payment (BOP) is negative and it is increasing day by day due to exchange pressure, Zoning will reduce the un-necessary out-flow of foreign exchange.

g) Affordable and Stable Sugar Price to End User : By zoning the sugar sector will start producing planned and consistent sugar to the country which will make sugar price more stable and affordable.

h) Corporate Social Responsibility (CSR) : For any sector growth CSR is the heart. Miller's within the zone will do all possible CSR so that their stakeholders are taken care in all respect. That is Infrastructure (road), Health (Hospital), Sports (Stadium), Skill Development (Technical Institute) etc.

II. ***Protection of Investor:*** We as Investor in Mumias Sugar are unable to perform because of the multiple court case which are blocking the revival of Mumias Sugar and ultimately the Sugar Sector as whole. This environment is not investor friendly, as each and every investor who invest their money (either self or financed by the bank) and due to some court orders all these investment will become none performing. This is badly affecting the investment Environment.

Proposal of leasing the Assets as per *"TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALIZE THE STATE-OWNED SUGAR COMPANIES* are a welcome initiative but most important is to provide protection to the Investor from the various court case which frustrate and scare investor to make any investment. Example is Mumias Sugar 2021 Limited who has invested heavily in repair & maintenance of the 5 year old closed plant and machinery, replacing of lot of old machineries to new machineries, investment in Agricultural Equipment's, earth moving equipment's , Tractors, Trailers etc. but can't operate.

We as an investor are still waiting for the court order to be lifted from 10th May 2023 so that our none performing investment should get to become a performing investment.

We, as investor, are paying to our supplier, our work force, our bankers etc. This is not a conducive environment for investment.

We propose that Government of Kenya should protect all the Investor's who will be awarded the leasing of the sugar mills with some legislation so that they can put all their efforts for the revival of the mills.

III. ***Availability of Nucleus*** – Sugar and Sugar Cane development is a long time process and capital intensive project. One of the reasons of the failure of Sugar Sector is not development of a fast growing variety of cane. For that upon the Zoning (as explained above) all millers should facilitate the production of good quality and good variety of cane to the farmers (OG) and for that Miller's need to invest in Research & Development(R&D).

Availability of Nucleus will be the basic requirement because being an agricultural R&D, availability of Land is the prime requirements –

Seed Cane Nursery
(200 HA)
↓
Cane Plantation for the new variety
(2000HA)
↓
Cane Harvesting

(2000 HA after 18 Months)

↓

1st Ratoon Harvesting

(2000 HA after 18 months of 1st Harvesting)

↓

2nd Ratoons Harvesting

(2000 HA after 1st Ratoons Harvesting)

After this R&D (as per above given flowchart) new variety of seed cane will be provided to Farmers and in the same time new varieties will be in the process.

Availability of Nucleus will be the back bone of R&D and therefore all Government Mills including Mumias Sugar should maintain their Nucleus.

IV. ***Significant Reduction is required for the Cost that farmers are incurring as input to produce Sugar Cane*** – It is appreciated the Government of Kenya through various ministries provide subsidized fertilizer to the farmers. It's benefit will be seen in next few months. However it is very true that our input cost is the highest in East Africa and COMESA. Fertilizer is not the only input. Major Input for the Farmers are as –

- Seed Cane Cost
- Fuel Cost
- Labour Cost
- Pesticide Cost

Proposed Solution of these expensive inputs includes;

i) Research and development should be enhanced to introduce high yielding and quick maturing varieties with high sucrose content.

ii) Long term the government needs to develop irrigation infrastructure. This will increase the farmer's income per acre, drop the price of sugar cane and make it sustainable.

iii) Co-operative Farming concept need to be introduced and should be supported by the Government so that farmers can use advanced mechanization with minimum cost.

iv) Well-controlled and regulated PDS (Public Distribution System – for all subsidized input distribution to famers) is the

requirement of the day. This will increase productivity and accountability with no misappropriation of government fund.

V. ***Availability of Credit Facility***: It is appreciable that The Government of Kenya is focusing for the revival of Sugar Sector. Mumias Sugar 2021 Limited is in the opinion that Cane Farming should also be considered as Agriculture Supporting Industry and The government should avail affordable and subsidized credit line to the farmers in support of the bottoms up economic model.

VI. ***Investment in technology*** – the government should invest in technology which facilitates farmers regarding their credit worthiness, availability of land, farmers credit card, crop insurance, buying of agricultural inputs and agricultural machinery. This will also facilitate government and government bodies to monitor and report as required.

VII. ***Payment to Farmers*** – In Kenya we have a historical problem about the payment to the farmers. This is one the the reason why farmers are leaving cane farming profession. Governemnt of Kenya and their regulatory bodies must frame a farmers payment policy and its dispute resolution mechanism. Policy should be duly consulted with Farmers and Millers and agreed the mechnism which should be abide by all parties.

VIII. ***Role of Government of Kenya and their respective arms*** – Government of Kenya and their respective arms should facilitate the Industrial Environment as Policy Maker, Facilitator and advisor

- They should draft a Long Term & Sustainable Sugar Policy
- They should be Implemntor to the Sugar Policy
- They should develop a machnism to resolve the dispute among the stake holders
- No interference in the commercial business decision otherwise it will defeat the ultimate goal of the policy

IX. ***Miller code of conduct -*** As per *"TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALIZE THE STATE-OWNED SUGAR COMPANIES"* all millers should diversify to the by- products as Ethanol and Power Generation. The proposal is very valid sound and should be implemented. But Milles should be cautioned that their 1st priority is Sugar no other by-products. It is very important because primary goal of these documents is to stabilize sugar sector and that has to be adhered to. If any miller's are making

by-products alongside the primary product its the way to move forward but it should not be vice-versa.

X. ***Utilization of other indirect taxes*** - counties collect Cess for infrastructure but are unable to develop the same. We propose that the Cess should be utilized in a infrastructure fund, which collection should done as follows:
1% of cess paid by farmer
1% of cess to be paid by miller
1% cess by County government
2% cess by KERRA
From the total cane value 5 % will generate 2B – total annual sugar cane in the country is 8m tonnes at per tonne rate of 5500 per tonne will equate to 45B that farmers are paid and each sugar cane producing counties will get about 400M and managed by a representative committee (farmers, millers, county etc)

A. ***Other Important long terms measure -***

I. Investment in research and development – government through various agencies need to sign MOUs with global and local research bodies to improve seed cane varieties, to increase cane production per acre and sucrose content.

II. A special subsidy for long term investment for millers – millers should be incentivized by government to encourage investment in infrastructure related to sugar sector such as dams, irrigation channels, fertilizer, herbicides etc for increased Sugar Cane production.

III. A special tax incentive to the millers should be introduced for millers to invest in by-products such as ethanol, power generation, bio- fertilizer, paper and refined sugar (which can be produced locally).

We are thankful and honoured for your invitation and allowed us time to put forward our concern and input to your proposed memorandum. We hope our input will be considered as constructive and will help you to further refine your proposals. We will be always available for any clarifications if required.

We once again congratulate the National Treasury for taking such good initiative for our sugar sector

Thanking you.

ANNEX 9H

SONYSUGAR
Simply The Sweetest

SOUTH NYANZA SUGAR COMPANY LIMITED

6TH SEPT 2023

SUMMARISED STATUS OF THE COMPANY TO DEPARTMENTAL COMMITTEES ON FINANCE AND NATIONAL PLANNING; AND AGRICULTURE AND LIVESTOCK

South Nyanza Sugar Company Ltd started milling operations in 1979, with an installed capacity of 2,000TCD (tons of cane per day). This was gradually expanded, through equipment additions and upgrades, to the current installed capacity of 3,000TCD.

The Company has a Nucleus Estate covering 2,400ha and Outgrowers zone covering 20,000ha made up of more than 50,000 farmers.

In an effort to improve performance of the company, we have undertaken comprehensive factory maintenance twice (June/August 2021 and November/December 2022) thereby enabling us to operate fairly well at a recovery ratio of 10% which is the industry standard anywhere in the world. Comparable to the private millers, what is different from their plant is Process Control, otherwise the process system is the same.

It's important to note that regular maintenance of the factory is key in stabilization of performance and survival of sugar companies in general. In nearly five years prior to May 2020, the Company did not carry out maintenance with the last such exercise having been done in April/May 2015.

This compromised the overall performance with the effect being serious cash flow constraints incapable of supporting operations and other critical requirements needed to support factory maintenance. The result being accumulation of pending bills that have since build up to the tune of Kshs 8.2 Billion as per **Table A** below.

The total debt portfolio is **REVISED** as at 30.06.2023 and stands at Kshs **8.2** billion broken down as follows:

Table A

S/No.	DESCRIPTION	FIGURES AS PER TREASURY MEMORANDUM	SONY REVISED FIGURES AS AT 30.06.2023	REMARKS
		Amt. Ksh	Amt. Ksh	
1	Farmers Arrears	865,853,677.00	1,096,938,999.98	Amount payable to farmers on delivered cane
2	Salary Arrears + Other Emoluments	1,194,397,767.00	1,194,397,767.62	This relates to staff salary arrears, payroll remittables and pension.
3	Taxes and Penalties(KRA)	2,682,825,089.00	3,059,764,218.00	Relates to PAYE and VAT principal, penalties and Interest.
4	Cess, Land Rent and	-	85,652,759.41	

	Rates (County Governments)			
5	SDL	-	291,179,524.21	This is o/s 7% sugar Development levy on sugar sales
6	Commodity Fund Loans	503,244,772.00	503,335,635.72	CF loans were for farmers arrears, roads & infrastructure
7	Gov. Loans	888,122,168.00	891,989,972.39	Relates to GoK Loan ksh. 248,078,749 and ODA Loan Ksh. 643,911,222.
8	Other Creditors	1,146,745,520.00	1,034,375,500.06	Relates to Cane Transport ksh. 3,473,832; General Suppliers of goods & services Ksh. 362,253,784; and Co-operative Bank Loan Ksh. 668,647,883.
TOTAL		**7,281,188,993.00**	**8,159,634,377.39**	

As a Company, we are confident that the current management is capable of addressing the pending bills if the challenge brought about by cane shortage is addressed. This is coming at a time when the Company is capable of crushing over 2,700 tons of cane per day following a comprehensive factory maintenance carried out in November/December 2022.

Current cane shortage is as a result of some private millers operating without having developed cane of their own, thereby relying on cane poaching to sustain their operations. South Nyanza Sugar Co. Ltd has lost over Kshs 4 Billion in investment in cane development due to cane poaching compounding to the current state of affairs.

The following are the direct benefits from the latest management initiative to revive South Nyanza Sugar Company Limited

TABLE B

No.	Period of maintenance	Average efficiency attained	Rendement (efficiency ratio- Industry STD =10%)	Revenue growth	Farmers payment to date (Kshs)	Taxes paid
1.	Period prior to May 2020 with last maintenance done in 2015	Below 30% for the year 2019/2020	3.49%	410,608,000	37,617,318	2,333,212
2.	May/August 2020	60% for year 2020/2021	6.96%	2,382,719,000	581,159,995	145,386,764
3.	June/August 2021	70% for year 2021/2022	8.55%	4,216,916,000	1,120,697,000	327,331,399
4.	Nov/Dec 2022	85% for year 2022/23	10.00%	5,125,613,000	1,298,559,483	461,206,875

From the above statistics, it's evident that the Company is on its path to recovery save for the current country wide cane shortage brought about by cane poaching. This is a pointer that the Company needs to be supported so as to recover fully.

In the immediate term, therefore, and with an aim of sustaining the operations by improving revenue levels, the Company is hereby making submission to be assisted in the following areas:

1. That the Government to consider addressing the pending bills by writing off all outstanding taxes including penalties, Government loans, Commodities Fund loans and levies.
2. Bail out to clear farmers' arrears and all cane related payments, staff salary arrears and other outstanding pending bills as listed in **Table A** above.
3. Government bail out to promote cane development and thereafter enact Sugar Bill to safe guard investment in cane development.

From improvements post maintenance summarised in Table B above, it's evident that survival of the sugar industry is dependent on cane development by all millers and enactment of the Sugar Bill through zoning to safe guard its investment. Further, regular factory maintenance is key in stabilisation of the efficiency.

This is achievable when backed with effective regulation in the sector. Appendix I contains feedback on the Memorandum on Action Plans to Revive and Commercialise the State-Owned Sugar companies.

Stephen Ligawa
Managing Director (Ag)

Appendix I

SONYSUGAR
Simply The Sweetest

South Nyanza Sugar Company Limited

Response to Treasury Memorandum on Action Plans to Revive and Commercialize The State-Owned Sugar Companies

Chapter	Issue	Remarks	Recommendations
2. Challenges Facing Public Owned Sugar Mills	Poor Governance	Add "Politicization of the Boards of Directors has compounded the challenges of service delivery because of lack of capacity and requisite experience to turn around these institutions	As contained in the Sugar Industry Stakeholders Taskforce Report (SISTR) Clause 5.2 Challenges of Public owned mills
	Failure in institutional Structures, processes and Policy to address current issues in the sugar Industry i) Research and Development ii) Extension Services iii) Rising costs of Farm Inputs (Machinery, fuel, spares) iv) Lack of Government Effort v) Model adopted in Cane Growing (Contract Farming Approach vs Liberal market forces approach)	Restore the former Kenya Sugar Board to deal directly with Sugar Industry issues away from AFA Restore Sugar Development Levy (SDL) and Sugar Development fund	As contained in the SISTR clause 3.2 Research and Development; 3.3 Sugarcane Production 3.4 Sugar Processing 3.5 Value Addition 3.6 Pricing Mechanism 6.2 Taxation and Related Challenges
	Lack of Capital and High Debt		As contained in the SISTR clause 4.2 Financial Challenges in the Industry 9.6 Funding Mechanism
	Ageing Plants, Machineries, Obsolete Technologies and Operational Inefficiencies	The technology being used in the sugar industry has all along been mill-roller technology with improvements and	As contained in the SISTR clause 9.6 Funding Mechanism

Chapter	Issue	Remarks	Recommendations
		modifications with regard to process control (Improved automated machinery/equipment and monitoring machinery and software). What should be enforced is the regular annual planned maintenance (APM) and Preventive Weekly Maintenance schedules to sustain efficiencies at recommended levels	
3. Challenges of Government Bureaucracy in running Commercial enterprises		Government to reduce its role in the running of commercial entities	Agree with the Leasing arrangement to a private investor
4. Objectives of The Action Plans	i) Creation of Competitive Sugar Sector	Agree	With enforcement of the legal framework that provides for a level playing field and provides for everyone to adhere to the rules before being licensed
	ii) Enhance the profitability of Sugar Farming Enhance Productivity in the Sector in 4 Key Areas a)By Investing in modern sugar milling Plants which will enhance production efficiency, diversified product range, sugar molasses, ethanol and green power through co-generation b) Increase tons of cane harvested per acre from current average of…..to an average of 35 tons per acre c) Improve the recovery by lowering the Tons Cane /Tons sugar recovery from	Rehabilitated and modernized Investment in addition to diversified revenue streams Increase productivity per unit area; Fertilizer inputs buying to be rationalized Investment in regular rehabilitation, modernization and preventive maintenance	

Chapter	Issue	Remarks	Recommendations
	12.5% to 8% per ton of cane d)Increase the cane sucrose content to 13-14%	Improved cane varieties, timely harvesting	
	iv) Achieve economies of scale; Adequate supply of sugarcane to meet optimal factory operations. Delivery of made sugar at competitive rates will allow the sector to thrive even with removal of COMESA safeguards	Synchronization of milling capacity and sugarcane establishment; Block farming (Land use policy enforcement) Large scale farming Increased capacity through expansion Diversification	As contained in the SISTR clause 3.3 Sugarcane Production 3.4 Sugar Processing
5. Proposed Strategic Interventions It is recommended that corporate re-organization and financial restructuring of public mills be done as follows;	(i) Bring on board private capital expertise and modernization of sugar mills with adequate sugarcane to allow them run efficiently and operate on commercial principles	Agree With enforcement of current legal and proposed legislation to protect developed sugarcane	
	(ii) Enhance Cane development in both the Nucleus Estate and Outgrower Farms	Agree	
	(iii) Address stakeholder and community sensitivities on permanent divestiture of land. The recommendation is to seek for utilization of the NE lease proceeds to incentivize small holder farmers to enhance production through a payment of	Don't Agree The divestiture of the Nucleus Estate shall leave the company vulnerable to external factors. Nucleus Estate serves as a bulking site for newly introduced varieties, buffer zone for the Company and compliments on a daily basis what comes from the Outgrowers. This serves as the	

Chapter	Issue	Remarks	Recommendations
	loyalty bonus and in community development projects by funding CSR Projects	Company's farm where trials can be carried out and can also be used as collateral for loans. The Community is involved in its cane husbandry and maintenance activities and security which gives them a source of income	
	(iv) Proposed lease model shall be executed by unbundling the NE land and the Factory land. The existing run-down factories shall be disposed in compliance with existing regulations and the successful investors shall be provided with land which they can leas and construct a modern factory . In this case, it makes it possible for the factory to be run by the private sector without permanently divesting the NE hence meeting the stakeholder and community requirements	Don't Agree The Nucleus Estate forms one of the CORE Strategic Business Units of which the company has complete control. Unbundling the NE shall evoke the previous stalemate with stakeholders whose land was used to form the Nucleus Estate and which made the privatization process to come to a standstill. The NE complements the deliveries from the Outgrowers and is also the demonstration area for new cane varieties and husbandry practices, machinery use and bulking.	
	(v) Expedite the leasing of the five sugar companies to facilitate the rehabilitation and expansion with a view to enhancing competitiveness of the industry prior to lapsing of	Agree Leasing framework to be made more clear to enable the Public mills to prepare for smooth transition	

Chapter	Issue	Remarks	Recommendations
	COMESA safeguards		
	(vi) Achieve cane catchment of viable sizes hence the need for consolidation. Creation of financially viable sugar companies able to access adequate cane considering minimum viable size of area 29,914 ha required to supply cane to one factory. The minimum land size was arrived at by taking into account the break-even required per annum, the average cane yield per hectare, cane maturity period and the plantd cane required to break-even (vii) It is recommended that Nzoia and South Nyanza sugar Companies which have a cane growing area of 49,862 hectares and 31,415 hectares respectively be retained as they are	Agree Zoning of catchment areas to be enforced to safeguard investment in sugarcane development	
	(xi)Restructuring of the sugar companies balance sheets as follows; a) That the total of Kshs 65.8 billion owed to Government of kenya and Kenya Sugar Board as at 30th June 2023 by the five sugar Companies be	Agree Should be expedited to avoid the increase in penalties and interest on the premiums	

Chapter	Issue	Remarks	Recommendations
	written off. A write-off approval of KShs 33.8 billion was granted by parliament in 2013 but not executed as it was tied to the privatization process b) Write-off of tax penalties and interest estimated at KShs 50.145 billion as at 30th June 2023 c) Payment plan for balances owed to farmers amounting to KShs 1.72billion be worked out by MOA and National Treasury	Agree Should be done immediately to avoid escalation of interest and penalties	
	xii) Regulation of factory zones to ensure financial viability and future sustainability of the sugar companies by clearly defining each factory zone prior to inviting final bids for the leasing program and ensuring that the zones are complied with by all stakeholders	Agree This should be enforced to safeguard investment in cane establishment	
	xiii) Government to support small holder cane farmers to develop the crop and enhance productivity.	Agree Enhance access to low interest loans for the farmers	
	xiv) Legal reforms in the sector: Government to come up with mechanisms to enhance efficient settlement of disputes efficiently to mitigate the numerous legal suits filed by sector players in court.	Agree Re-introduction of the Sugar Arbitration Tribunal to deal speedily with sector matters	
	xv) Enforce zoning to incentivize investors in the sector to bring	Agree Immediately	

Chapter	Issue	Remarks	Recommendations
	order and spur production		
7. The National Benefits accruing from the Proposed Leasing Model. Benefits of Leasing ar:	a) Allows for private sector participation without undertaking permanent divestiture process	Agree	
	b) Enhance the livelihoods of farmers, employees and communities; Make sugarcane farming profitable and sustainable	Agree	
	c) Modernization of the sugar mills – Increase efficiency and hence profitability	Agree	
	d) Development of the Nucleus Estates	Agree Enhance Productivity of the Nucleus Estates	
	e) Generation of taxes	Agree With increased revenues	
	f) Improve competitiveness and increased sugar production to meet domestic demand hence save on Forex occasioned by imports	Agree Enforce legislation on imports	
	g) Enhance product diversification – co-generation and ethanol production	Agree Alternative revenue streams	
	h) Cut Public sector financing through private sector participation	Agree Reduce use of Public funds	
	i) Improve Business environment in Kenya- Mitigate conflicts/Regulation and commercial roles	Agree Enforcement of regulations	

Chapter	Issue	Remarks	Recommendations
8. Request to the National Assembly	The national Assembly is invited to Consider and approve as follows;		
	i. Write-off of loans owed by the five (5) public mills to GoK and KSB/Commodities fund amounting to KShs 65,778,448,646 as at 30th June 2023 and any other accrued interest as at the date of approval	Agree Immediately assembly approves the request	
	ii. Approve the Cabinet decision directing the Cabinet Secretary, the National Treasury to write-off the Tax penalties and interest as approved by parliament amounting to KShs 50,144,801,608 billion as at 30th June 2023 and any additional interest and penalties that have accrued since then	Agree Immediately Parliament approves the request	
	iii. Approve the Vacation of the Privatization model approved by Parliament in 2015	Agree Immediately Parliament approves	
	iv. Approve the Leasing model for the five (5) public owned sugar mills (Nzoia Sugar Company, Chemelil Sugar Company, Miwani Sugar Company (in Receivership), Muhoroni sugar Company (in Receivership) and South Nyanza Sugar Company)	Agree The Leasing model should be presented in more detail to enable Parliament approve a model that shall not antagonize the stakeholders. This shall also help the institutions be able to prepare to enable ease of transition	

ANNEX 8I

nzoia sugar

Sweetening Kenya
since 1978

CONSIDERATION OF THE NATIONAL TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALISE THE STATE OWNED SUGAR COMPANIES BY DEPARTMENTAL COMMITTEES OF FINANCE AND NATIONAL PLANNING; AND AGRICULTURE AND LIVESTOCK

SUBMISSION PRESENTED BY

NZOIA SUGAR COMPANY LIMITED

SEPTEMBER, 2023

1. INTRODUCTION

Nzoia Sugar Company (NSC) Limited was established in 1975 and started operations in August, 1978. It was formed under the Companies Act Cap 486 of the Laws of Kenya with Memorandum and Articles of Association and issued certificate of incorporation No.C13734 on 1st August, 1975.

The shareholding of the Company includes Kenya Government with 97.94 % shares, Fives Cail with 1.13 % shares and Kenya Development Corporation formerly, Industrial Development Bank (IDB) holding the remaining 0.93 % shares.

Nzoia Sugar Company (NSC) has a nucleus estate of 3,600 Ha equivalent to 10,000 acres and a factory with an installed milling capacity of 3,000 tons of cane per day. NSC serves approximately 45,000 sugarcane farmers in Bungoma and neighboring Counties. The Company has a total workforce of over 2,500 employees.

Since inception, the Company has been managed by four entities, namely; FCB & Technisure from 7th October 1975 to 3rd January 1978, Government of Kenya from January 1978 to 11th January 1999, F.C. Schaffer & Associates between 12th January 1999 and 31st August 2003. From 1st September 2003, management reverted back to the Government, which is in charge to date.

2. CRITICAL ISSUES/CHALLENGES FACING THE COMPANY

25,000 reduced to about 15000

The company is faced with many challenges, key among them being; inadequate cane for milling, inefficient factory operations due to obsolete technology and ageing plant, high cost of production, volatile market for sugar, high pending bills, poor road network, low level of Machinery availability, an ageing work force and loss of organizational knowledge through high rate of staff exits, not fully utilized ICT infrastructure, unfair competition from other millers, a weak legal and regulatory framework, limited revenue streams (only one product- sugar), low productivity at the farm level, land fragmentation, cane poaching, loss of cane through arson fires

a) Accumulation of Outstanding debt

The company has accumulated a total of KES 62.2 B as pending bills as at 30th June 2023, a bulk of which (KES 59.3B) comprises Kenya government guaranteed loans, interests, principal taxes and penalties. Farmers KES 269M, employee arrears and related KES 2B, suppliers KES 788M among others.

59.3
269
59.569
2.00
61.569
788
62.357

b) Cane shortage

During the current financial year, the company has targeted to plant 1,700 Ha (4,250 acres) and 1,000 Ha (2,500 acres) of cane in the Nucleus estate and outgrowers respectively. This requires resources for land preparation and subsequent cane development operations.

c) Factory Inefficiencies

The Government in last financial year provided 216M for factory maintenance which was 64% of the requirements at that time. The factory had an average TC:TS of 14.67 against benchmark average of 10. This has led to losses.

d) Staff Salary Arrears

The salary arrears for staff now stands at Kes. 1.9B. The accumulation arose as from March 2019 to February 2020 when we ran out of cane and factory broke down. We then closed to undertake boiler repairs. From August 2022 the Company was paying full salaries but the situation changed in the month of February 2023 when we started making part payments. The arrears has contributed to low staff morale.

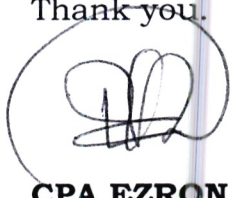
3. RECOMMENDATIONS ON THE ACTION PLANS TO REVIVE AND COMMERCIALISE THE STATE OWNED SUGAR COMPANIES

1. **Clause 4. iii (c)** to delete "Increase sugar recovery rate from the current average of 12.5% and replace with "increase sugar recovery rate from the current average of 8-10% per ton of cane.
2. **Clause 5. Proposed strategic interventions** – include the following strategies:

- Zoning be clearly defined (catchment area) and empower regulator to enforce through regulations
- Empower and enhance collaboration between the Sugar Research Institute and Sugar Millers in research to develop better yielding and early maturing varieties
- To enhance extension services to farmers, the millers and the respective County Governments in cane growing regions to partner and increase their capacity in offering much needed extension services.
- Sugar to be classified as a food commodity and not as an industrial commodity and government to waive some taxes and levies on locally produced sugar. Factory spares, equipment and machineries be duty free
- The Sugar Research Institute (SRI) and the millers to collaborate in ensuring the availability of affordable certified seed cane to farmers.
- Farmers access to affordable credit, subsidized inputs to fund cane development so as to improve on yields
- Diversification to include; Animal feeds, Organic fertilizer, Charcoal briquets, Chipboards and Soya bean and soya bean products
- The unbundling of the nucleus estate land and factory land, shall also include the unbundling of public utilities such as schools and hospitals and other social amenities like stadiums.
- In cases where there will be sugar deficit in the country, government millers to be apportioned sugar import quotas based on their production capacity.
- The leasing model to ensure the continued operation of the current factories and provide a clear transition period as the modern factories are constructed, taking into consideration the welfare of existing employees.
- Restructuring of the sugar companies balance sheets to include;
  A payment plan for balances owed to employees of Nzoia Sugar Company as salary arrears and other emoluments amounting to Kshs. 1,843,427,512.00 be worked out by the Ministry of Agriculture & Livestock Development and National Treasury

d) A payment plan for balances owed to Other Creditors of Nzoia Sugar Company amounting to Kshs. 1,241,204,717.00 be worked out by the Ministry of Agriculture & Livestock Development and the National Treasury.

Thank you.



CPA EZRON KOTUT

Ag. MANAGING DIRECTOR

Submission to the joint Paliamentary Committee on Finance and Agriculture

NZOIA SUGAR COMPANY

SHARES: GOK 97.93%

1DB 94%

	Kshs	%
Government of Kenya	600,000,000	98.20
Fires cail babcok	6,000,000	0.98
Industrial development bank	5,000,000	0.82
	611,000,000	100

Nzoia sugar company

Nzoia factory was commissioned in 1978 with an initial raised capital of 2000TCD, which was later expanded to 300 tcb. It was designed and built by a French firm called babcoch (FCB). It evertual poor performance arose from the significant commercial borrowing that its management used to finance the companys early expansion. In 1992 it embaked on a several on a several phase of the expansion with an intention of raising its TCD to 7000. But nzoias _____ borrowing plus its latest expansion left the company financially compromised. Poor financial performance spwned deep operational difficulties: poor betory performance: deployment of inappropriate technology, very high tcf ration, all leading to increasing loses.

Other constitutnets crowded in; a bloted workforce an heavy insdebtness meant that nzoia faced very high costs of production. As at 30th june 2020, the financial situation of the company a sumarised below:-

THE LIABILITIES OF NZOIA SUGER COMPANY AS AT 30TH JUNE 2020

The national treasurer	37,138,667,226
Ministry of agriculture	2,587,775,252
Cane transporters	58,786,303
Trade suppliers	728,710,913
Cess	30,983,150
Cane farmers	438,977,305
Rent to nucleus (ministry of agriculture)	16,266,635
Bungoma county land rents	81,710,093
Outstanding statutory deductions	0

PAYE	1,027,578,980.39
NSSF	26,473,782.38
NHIF	20,430,750
PENSION ARREARS	370,681,833.45
Domestic tax penalties	4,389,640,124.78
Salary arrears	1,113,631,656.29
GRAND TOTAL	**48,020,314,004.29**

The correlation between deteriorating financial and management performance with factory performance in terms of efficiency of milling operations is particularly strong in Nzoia.

Between 2011 and 2016, Nzoia crusted on average, a total of 727,106 mt of cane every year. In the subsequent years 2017 to 2020 this average dropped to 361,169 mt per year a 101 percent drop. The average conceal very erratic production and efficiency problems, for example in 2016 Nzoia crushed 829,093 MT of cane to produce 73,459 MT of sugar giving a TC/TS ratio of 11.29, a responsible rate given the industry average of about 10. However, Nzoia had been more efficient in the earlier years: in 2011 it crushed 635,920 MT of cane to produce 61,291 MT of sugar yielding a TC/TS ratio of 10.38, matching of the industry average Nzoia had nearly as good performance in the next year 2012. That year it crushed 727,721 MT of cane and produced 67,003 MT of sugar yielding a TC/TS ration of 10.86; in the year 2017, the performance has been perlous: in 2017 the factory crushed 441,114 MT of cane to produce 29,757 MT of sugar at a conversion ratio of 14.82: I, in 2019 it crushed only 185,844 MT of cane to produce only 13,003 MT of sugar giving a TC/TS ratio of 14.29:1- that dropped further in 2020, that dropped further in 2020. That year Nzoia crushed more than twice the cane it crushed in 2019 – 484,598 MT in all – but its TC/TS ratio deteronded to 15.57;1

These numbers represent real financial losses to the farmers if in 20220 nzoia had achived the TC/TS ratio it recorded in 2011, it would have made 40,903 mt of sugar, not 27,274 mt it produced. That means that the deterioration in the peterorys TC/TS ratio to

15.57; 1 represents a loss to the farmers cane worth 13,729 mt of sugar. Tha same holds for 2017 not the 29757 mt it actually did. Expressed in macro terms in the 10 years under consideration, nzioa crushed 5,807 308 million mt if cane from which it extracted 485,560 mt of sugar had this crushing yielded sugar at the industry average of 10;1 Nzoia should have produced 580,731 mt of sugar. That means that by hearing their came crushed at Nzoia, farmers lost value equal to 95,171 mt of sugar over the decade.

RISK AND SOURCES OF LEAKAGE

LEGAL RISK

Nzoia Sugar Company is facing 41 law suits with a subject matter value of Kshs. 171,161,934.15

FINANCIAL RISK

The companys financial position has eroded its working capital making it difficult for it to sustain its operations. Nzoia has also been a persistent defaulter on its debt commitments attracting burdensome interests and penalties. Its current liabilities exceeded current assets by Kshs. 44,683,068,000 in the audit year the company reported an operating loss of Kshs. 3,568,733,000.

OPERATIONAL AND MANAGEMENT RISKS

The parlous financial condition of the factory has generated serious operational failures. There is far intense a plant valued at Kshs. 295,697,000 which was meant for 1942 expnasion programme that has been lying idle since it was acquired.

By: Saulo W Busolo
Francis Waswa

6/9/2023

ANNEX 8J

MUHORONI
SUGAR COMPANY LTD

(IN RECEIVERSHIP)

CONSIDERATION OF NATIONAL TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALISE THE STATE OWNED SUGAR COMPANIES BY THE DEPARTMENTAL COMMITTEES ON FINANCE AND NATIONAL PLANNING, AND AGRICULTURE AND LIVESTOCK.

SUBMISSIONS PRESENTED BY

MUHORONI SUGAR COMPANY LIMITED (IN RECEIVERSHIP)

© SEPTEMBER 2023

MUHORONI SUGAR Co. LTD. (In Receivership)

I OBJECTIVE OF THE MEMORANDUM

The objective of this memo is to submit our comments on the memorandum on action plans to revive and commercialize the State-owned sugar companies under the consideration by the National Assembly.

II BACKGROUND

a) Muhoroni Sugar Company Limited (MUSCO) was incorporated in 1964 under an Act of Parliament Cap 441; and started operations in 1966 with an initial factory capacity of 800 Tons Cane per Day (TCD). The milling capacity was first expanded to 1,800 TCD in 1978 and further to 2,200 TCD in 1990.

b) The total size of the company land is 2,002Ha of which 1,600Ha coverage is the Nucleus Estate.

c) The Company is owned by the Government of Kenya through Agricultural Development Corporation (ADC) (74.17%) and Development Bank of Kenya (8.61%). Private shareholders include UKETA Ltd. (16.86%) and Other Private Shareholders (0.36%).

d) The Company was placed under joint receivership in March 2001 by the then Kenya Sugar Board (now Agriculture and Food Authority) and National Bank of Kenya (NBK). The NBK has since been paid off, hence Agriculture and Food Authority remains the sole debenture holder.

e) Before and during the receivership, the GOK and the debenture holder (AFA) have the supported company operations through a refinancing loans accruing interests and penalties to the tune of Ksh.9.7 billion. and with the hope that it will be turned around to profitability.

f) The refinancing approach by the GOK and the debenture holder has been justified by the following:

i. Asset preservation

Closure and idleness of the factory would put the assets including equipment at risk of vandalism, and land occupation by squatters.

ii. Social economic instability

The factory has been the main source of livelihood for about 20,000 households supplying about 450,000MT of cane per year. It has also been supporting others such as transporters, distributors, suppliers, farm workers and waged employees.

803 employees

III ANALYSIS OF MUHORONI SUGAR COMPANY CHALLENGES

a. **High debt portfolio:** As at June 30th, 2023, Muhoroni Sugar Company (In receivership) has total debt of Ksh. 26,133,890,927 comprising a pre-receivership debt of Ksh. 23,234,523,291 and a post receivership debt of Ksh. 2,899,367,636 as follows:

Description	Amount (KSHS)
Farmers arrears	316,651,523
General Suppliers Dues	926,550,290
Staff Salary arrears + other emoluments	1,080,444,410
Unpaid taxes (Interest & Penalties)	14,120,931,330
GOK Loans – The National Treasury (Principal + Interest)	6,223,114,853
AFA/Commodities Fund Loans (Principal + Interest)	3,466,198,521
Total	**26,133,890,927**

b. **Inadequate factory maintenance:** As a result of the financial challenges, the company has not been in a position to carry out scheduled factory rehabilitation. This has adversely affected the operational efficiency of the factory.

c. **Low cane supply:** There has been minimal cane development and maintenance due to lack of funds at a time when the industry's milling capacity has tremendously increased. Consequently, cane demand in the region and the industry has far outstripped supply, leading to cane poaching and harvesting of immature cane. In addition, delayed payment to farmers has further aggravated cane development and maintenance at farm level.

d. **Lack of adequate policies and regulations in the sugar sector leading to**; Acute cane shortage, unregulated setting up of weighbridges, harvesting of underage cane, cane poaching, lack of farmer support in cane development and unregulated importation of sugar.

e. **Land Disputes:** encroachment of the company Nucleus Estate by the Koguta community who have been occupying about 454 acres of the nucleus estate as registered squatters since the 1960s.

IV STRENGTHS AND OPPORTUNITIES

a) The company's cane catchment area offers suitable quantities of caneable land with majority of farmers who are traditional cane growers with good average land holding highest in the industry at 1.5hectares.

   Muhoroni Sugar has the untapped potential to increase cane growing to new areas e.g. Oduo, Awasi, Angoro, and Katolo areas in Kisumu County and Fortenan, Tunnel, Londiani in Kericho County with a potential additional 9,000ha area under cane supported by irrigation. This shall increase the area under cane in Muhoroni zone to approximately 31,134 hectares. The yields are also expected to improve significantly.

b) Centralized location of the factory strategically along the major highway easing business and logistics.
c) Close proximity to Nyando river enabling opportunity for irrigation for better cane production.

V RECOMMENDATIONS ON THE ACTION PLANS TO REVIVE AND COMMERCIALIZE THE STATE OWNED SUGAR COMPANIES.

Whereas Muhoroni Sugar Company Ltd supports the government action plans to revive and commercialize the state owned sugar companies, we wish to request the committee to consider the following proposals to enrich the process: -

1. Approve the debt write-offs on GOK loans, interest and penalties as well as taxes, interests and penalties as at 30th June 2023 as recommended by the Cabinet.
2. Settlement of farmers arrears amounting to **Kshs.316,651,523**, employees salary arrears amounting to **Kshs.1,080,444,410** and creditors amounting to **Kshs.926,550,290** before the leasing process. This is necessary to avoid possible litigations that may impede the proposed leasing process. There is also need for a smooth transition process that accommodate the concerns of the current workforce.
3. Enforce individual factory zoning to encourage cane development and prevent cane poaching.
4. The National Assembly to fast-track the Sugar Bill and sugar industry regulations to enhance development and order in the sugar sector.

5. Provide support to enhance cane development through farmer support and explore untouched areas estimated at 9,000Ha for cane growing, and improve productivity thus no need to merge Muhoroni Sugar and Chemelil Sugar factories.
6. Consider merger of Muhoroni Sugar Company Ltd and Agro-Chemical and Food Company (currently listed for privatization). An existing distillery and ethanol plant which guarantees back-end diversification and sustainability for both institutions. The two companies used to be joint before.

For and on behalf of,
MUHORONI SUGAR COMPANY LTD (IN RECEIVERSHIP)

Signed..... Dated 6/9/2023

Harun Kirui
JOINT RECEIVER & MANAGER

Minority shareholders – 17.22% what will happen to them?
This needs to be highlighted.

ANNEX 8K

MIWANI SUGAR COMPANY (1989) LIMITED
(IN RECEIVERSHIP)
REFINED SUGAR AND SPIRIT MANUFACTURERS
P. O. Box 100, Miwani Email: miwanisugar@gmail.com

CONSIDERATION OF NATIONAL TREASURY MEMORANDUN ON ACTION PLANS TO REVIVE AND COMMERCIALIZE THE STATE OWNED SUGAR COMPANIES BY THE DEPARTMENTAL COMMITTEES ON FINANCE AND NATIONAL PLANNING, AND AGRICULTURE AND LIVESTOCK.

SUBMISSIONS BY

MIWANI SUGAR COMPANY LIMITED (IN RECEIVERSHIP)

© SEPTEMBER 2023

MIWANI SUGAR Co. LTD. (In Receivership)

I OBJECTIVE OF THE MEMORANDUM

The objective of this memo is to submit our comments on the memorandum on action plans to revive and commercialize the State-owned sugar companies under the consideration by the National Assembly.

II BACKGROUND

a) Miwani Sugar Company is wholly owned by the Government of Kenya
b) Factory milling operations ceased in the year 2000, and in 2001, it was placed under receivership by the former Kenya Sugar Board (now Agriculture and Food Authority), who is the current sole debenture holder.
c) The company owns land Land Reference Number 7545/3 (I.R. NO. 21038) measuring about 9394 Acres and Land Reference Number 7545/2 measuring about 0.500 Acres and which parcels of land comprises of the nucleus Estate and Factory of Miwani Sugar Company (1989) Limited (In Receivership) respectively.
d) Primary operations involve cane development within the company's nucleus estate and safeguarding its assets
e) The plant and machinery, encompassing milling, distillery, and a relatively new refinery, have predominantly remained inactive for 21 years, resulting in their deterioration and obsolescence.

III MAIN CHALLENGES FACED BY MIWANI SUGAR COMPANY

a. **High debt portfolio:** As at June 30th, 2023, Miwani Sugar Company (In receivership) has total debt of Ksh. 22,048,570,556 as follows:

Description	Amount (KSHS)
Creditors/Suppliers dues	820,002,539
Unpaid taxes (Principal, Interest & Penalties)	17,338,445,158
GOK Loans – The National Treasury & AFA/ Commodities Fund (Principal + Interest)	3,890,122,859
Total	**22,048,570,556**

HT – 2,075,494,684
AFA/CF – 1,814,628,175

b. The Miwani Land Dispute: There has been protracted legal battle over the ownership of the Miwani land. The case is currently at the Court of Appeal and the appeal is supported by Agriculture and Food Authority (AFA) and the Attorney General. A Comprehensive status report on the circumstances surrounding Miwani Sugar Company Limited (1989) and the chronology of the Miwani Land Cases is detailed under Annex 1 attached.

IV RECOMMENDATIONS ON THE ACTION PLANS TO REVIVE AND COMMERCIALIZE THE STATE OWNED SUGAR COMPANIES.

The management of Miwani Sugar Company Limited (In Receivership) supports the government action plans to revive and commercialize the state owned sugar companies.

We note that Miwani Sugar Co. Ltd has been excluded from the proposed leasing programme because of the on-going court cases and decision on the company will be made once the on-going court cases are determined. We wish to request the committee to consider the following proposals: -

1. Approve the debt write-offs on Miwani Sugar Company GOK loans, interest and penalties as well as taxes, interests and penalties as at 30th June 2023 as recommended by the Cabinet.
2. Settlement of creditors (Pre and post-receivership) amounting to **Kshs.820,002,539**. This is necessary to avoid possible litigations that may impede the proposed leasing process
3. The National Assembly to fast-track the Sugar Bill and sugar industry regulations to enhance development and order in the sugar sector.
4. There is need to expedite the on-going Miwani land case to release this very important and high value asset of the Government of Kenya to enhance cane development and sugar production.

Signed.....Dated.....6/9/2023

Harun Kirui
JOINT RECEIVER & MANAGER

ANNEX 1: Comprehensive status report on the circumstances surrounding Miwani Sugar Company Limited (1989) (In Receivership)

Miwani Sugar Company (1989) Limited (In Receivership) is a Limited Liability Company incorporated in 1989 by the Attorney General.

The shareholders of the company were the Permanent Secretary, Ministry of Agriculture (One share) and the Permanent Secretary, National Treasury (One share).

The Company was incorporated by the Government to acquire the whole or part of the undertaking and assets of Miwani Sugar Mills Limited (private company incorporated).

The Miwani Sugar Mills Limited which was under receivership by Somen Sokeri (Finnish Sugar Corporation) and Chase Manhattan Bank and their assets had been put up for sale. The Government purchased Miwani Sugar Mills Limited in trust of the public.

Pursuant to a sale agreement entered between the Joint Receivers of Miwani Sugar Mills Limited and the Government of the Republic of Kenya through the National Treasury, the Government purchased the immovable property and other movable assets of Miwani Sugar Mills on the understanding that the assets were to transferred to Miwani Sugar Company (1989) Limited upon the Government fully fulfilling the financial commitments made to Chase Manhattan Bank and Somen Sokeri (Finnish Sugar Corporation).

The immovable property purchased by the Government for and on behalf of Miwani Sugar Company (1989) Limited are parcels of land Reference Number 7545/3 I.R. NO. 21038 measuring about 9394 Acres and Reference Number 7545/2 measuring about 0.500 Acres.

Under an Agreements dated 21st February, 1991 and 27th May 1994 between the Government of the Republic of Kenya and Vannessa Associates incorporated, Vannessa Associates was allotted 1,071,000 shares in Miwani Sugar Company (1989) Limited (in Receivership) out of 2,100,000 shares held by the Government for their role in management and running of Miwani Sugar Company (1989) Limited (in Receivership).

Miwani Sugar Company (1989) Limited under the management of Vannessa Associates acquired loans from Kenya Sugar Board and Delphis Bank Limited (formerly Oriental Commercial Bank Limited and now M-Oriental Bank) and they executed debenture instruments in favour of the Financiers.

Miwani Sugar Company (1989) Limited defaulted in repayment of the loan facilities and Kenya Sugar Board with concurrence of Delphis Bank Limited appointed Joint Receivers/Managers over the assets of Miwani Sugar Company (1989) Limited (in Receivership) pursuant to the powers set out in the debenture instruments executed in their favour.

In 2007, Kenya Sugar Board with the concurrence with Joint Receivers/Managers agreed to take over the outstanding debt due and owing to Oriental Commercial Bank Limited (formerly Delphis Bank Limited) and Surjit Singh/ Malkit Singh, and duly paid the same and the said Bank assigned and handed over to Kenya Sugar Board all the

securities it held including the Title document alongside other securities and the shares instrument that were pledged by Vannessa Associates Incorporated.

In the year 2007, the Receivers/Managers commenced the process of transferring the land Registration Number 7545/2 and 7545/3 to Miwani Sugar Company (1989) ltd to enable the Privatization Commission effect the Government decision and policy, they learnt that the title to Land Reference Number 7545/3 I.R. NO.21038 had been fraudulently sold/transferred to Crossley Holdings Limited on 24th December, 2007 pursuant to a Court Order issued in Kisumu HCCC 225 of 1993 (Nagendra Saxena vs Miwani Sugar Mills Limited).

Following discovery of the said purported sale and transfer, the Receivers/Managers instructed the Company's advocates to move to Court to challenge the purported sale and transfer. Honourable retired Justice Mwera delivered a Ruling in HCCC (Kisumu) 225 of 1993 aforesaid under which he held that all the proceedings in the said case including the orders to attach and sell the property were a nullity and of no legal consequence.

The Plaintiff in HCCC 225 of 1993 together with Crossley Holdings Limited filed an Appeal at the Court of Appeal against the decision of Honourable retired Justice Mwera and being Civil Appeal No.261 of 2008 was heard and dismissed in a judgment delivered on 29th July 2011.

Pursuant to a complaint by Miwani Sugar Company (1989) Limited, the Director of Public Prosecutions and Ethics and Anti-Corruption Commission preferred criminal charges against Crossley Holdings Limited and its

Directors and other persons arising from the purported fraudulent sale and registration of the property in favour of Crossley Holdings Limited and the case being Kisumu Chief Magistrate's Court Criminal Case Number 429 of 2010.

A judicial review case was filed by Crossley Holdings Limited at the High Court sitting in Kisumu in High Court Miscellaneous Application Number 12 of 2010 (Republic vs Kenya Anti-Corruption Commission & Others Ex Parte Crossley Holdings Limited) and the Court delivered a Judgment under which it quashed the criminal charges preferred against Crossley Holdings Limited and the Co-Accused.

The Director of Public Prosecutions and EACC appealed against the decision and the Court of Appeal sitting in Kisumu in Civil Appeals Numbers 1 and 2 all of 2013 setting aside the decision of the High Court.

Kisumu Chief Magistrate's Court Criminal Case Number 429 of 2010 was heard and the Presiding Magistrate ruled that Prosecution had failed to establish a prima facie case against Crossley Holdings Limited and its Directors for them to be placed to their defence and acquitted them. However, the co-accused were put to their defence.

The Director of Public Prosecutions lodged an Appeal at the High Court of Kenya against the decision to acquit Crossley Holdings Limited and its Directors and the High Court upheld the Appeal and set aside the Order for acquittal.

Crossley Holdings Limited and its directors lodged an Appeal at the court of Appeal challenging the High Court's decision which found that they

have a case to answer. The Court of Appeal allowed the Appeal and acquitted them. The case against the accused persons who were put to their defence is still ongoing.

In the year 2020 the Ministry of Agriculture, Livestock and Fisheries advertised a tender inviting bids to lease out the Assets of Miwani Sugar Company (1989) Limited. Crossley Holdings Limited objected to the move and filed a suit at the Environment and Land Court at Kisumu ELC Petition No. 6 of 2020. The suit was heard and the presiding Judge held that L.R No. 7545/3 was lawfully purchased by Crossley Holdings Limited and stopped the intended lease.

Miwani Sugar Company (1989) Limited supported by Attorney General and Agriculture & Food Authority have lodged an Appeal at the Court of Appeal to contest the decision made in ELC Petition No. 6 of 2020 and the Appeal is yet to be heard and determined.

Current status of Miwani Sugar Company (1989) Limited

- The factory stopped its milling operations in the year 2000. The main activities currently are cane development in the Nucleus Estate. The company generates funds though farming and selling cane. The company supplies an average of 54,000 metric tons of sugar cane for milling per year.
- Plant and machinery have not been in use for 21 years hence decay and obsolescence. The sugar milling plant shall require complete rehabilitation.
- The last valuation of 2016 estimated the value of plant and machinery as Kshs 688,000,000 and land acreage of 9,394 acres at Kshs 2,200,000,000.

- Current total liabilities of Miwani Sugar Company (1989) Limited is Kshs 22,048,570,556.
- The company has a labour force of 102 employees mainly comprising of security personnel.
- The Company provides both direct and indirect employment to over 2,000 households.

The current activities conducted in the company are cane development and tree planting.

Cane Development and Maintenance

Miwani Sugar Company (1989) Limited currently has 964.32 acres under cane at various stages of development.

There is need to accelerate cane development in the nucleus estate to improve the financial resources of the Company so as to meet its obligations including payment of the debenture holder loans.

Tree Planting

The company has established tree nursery and is engaged in tree planting and supplying seedlings to the locals.

For and on behalf of,
MUHORONI SUGAR COMPANY LTD (IN RECEIVERSHIP)

Signed.....Dated.....6/9/2023
Harun Kirui
JOINT RECEIVER & MANAGER

ANNEX 8L

CHEMELIL SUGAR COMPANY LIMITED

CONSIDERATIONS OF THE MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALIZE THE STATE-OWNED SUGAR COMPANIES BY THE COMMITTEES ON FINANCE AND NATIONAL PLANNING; AND AGRICULTURE AND LIVESTOCK

SUBMISSIONS PRESENTED BY

CHEMELIL SUGAR COMPANY LIMITED

6TH SEPTEMBER 2023

VISION

To be the Company of choice in the manufacture of sugar and related products.

MISSION

To produce and market quality sugar and related products efficiently and competitively beyond expectations of stakeholders.

1.0 PREAMBLE

Chemelil Sugar Company Limited (CSCL) Board of Directors and Management support the Government of Kenya's action plans to revive and commercialize the state-owned sugar companies in respect to the memorandum dated August 2020.

2.0 OBJECTIVE OF THE MEMORANDUM

The objective of this document is to present our submissions on the memorandum on action plans to revive and commercialize the state-owned sugar companies.

3.0 COMPANY BRIEF

- Chemelil Sugar Company Limited (CSCL) is located along the Awasi-Nandi Hills road in Kisumu County.
- Chemelil Sugar Company is a State Corporation and was established in 1965. In 1974, the Company became a Parastatal.
- The company's shareholding is as follows;

ORGANIZATION	% SHAREHOLDING
Government of Kenya through the Agricultural Development Corporation	96.21
Development Bank of Kenya	1.42
Minerva Holdings - UK based company	1.42
Kenya Shell (Vivo Energy)	0.95

- The Company has a Nucleus Estate which covers 2,772 hectares of land and is surrounded by Out-grower farms with a total cane-able land of approximately 20,759 hectares in Nyando, Tinderet and Nandi South districts.
- The factory draws cane from Kisumu and Nandi counties, with **85%** of the cane coming from the out grower farms and **15%** from the company's Nucleus Estate.

S/No.	Sub-County	Hectares	As per Treasury Report
1	Tinderet	7,031.89	
2	Muhoroni	8,963.32	
3	Nyando	854.8	
	Sub-Total	**16,850.01**	
	Fallow	3,386.09	
	Grand Total	**20,236.1**	**18437.0**

- The milling capacity is 3000 Tons of Cane per Day.
- The Company produces Mill Brown Sugar.
- Since the year 2017, factory performance steadily declined majorly due to lack of adequate funds to carry out annual maintenance of the factory. The dismal performance, coupled

with intermitted periods of severe cane shortage in the years 2017, 2018, 2019 and part of the 2020 has made it increasingly difficult for the company to meet its financial obligations towards cane farmers, cane transporters, cane harvesters, suppliers, service contractors and employees who have accrued salary arrears amounting to Kshs. 1,116,195,344. The decline in performance equally resulted in delayed payment of farmers' cane proceeds-leading to cane arrears accumulation, delay in remittance of statutory deductions and payment of suppliers and service providers.

- In the year 2022, factory operations were suspended for a period of 5 months, due to a decline in performance in order to facilitate undertaking strategic annual maintenance of the plant and key online equipment.
- The Factory shut down for maintenance from 8th April 2022 to 20th August 2022 with milling operations resuming on 21st August 2022.

4.0 SOCIO-ECONOMIC IMPACT OF THE COMPANY ON THE LOCAL COMMUNITY

- The Company's socio-economic programmes have impacted on cane transporters, cane harvesters contractors and members of the local community engaged in diverse economic activities within the Chemelil cane catchment zone, such as traders in the following satellite towns and trading centres; Chemelil Roundabout township, Awasi township, Kopere centre, Miwani township and Ahero township, Katito township including far-flung trading areas like Kisumu City and Nandi Hills Town, located along Chemelil Sugar Company's Kisumu County and Nandi County common border. And, the Company's neighbouring Chemase, Kibigori trade centres in Nandi County.
- The Company has infrastructure such as schools and a health centre that support both employees and the surrounding community.

5.0 CHALLENGES FACED BY THE COMPANY

5.1 High Debt Portfolio

Intermittent milling caused by the poor state of the factory and cane shortage resulted in low cash flow and thus low revenue generation which led to accrual of debts as shown in the table below;

DESCRIPTION	AMOUNT (KSHS)
Farmers Arrears	263,017,939
Salary Arrears plus other emoluments	1,116,195,344
Taxes and Penalties	3,739,893,783
SDL	3,740,868,462
Govt Loans	Nil
Other Creditors	1,068,049,871
Total	**9,928,025,399**

5.2 Inadequate Maintenance of the Factory

Sugar factories are highly mechanized and require regular annual maintenance. As a practice, a recommended six weeks' stoppage every year is needed for overhaul maintenance and at the same time give room for cane development. This used to take place

during the heavy rain months. CSCL has not been able to maintain this practice due to low revenue generation.

5.3 Lack of enforcement of regulatory framework for the sugar industry

There has been lack of enforcement of laws governing the sugar industry which has led to malpractice of harvesting immature cane, lack of zoning leading to cane poaching, increase of illegal sugar imports and uncontrolled establishment of cane weighing and buying centers.

5.4 Insufficient Milling Cane

Currently, CSCL has shut down factory milling operations due to cane shortage. This has been as a result of continued insufficient support of cane development arising from lack of enforcement of regulatory framework of the sugar industry.

5.5 Dilapidated Sugar Feeder roads

In the initial arrangement, the sugar feeder roads were developed by both the state owned millers and defunct local authority county councils using Cess funds. The current arrangement of County Governments handling sugar feeder roads Cess funds (1% of cost of cane) has not worked for the sugar industry.

6.0 OPPORTUNITIES

- Proximity to River Nyando to enhance cane development through irrigation
- Opportunity to increase area under cane through leasing of land for cane development within Nyakach sub-county and Ahero region in Nyando Sub-county and Agriculture Development Corporation (ADC) farms
- Presence of high number of large scale Outgrower cane farms which creates economies of scale.
- Possibility of quality-based (sucrose content) cane payment
- Ready market for sugar
- Use of integrated weed control
- Unexploited Public/Private partnership opportunities
- CSCL has established the following additional revenue streams; Chemelil Sugar Academy, Chemelil Sugar Primary School, Chemelil Sugar Health Center and Chemelil Guesthouse and Club,.

7.0 SUBMISSION WITH RESPECT TO ACTION PLANS TO REVIVE AND COMMERCIALIZE THE STATE-OWNED SUGAR COMPANIES

S/NO.	PROPOSED STRATEGIC INTERVENTION	SUBMISSION BY CSCL
i.	Bring onboard private capital, expertise and modernization of sugar mills with adequate sugar to allow them to run efficiently and operate on commercial principles	Whilst we support the Government of Kenya action plans to commercialize the state-owned sugar companies, we seek clarification on the leasing model to facilitate smooth transition. CSCL proposes government establishment of a Leasing Commission establish a

S/NO.	PROPOSED STRATEGIC INTERVENTION	SUBMISSION BY CSCL
		leasing framework with input from stakeholders.
iv.	The proposed lease model shall be executed by unbundling the nucleus estate land and the factory land. The existing run-down factories shall be disposed in compliance with existing procurement regulations and the successful investors shall be provided with land which they can lease and construct a modern factory.	We seek for retention of the Nucleus Estate as a source of milling cane for the Company. It will also be used for seed cane bulking, research and development including demo plots. It is also not clear how an already leased factory will again have its plant disposed as per existing procurement laws. Instead we recommend the injection of funds to modernize the existing factories.
viii.	Chemelil Sugar Company and Muhoroni Sugar Company which have cane growing areas of 18,437 hectares and 22,134 hectares respectively to be merged to form one zone with a total cane growing area of 40,571 hectares.	According to our data, the actual current cane growing area available to Chemelil Sugar Co. is 20,236.1Ha which is inclusive of the Company's Nucleus Estate. Further, the Company has existing areas in Nyakach sub-county and Ahero areas in Nyando Sub-County that present massive opportunities for expansion of caneable area to over 29,000 Ha thus no need for a merger of the two companies. This area will be enough to support expansion to a 4000 Tonnes Cane per Day (TCD) milling capacity.
xi.	Restructuring of the sugar companies balance sheet	To include settlement of employees salary arrears of Kshs. 1,116,195,344
xv.	Enforce zoning to incentivize investors in the sector to bring order and spur production.	The National Assembly to fast-track ascending of the Sugar Bill, 2022 to curb mal-practice (such as cane poaching and harvesting of immature cane) in the sugar industry.

For: CHEMELIL SUGAR COMPANY LIMITED

JACQUELINE KOTONYA
INTERIM MANAGING DIRECTOR

ANNEX 8M

REPUBLIC OF KENYA

MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT

SUBMISSION ON TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALIZE THE STATE-OWNED SUGAR COMPANIES

BY

KELLO HARSAMA
PRINCIPAL SECRETARY

SEPTEMER 2023

Background Information

The sugar industry plays a vital role in the Kenyan economy. The subsector contributes significantly to food security, creation of employment and is a source of livelihoods for more than 8 million people.

The sugar subsector has the potential to produce enough sugar for domestic use and surplus for export.

However, the sector has not performed to its potential partly due to the poor performance of the State-owned sugar mills.

The State-owned Sugar Companies have a combined crushing capacity of 13,200 TCD but only contributed a paltry 12% of all sugar produced in 2022. Their poor performance is mainly attributed to,

i. High debt portfolio
ii. Lack of capital for investments
iii. Poorly maintained equipment leading to frequent breakdowns and milling inefficiencies
iv. Poor governance
v. Cane poaching

Muhoroni and Miwani are currently under receivership due to the loans owed to the Kenya Sugar Board.

The proposed revitalization strategy seeks to achieve the following:

i. Make the sugar industry competitive.
ii. To make sugarcane farming profitable.
iii. Increase sugar production.

The proposed revitalization strategy will be achieved through:

i. Institutional and legislative reforms.
    - Leasing of the State -owned Sugar Companies to private investors who will inject capital and expertise.
    - Establishment of Regulatory framework to bring harmony in the sugar industry.
ii. Financial restructuring
    - Debt write-off to attract investors
    - Tax and penalty write-off
iii. Increase funding for research
iv. Reduce cost of inputs
v. Improve extension services delivery

Observations and comments on the proposed action plans to revive and commercialize state owned sugar companies

	Proposed Intervention	**Comments/ proposal**	**Recommendation**
i	Bring on board private capital, expertise and modernization of sugar mills	Good proposal	Adopt the proposed intervention

ii	Enhance cane development in both nucleus estates and small-holder out-grower farms	This will increase the cane supply for milling	Adopt the proposed intervention
iii	• Address stakeholder and community sensitivities on permanent divesture of land • Utilization of nucleus estate lease proceeds	• Issue of permanent divesture mitigated through leasing • Lease proceeds to be utilized for payment of outstanding debts (salary arrears, statutory deductions) not written off	• Lease the nucleus estate land to private investors for cane **development only** • The outstanding debts are not catered for in the proposed action plan

iv	The proposed lease model shall be executed by unbundling the nucleus estate land and the factory land. The existing run-down factories shall be disposed in compliance with existing procurement regulations and the successful investors shall be provided with land which they can lease and construct a modern factory	Company assets to be leased but not disposed.	The strategic investor to inject capital to develop or modernize and operate the sugar company.
v	Expedite the leasing of the five sugar companies to facilitate rehabilitation and expansion with a view to enhancing competitiveness	Good proposal	MoALD supports leasing of the public owned mills
vi	Achieve cane catchment of viable sizes, hence the need for consolidation: Creation of financially viable sugar companies	Consolidation may lead to job losses thus not supported by stakeholders	The individual sugar mills should be leased separately
vii	It is recommended that Nzoia and South Nyanza sugar companies be retained as they are	Good proposal	MoALD support the proposal

Viii	Chemelil Sugar Company and Muhoroni Sugar Company to be merged to form one zone	The mills can operate viably as independent entities	The individual sugar mills should be leased separately
ix	The decisions on the Miwani Sugar Company to be made once on-going court cases are determined	Agree with proposal	Supported
x	Investors interested in either Chemelil or Muhoroni Sugar Companies will be required to bid for both	The mills can operate viably as independent entities	The individual sugar mills should be leased separately
xi	Restructuring of the sugar companies balance sheets	Employees salary arrears and other emoluments, statutory deductions, land rates and penalties and other creditors have not been addressed	payment plans to be developed to address the debts not catered for in the revival action plan.
xii	Regulation of factory zones to ensure financial viability and future sustainability of the sugar companies by clearly defining each factory	Agree with proposal	Expedite the Regulations to enforce zoning

	zone prior to inviting final bids		
xiii	Government to support small holder cane farmers to develop the crop and enhance productivity	Agree with proposal	Supported
xiv	Legal reforms in the sector: Government to come up with mechanisms to enhance efficient settlement of disputes efficiently to mitigate the numerous legal suits	Agree with proposal	Reestablish the Sugar Arbitration Tribunal
xv	Enforce zoning to incentivize investors in the sector to bring order and spur production	Agree with proposal	Expedite the Regulations to enforce zoning

Status of Mumias Sugar Company

The Ministry supports the proposal for the appointment of a revitalization committee to work with the Board, County Government and other key stakeholders to restructure and operationalize Mumias Sugar Company.

In conclusion we agree with the request to the National Assembly on the following:

i. Write-off of loans and other accrued interest owed by the 5 Companies to GoK and Kenya Sugar Board/Commodities Fund.

ii. Write-off of the tax penalties and interest

iii. The vacation of the privatization model approved by Parliament in 2015 and approve the leasing model.

Signature..... Date..6/9/2023

KELLO HARSAMA

ANNEX 8N

The National Treasury and Economic Planning

Action Plans to Revive and Commercialize the State-Owned Sugar Companies

September 2023

PSlac

Background

- Sugar Industry plays a vital role in the economy – food security, employment, regional development & improved livelihoods
- Kenya has potential to enough sugar to satisfy own-demand and export the surplus
- Sugar industry comprises 16 milling factories: 41,000 TCD
- Five (5) Mills are public owned: Chemelil Sugar Company; Miwani Sugar Company (In Receivership); Muhoroni Sugar Company (In Receivership); Nzoia Sugar Company; South Nyanza Sugar Company & Mumias Sugar Company.
- Public mills in financial distress, since the late 1990s.

PSCAC

Background... cont'd

Previous Efforts to revive the Public Mills:

i. Sessional Paper No. 12 (2012) – Approved restructuring of balance sheets through write-off of debts (Kshs. 33,780,465,838) and tax penalties & interest (Kshs. 4.0 billion)

ii. The National Assembly approved the Privatization in 2015 – stalled due to opposition by stakeholders because of sensitivities around land.

iii. Sugar Industry Stakeholders Taskforce report (2019) with strategic recommendations for sugar sector reforms

PS/AK

Challenges Facing Public-Owned Sugar Mills

1) Poor Governance:
   - Mismanagement
   - Blotted workforce
   - Non-adherence to procurement laws
   - Dysfunctional organization structure
2) Failure in Institutional Structures, processes and policy:
   - Limited cane research & development
   - Limited extension services
   - High cost of farm inputs
   - Cane poaching

Pclock

Challenges Facing Public-Owned Sugar Mills...cont'd

4) Lack of capital & High Debt
   - Debts to farmers, suppliers, unserviced loans
5) Ageing Plants, machineries, obsolete technologies & operational inefficiencies
6) Government bureaucracy in running commercial enterprises

Rslac

Debts Status of Public Mills

	CHEMELIL	SOUTH NYANZA	NZOIA	MUHORONI	MIWANI	Total
Farmers Arrears	263,017,939	865853,677	269,606,265	316,651,523	-	**1,715,129,404**
Salary arrears & other emoluments	1,116,195,344	1,194,397,767	1,843,427,512	1,080,444,410	-	**5,234,465,033**
Taxes & Penalties	3,739,893,783	2,682,825,089	12,262,706,248	14,120,931,330	17,338,445,158	**50,144,801,608**
SDL	3,740,868,462	503,244,772	3,637,056,220	3,466,198,521	-	**11,347,367,975**
GoK Loans	-	888,122,168	43,429,720,791	6,223,114,853	3,890,122,859	**54,431,080,671**
Other Creditors	1,068,049,871	1,146,745,520	1,241,204,717	926,550,290	820,002,539	**5,202,552,937**
Total	**9,928,025,399**	**7,281,188,993**	**62,683,721,753**	**26,133,890,927**	**22,048,570,556**	**128,075,397,628**

Recommendations of the Sugar Industry Stakeholders Taskforce (2019)

a) Increasing cane, sugar production and productivity to enhance industry competitiveness:
   - Enhance research & extension
   - Increase cane production and productivity
   - Farmer support

b) Enhancing milling efficiency and competitiveness of sugar and co-products:
   - Reduce cost of production
   - Synchronize milling capacity with cane availability
   - Value addition

c) Promote favourable sugar marketing and trade
   - control imports during shortage
   - curb illegal imports

PSlac

Recommendations of the Sugar Industry Stakeholders Taskforce (2019)

d) Compliance with COMESA recommendations:
   - Transition from cane payment model based on weight to one based on quality
   - Privatization of public owned mills

e) Pricing and funding mechanism that enhances income to stakeholders

f) Taxation structures in the sugar sector to create incentives for investment – classify sugar as a food item and review taxation regime.

g) Improve competitiveness of public-owned sugar factories – financial restructuring & capital injection

h) Policy, legal, regulatory and Institutional reforms
   - Develop industry policy
   - Gazettement of regulations
   - Establish the sugar sector stakeholders committee

The Status of Mumias Sugar Company, and the Way Forward

psla

Status of Mumias Sugar Company

- Shareholding: GoK – 20%; Private shareholders – 80%
- The near collapse of Mumias adversely affected residents of Kakamega County.
- Listed at the NSE in 2001 and constituted the top 20 valuable companies till 2014 when performance deteriorated.
- Placed under receivership by KCB in 2019, with PVR Rao appointed to manage operations.
- CMA suspended trading of shares in 2019.
- Debts to GoK – **Kshs. 8.7 billion**.

Way forward for Mumias Sugar Company

- The GoK, via BETA, aims to turn-around Mumias through the leasing model adopted by KCB.
- Adopt the recommendations of the sugar industry stakeholders' taskforce report (2019) – corporate re-organization and financial restructuring:
    i. Negotiate with banks and creditors for restructuring of debts
    ii. A revitalization committee be appointed to work with the Board, County Governments and other key stakeholders to identify and implement an effective restructuring plan.

NB: Mumias Company is NOT a Public mill.

#5 ok

The Proposed Action Plan

The Leasing Model

Objectives of the Proposed Action Plans

- Creation of a competitive Sugar sector – one that can withstand withdrawal of COMESA Safeguards
- Enhance the profitability of sugar farming – provide farmers with adequate, dependable & sustainable incomes
- Enhance productivity in the sector – investing in modern mills, increasing farm production, enhance recovery rate & improve cane sucrose
- Achieve economies of scale –adequate supply of cane to meet optimal factory operations

PS/CK

Benefits of the Lease Model

- Private sector participation without undertaking a permanent divestiture
- Enhanced livelihoods of farmers, employees and communities – make sugarcane farming profitable & sustainable.
- Modernization of sugar mills hence improved efficiency and profitability

Rslce

Proposed Strategic Interventions

i. Onboard private capital, expertise & modernization of sugar mills.

ii. Enhance cane development – both nucleus & outgrowers

iii. Address stakeholder sensitivities on **Land** issues:
   - No permanent divestiture of land
   - Use proceeds from lease of nucleus land to incentivize farmers

iv. Unbundling the nucleus estate land and factory land:
   - Disposal of existing run-down factories
   - Investors to lease land and construct modern factories

v. Leasing the five (5) state-owned mills to facilitate rehabilitation & expansion

PS/CK

Proposed Strategic Interventions.....Cont'd

vi. Achieve cane catchment of viable sizes *(considering minimum viable area of 29,914ha)*

- Proposed merger of Existing Sugar Zones:

Factory	Assumed Total Area before Merger	Assumed Total Area Available after Merger
Chemelil Sugar Company	18,487	40,571
Muhoroni Sugar Company	22,134	
Miwani Sugar Company	9,143	9,143
Nzoia Sugar Company	49,862	49,862
South Nyanza Sugar Company	31,415	31,415

- Decision on Miwani to be made upon determination of on-going court case)
- Investors interested in either Chemelil or Muhoroni will be required to bid for both

Proposed Strategic Interventions.....Cont'd

vii. Restructuring of sugar companies balance sheets:

- Write-off of loans owed to GoK and KSB/Commodities Fund: **Kshs. 65,778,448,646** (as at 30th June 2023), and accrued interest as at date of approval
- Write-off of tax penalties and interest: **Kshs. 50,144,801,608** (as at 30th June 2023), and any accrued interest and penalties.
- Payment plan for balances owed to farmers: **Kshs. 1,715,129,404** (MoA&LD and NT&EP)

viii. Regulation of Factory Zones to ensure financial viability and future sustainability, and ensuring compliance.

ix. GoK support to farmers to develop the cane and enhance productivity.

x. Legal Reforms: GoK to develop mechanisms for efficient settlement of disputes

Pstae

Requests to The National Assembly

Consider & approve:

i. The write-off of loans owed by the public-owned mills to GoK and KSB/Commodities Fund: Kshs. 65,778,448,646 (as at 30th June 2023), and accrued interest as at date of approval

ii. The write-off of tax penalties and interest: Kshs. 50,144,801,608 (as at 30th June 2023), and any accrued interest and penalties.

iii. The vacation of the privatization model approved in 2015

iv. The Leasing model for five (5) public-owned sugar mills: Chemelil Sugar Company; Miwani Sugar Company (In Receivership); Muhoroni Sugar Company (In Receivership); Nzoia Sugar Company; South Nyanza Sugar Company

PS/CS

IK1

Dr. Chris Kiptoo, CBS
Principal Secretary/National Treasury

ANNEX 80

KENYA REVENUE AUTHORITY

REPORT TO THE JOINT DEPARTMENTAL COMMITTEES ON FINANCE & NATIONAL PLANNING AND AGRICULTURE AND LIVESTOCK

SEPTEMBER 2023

KENYA REVENUE AUTHORITY
Confirmed
P. O. Box 48240 - 00100, NAIROBI

1.0 Introduction

Reference is made to the letter from the Clerk of the National Assembly **Ref: NA/DDC/A &L/2023/055** dated **30th August 2023** inviting Kenya Revenue Authority (KRA) for a meeting to submit its comments on the National Treasury's Memorandum on Action Plans to revive and commercialize the State-Owned Sugar Companies to the joint Departmental Committees on Finance & National Planning and Agriculture and Livestock.

Chairman and Honorable members, I wish to submit as follows:

2.0 KRA's Responses

2.1 KRA's Views on the Memorandum

The Public Sugar Millers are facing challenges in meeting their tax obligations due to financial constraints. The companies often file Value Added Tax (VAT) and **PAYE Returns Without Payments (PRWPs)**.

2.2 Detailed Breakdown of Taxes Due by Sugar Millers

The sugar milling companies are generally compliant and up to date in VAT & PAYE **return filing** as seen in the tables below. However, Corporation Tax returns are always filed late and often on intervention by the Tax Service Office (TSO).

The delays are attributed to delayed conclusions of financial statement audits.

KENYA REVENUE AUTHORITY
Confirmed
P. O. Box 48240 - 00100, NAIROBI

Table 1: Status of Return Filing on Statutory Tax Obligations

S/No	PIN	NAME	VAT	PAYE	CORPORATION TAX
1	P000609298P	South Nyanza Sugar Company Limited	Up to date	Up to date	Up to date
2	P000626467G	Chemelil Sugar Company Limited	Up to date	Up to date	Not up to date, Returns for 2021 & 2022 not yet filed
3	P000626335V	Muhoroni Sugar Company Limited	Up to date	Up to date	Returns for Year of Income 2021 & 2022 not yet filed
4	P000608568K	Nzoia Sugar Company Limited	Up to date	Up to date	Returns for years 2019 - 2022 not filed
5	P051091500D	Miwani Sugar Company	Up to date	Up to date	Last return filed was for FY 2018
6	P000626584I	Mumias Sugar Company Ltd	Up to date	Up to date	Last return filed was for FY 2017

KENYA REVENUE AUTHORITY
Confirmed
P. O. Box 48240 - 00100, NAIROBI
Date: 06/09/2023
Sign:

Table 2: Breakdown of total taxes due

PIN	Taxpayer	Principal Tax (Ksh)	Penalty (Ksh)	Interest (Ksh)	Total Amount Payable (Ksh)	Remarks
P000626584I	Mumias Sugar Company	7,133,719,635	4,342,635,503	8,764,330,734	20,240,685,872	Case is under Receivership. KRA has registered our interest to the registrar.
P000608568K	Nzoia Sugar Company	4,186,369,531	57,188,128	2,899,356,655	7,142,914,315	Taxpayer defaulted the payment plan of Kshs.5M per month citing suspension of operations at the company
P000626467G	Chemili Sugar Company	1,713,059,990	70,272	1,083,363,861	2,796,494,123	The company via letter dated 11.08.2023 indicating suspended milling operations for a period of 3 Months, to allow for adequate cane development in the affected sugar belts
P000626335V	Muhoroni Sugar Company	2,005,382,927	84,839,507	1,148,481,022	3,238,703,456	Taxpayer defaulted the payment plan of Kshs.5M per month citing cash flow issues.
P051091500D	Miwani Sugar Company	678,236	836,400	591,585	2,106,221	For Corporation tax, the taxpayer has carried forward losses amounting to Kshs. 358,087,024.
P000609298P	South Nyanza Sugar Company	2,020,718,335	88,283,410	1,089,778,547	3,198,780,292	The taxpayer is under a payment plan of Kshs 30M per month.
TOTAL		**17,059,928,654**	**4,573,853,221**	**14,985,902,404**	**36,619,684,278**	

KENYA REVENUE AUTHORITY
Confirmed
P. O. Box 48240 - 00100, NAIROBI
Date: 06/09/2023
Sign:

Write-off of Taxes, Law, Process and Implications

Article 210 of the Constitution provides that taxes can only be waived by law. This means that KRA can only waive taxes pursuant to written provisions of the law. Previously, ***Section 37 of the Tax Procedures Act, 2015 (TPA)*** provided for ***"Relief because of doubt or difficulty in recovery of tax"***. This provision empowered the Commissioner with the prior approval of the Cabinet Secretary for the National Treasury and Planning to write off tax debts where the Commissioner determines that:

a) It may be impossible to recover an unpaid tax;
b) There is undue difficulty or expense in the recovery of an unpaid tax, or
c) There is hardship or inequity in relation to the recovery of unpaid tax;
d) There is any other reason occasioning inability to recover the unpaid tax.

This provision was however repealed vide the Finance Act, 2023 effective 1st July 2023 and as such, the Commissioner has no power to write off tax debts.

Similarly, previously, ***Section 89(7) of the TPA*** provided that the Commissioner may, upon an application by a taxpayer or on his own motion, remit in whole or in part, any penalty or interest payable by a person if satisfied that the remission is by reason of:

a) Consideration of hardship or equity, or
b) Impossibility or undue difficulty or expense of recovery of the tax.

The aforementioned provision was also deleted by the Finance Act, 2023 effective 1st July 2023 and as such the Commissioner has no power to waive any tax penalties or interest as was previously the case.

We however note that the Finance Act, 2023 introduced a Tax Amnesty on Interest and Penalties for periods up to 31st December 2022. The amnesty runs from 1st September 2023 to 30th June 2024. Under this amnesty, a taxpayer is entitled to amnesty for penalties and interest upon payment of all outstanding principal taxes that were due for periods up to 31st December 2022.

The Sugar companies can take advantage of this amnesty by making payment arrangements with KRA to settle their outstanding principal taxes accrued up to 31st December 2022 by

KENYA REVENUE AUTHORITY
Confirmed

30th June 2024 after which, the attendant penalties and interest for those periods will be waived. This will however still leave interest and penalties for the period January 2023 to date outstanding and payable.

The Government through the National Treasury can consider settling the principal taxes and non-waived penalties and interest to facilitate the restructuring.

3.0 Conclusion

KRA is committed to complying with all the laws in place as it executes its mandate of tax administration and trade facilitation. We also wish to state that we are willing to provide the committee with any other relevant information that they will request from us.

KENYA REVENUE AUTHORITY
Confirmed
P. O. Box 48240 - 00100, NAIROBI
Date: 06/09/2023
Sign:

ANNEX 8P

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT-SECOND SESSION-2023

REMARKS BY HON. EMMANUEL WANGWE, CBS, MP ON CONSIDERATION OF THE NATIONAL TREASURY MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES.

Chairpersons: - am glad for giving me the opportunity to be part of this memorable team that will turn around the country's sugar industry.

i. Ladies and gentlemen, the story of sugar industries in this country has been long and a sad one but 8th August 2023 remains an unforgettable date when the Sagana State Lodge Cabinet meeting considered and approved a program for the revival and commercialization of five state-owned companies and Mumias Sugar Company (In receivership), the industry that supported a livelihood of over six million people.

ii. **Chairperson**, the decision sets the sugar sub-sector path to revival on course by adopting the lease and operating framework after vacating the earlier decision of privatizing the state-owned factories, which made us imagine that the private investors were more motivated to grab the land than to revive the obsolete machines.

iii. **Chairperson**, enough consultation should be done between the government and the county governments, sugar farmers, owners of the land, and any other stakeholders not excluding the political leaders from the sugar belt, sugar is a politically sensitive product recall.

iv. **Chairperson**, let me shed some light on some of the issues affecting the sector, though some were well captured in the sessional paper No. 12 of 2012 and the treasury memorandum table in the House last month;

- High debt portfolio
- Low cane supply
- Cane Poaching
- Ageing equipment and obsolete technology
- Farmers' arrears
- Staff salary arrears/non remittance of deductions
- Lack of regulations (bring back the Sugar Act/Sugar Board)
- Poor corporate governance
- Lack of sector funding
- Excess sugar importation against bridge sugar supply deficit.

v. **Chairperson**, the Government is not in business to do business; the Government is in business to provide a conducive and enabling environment for private businesses to prosper or operate.

vi. **Chairperson**, am glad that I was part of the 11th Parliament that approved a write-off of Ksh. 33,780,465,838 however put on hold due to the privatization process.

vii. **Chairperson**, the model to lease out the 5 government mills is well-defined and supported, however, there is a need to address the outstanding salary arrears/non-remittance of deductions, since it is the same workforce we anticipate to use during the transition. We don't want scenarios where a lease comes on board and the fate of former staff and board is left in limbo.

viii. **Chairperson**, Sugar research centers are the real thing. There is a need for total reengineering of cane supply (to consider early maturing cane variety) so that it synchronizes with factory demand.

ix. **Chairperson,** cane poaching is a mirage that we need to review, why should we have a parallel market for a contracted farmer?

x. **Chairperson**, allow me to dwell on the issue of Mumias Sugar Company as per item no. 6. Mumias Sugar Company was at one point the largest sugar-producing mill with a capacity of 240,000 tons. Fortunately, to secure the company assets from the hands of auctioneers and maintain its operations it was placed under receivership by Kenya Commercial Bank Ltd due to an unpaid loan of Ksh 545million.

Chairperson, without a clear handover and documentation between Mumias Sugar, the Receiver Manager, and Sarrai the investor, there is a dire need for your committee to clearly outline the composition and roles of the revitalization committee in addition to negotiating with banks and creditors to restructure the debts. We need to know the actual representation from the stakeholders mentioned and the timelines expected to deliver the implementation report, what is the fate of the former staff and board?

Could the revitalization committee be the same as the implementation committee that was to be appointed by CS Agriculture? Could the arbitration tribunal be helpful? Time is of essence and there is a need to bring the issue of Mumias Sugar Company to a conclusion as well.

Thanks for putting all the industry players on board to have the glory of the sector restored, Public-private partnership is the way to go.

Let's restore the Kenya Sugar Board by supporting the Sugar Bill, 2022

Hon. John Waluke

ANNEX 8Q

PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – SECOND SESSION 2023

MEMORANDUM ON ACTION PLANS TO REVIVE AND COMMERCIALISE THE STATE-OWNED SUGAR COMPANIES

A. PURPOSE

1. For, **the Western Kenya Sugar Caucus** of the National Assembly, during the **Joint meeting of the Departmental Committees on Agriculture and Livestock and Finance and National Planning,** On **5th September, 2023** in **Kisumu County**.

B. BACKGROUND ON THE SUGAR INDUSTRY IN KENYA

2. It is no doubt that the Kenya sugar sub-sector plays a vital role in the agricultural sector and the Kenyan economy. The industry contributes to food security, employment creation, regional development and improved livelihoods for more than 8 million Kenyans.

3. It is therefore prudent to protect the livelihoods of Kenyans from the Sugarcane growing counties spread across Western, Nyanza, Rift Valley and Coastal regions.
4. Noting that the sugar sector is at an all-time low ensuing from the failure to have sector specific laws or regulations, an attempt has been made by the **Hon. Emanuel Wangwe** to have the House pass the Sugar Bill, 2022. The Sugar Bill, 2022 also seeks in part to implement the recommendations by the Taskforce of Sugar Industry Stakeholders in their report of 2019.
5. The sugar sub-sector has faced myriad of challenges that have severely affected cane production. These include; **high cost of production, acute cane shortage, low productivity, inefficiencies across the value chain, weak regulatory framework, high indebtedness, weak extension support, low value addition initiatives, cyclic markets, uncontrolled and illegal sugar imports, poor governance, ageing equipment, obsolete technology**, and **delayed payment to cane farmers.**
6. These challenges have largely contributed towards making Kenya a high-cost sugar producer and consequently a preferred destination for **sugar imports, smuggling** and **dumping from low-cost producers.**

7. **I want to echo and support the efforts by His Excellency President William Ruto to revitalize and commercialize the Sugar sector in Western Kenya.** These efforts are also in line with the Taskforce of Sugar Industry Stakeholders Recommendations

C. ISSUES TO NOTE IN REVIVING OF THE SUGAR INDUSTRY IN KENYA

8. As we gear towards reviving the sugar sector, I wish the Government and these Committees to note the following issues which will enhance the process.

1. Acreage of land for Sugar Farming

9. It is worth noting that the Memorandum also appreciates that the minimum acreage of land required to sustain sugar mills is 29,914 acres. Most of our region's farmers had moved to farming other food crops thus in as much the nucleus zones had enough acreage, the feeder farmers need to incentivized again to ensure that as we revive our sugar factories, they will have enough supply of cane from farmers. **This problem is majorly affecting Kakamega County which has about three (3) sugar mills.**

2. Sugar Branding

10. Super markets in Kenya have been found to rebrand sugar. **Such packaging hardly indicates the actual origin of the repackaged products, with expiry dates missing. Further the KEBS mark of quality on the items would be for the supermarkets and not the manufacturers.**

11. Rebranding of sugar is anchored in the sugar (imports, exports and by-products) regulations – in articles 12 and 13. **This requires a relook to cure the aspects of smuggled sugar into the country**.

3. Regulatory framework on sugar imports in Kenya

The Sugar (Imports, Exports and By-products) Regulations, 2020 – L.N. 125

12. Regulation **8** mandates the Authority to determine the quantity of sugar that may be required from manufacturers for domestic consumption while accounting for any shortfall in production of sugar in the country.

13. Regulation **9(2)(e)** obligates the person who imports sugar to submit to the Authority the certificate of origin of the consignment.

14. Regulation **12(1)** provides that a person shall not pack sugar or a by-product of sugar into a package of different quantity, material or

brand from the original packaging, without the approval of the Authority and regulation 12(3) provides that a package of an imported consignment, whether repackaged or in its original packaging, shall carry, in bold print, the name and contact details of the manufacturer, country of origin, and the vendor and purchaser, of the consignment.

15. Regulation 13 (1) provides that an approved importer of sugar or a by-product of sugar, who wishes to **rebrand a consignment**, shall apply for permit from the Authority before rebranding the sugar. **This is where the problem begins because smuggled goods can gain entrance into the market. This provision in the regulation should be removed.**

4. <u>Taxation on imported sugar to promote local sugar production</u>

16. Kenya is a member of East African Community (EAC) and the Common Market for Eastern and Southern Africa (COMESA) and is bound by the treaties of these organization in as far as sugar trade is concerned.

17. Kenya has been on COMESA sugar safeguards since 2002 to enable it take measures to improve competitiveness of its sugar industry. The latest 2-year extension is ended in February 2023[1].

18. Article 57 of the COMESA Treaty states that no Member State shall impose, directly or indirectly, on the products of other Member States any internal taxation of any kind in excess of that imposed, directly or indirectly, on like products.

19. **Kenya should strictly apply the Common External Tariffs maximum of 35% on sugar imports coming from outside COMESA region, to safeguard our local sugar.**

D. WAY FORWARD

20. In order to safeguard the Sugar Industry, the following must be implemented:

1) **There is need to remove the regulation that allows importers to rebrand sugar and sugar products thereby losing the points of origin. This provision allows unscrupulous traders to smuggle in products and rebrand, thereby killing the local sugar industry.**

[1] https://www.comesa.int/sub-committee-on-kenya-sugar-safeguard-measures-reviews-progress/

2) **Kenya is bound by the EAC and COMESA treaties on imposing higher taxes on sugar from the member states.**
3) **Incentivize farmers to reconsider sugarcane farming again.**
4) **The Government should implement the recommendations of the Taskforce on Sugar 2019.**

21. In conclusion, I wish to support the Government's efforts to revive the sector through writing off debts owed by the companies, including the accrued taxes and penalties. We laud the President, and I will support the report on the floor of the House, when it is brought for vote.

ANNEX 8R

MUMIAS OUTGROWERS COMPANY (1998) LTD.
NABONGO ROAD
P.O. BOX 132
MUMIAS, KENYA
Tel: 056 - 641012 / 641448 / 641128
Fax: 056 - 641436
Email: mumiasogc@africaonline.co.ke

copy

Our Ref: MOCO (1998)/FIN.34/VOL.I /

Thursday, 07 September 2023

The Chairman.
National Committee on Agriculture and Livestock
and the Committe on Finance and National Planning
P.O.Box
NAIROBI

Dear Sir,

RE: - MUMIAS OUTGROWERS COMPANY (1998) LIMITED
CLAIM OF 3.7 BILLION AND KENYA SUGAR BOARD LOAN OF 278MILLION

We wish to humbly bring the plight of Mumias Outgrowers Company (1998) Limited farmers' property to your attention and assistance.

1.0 BACKGROUND

Mumias Outgrowers Company (1998) Limited (MOCO) is sugarcane farmers **organization** initially set up through the **initiative** of the **Kenya Government** as a company limited by Government Guarantee In 1975. The primary objectives of the Company were to **raise funds for cane development, promote** and **protect the interests** of the **small scale sugarcane farmers. MOCO has over 70,000 member Outgrower sugarcane farmers** and **300 employees.**

Sources Of Cane Development Funds

MOCO farmers Cane Development fund was financed by loans from the British Government – (under the UK/Kenya Government No.2 of 1976), Kenya Government, Commonwealth Development Corporation, and Kenya Sugar Board. MOCO Cane Development Levies of Kshs.6/= per ton cane, MOCO interest and 15% Net farmers retentions for a period of 12 months on continuous basis.(see agreement attached)

The Cane Development funds were placed under the custody of MSC by an Agreement drawn by the Government and signed by both MSC and MOCO on 28th May 1976. MOCO has never had the custody or managed the Cane Development Funds.

2.0 PROBLEMS THAT LED TO COLLAPSE OF MOCO

The Company was very comfortably paying its loans and was of sound financial position until the year 2008 when Mumias Sugar Company Limited unilaterally took a decision to stop interest from cane development funds under their custody. During those days Mumias Outgrowers Company (1998) Limited used to get a monthly interest amount of Kenya Shillings fifteen Million _ Kshs. 15,000,000.00 averagely. It is during this period that Mumias Outgrowers Company (1998) Limited was allowed to borrow over Kenya shillings two hundred Million - Kshs. 200,000,000.00 loan from the then Kenya Sugar Board for the purpose of purchasing transport fleet tractors. (See attached letter from MSC stating MOCO earns Kshs. 15M monthly)

Payments went on well until the stoppage of remittances by Mumias Sugar Company Limited. This has lead to the accumulation of interest and there are chances of Mumias Outgrowers Company (1998) Limited property being auctioned which would be a big loss to the farmers and the community at large.

Efforts by the then Kenya Sugar Board to have the tractors and run them jointly with Muhoroni Sugar Company Limited (under receivership) has not helped as Muhoroni Sugar Company Limited (under receivership) is also suffering. (See tripartite Agreement attached)

The fleet has not done well after the transfer to Muhoroni Sugar Company Limited (under receivership).

Mumias Sugar Company Limited had refused the fleet to operate as one of its transporters under Mumias Sugar Scheme.

Mumias Outgrowers Company (1998) Limited was forced to seek legal redress and Ahmednassir Abdullahi was appointed as the sole arbitrator. The case has gone on for a long time where Mumias Outgrowers Company (1998) Limited claims 3.7Billion which was under Mumias Sugar Company care. The arbitration case is still active but due to Mumias Sugar Company Limited being under receivership and lack of funds, the case is not fast enough and Mumias Outgrowers Company (1998) Limited recently enjoined in the insolvency case against Mumias Sugar Company Limited claiming the 3.7Billion which is farmers money that was basically used for cane development and other activities.

The loss of these funds has been reported to several offices including Ethics and Anti corruption Authority, DCI, Attorney General's Office and even the President. The matter is live and without this money, chances of Mumias Sugar Company Limited revival without farmers' money (3.7Billion) is not possible as Mumias Sugar Company Limited has received money before but unable to revive.

The problem in Mumias Sugar Company Limited is lack of cane and lack of funds (funds inappropriated by Mumias sugar Company Limited)

We humbly ask through your committees that the Government lists the 3.7billion as one of Mumias Sugar Company Limited debts to be cleared. Secondly, we ask the Government to waive the Mumias Outgrowers Company (1998) Limited loan owed to the then Kenya Sugar Board guaranteed by Mumias Sugar Company Limited as the units have been transferred back to then Kenya Sugar Board (under blued plates) . The tripartite agreement put the management of the fleet under Muhoroni Sugar Company which was also under then Kenya Sugar Board management. They started paying and later stopped (copies of loan repayment acknowledgment letters attached).

We therefore humbly ask the Government through you sir to **waive the outstanding loans with the Government** so that the debenture of Mumias Outgrowers Company (1998) Limited property can be lifted.

In conclusion the Sugar industry cannot survive without outgrower institutions and its not by shea coincidence that there is no cane in all the sugar schemes. The underlying factor is that the outgower institutions are not functioning by design by the millers they should be revived.

Thank you in advance and God bless you.

Yours faithfully,
FOR AND ON BEHALF OF MUMIAS OUTGROWERS CO. (1998) LTD

G A ANAMANJIA
CHIEF EXECUTIVE OFFICER

DATED _____ 1976

MUMIAS OUTGROWERS COMPANY LIMITED

and

MUMIAS SUGAR COMPANY LIMITED

A G R E E M E N T

relating to

The Mumias Outgrowers Scheme

The Attorney General
Nairobi

Exb 1

THIS AGREEMENT is made the day of May 1978 BETWEEN MUMIAS OUTGROWERS COMPANY LIMITED a company incorporated in Kenya and having its registered office at Mumias (hereinafter called "MOC") of the one part and MUMIAS SUGAR COMPANY LIMITED a company incorporated in Kenya also having its registered office at Mumias (hereinafter called "MSC") of the other part:

WHEREAS:

A. MSC is the proprietor and operator of a sugar factory at Mumias processing sugar cane grown on its own estate at Mumias and by Outgrowers (as hereinafter defined);

B. MOC is a company limited by guarantee formed for the purpose of representing and promoting the interests of Outgrowers who become members of MOC and of co-operating with MSC to establish, operate and control the Outgrower Scheme (as hereinafter defined) and in particular to provide finance for Outgrowers who become members of MOC;

C. MOC has arranged to borrow sums of four hundred and sixty thousand pounds sterling from the Commonwealth Development Corporation and four million eight hundred thousand Kenya shillings from the Government of Kenya for the purpose (inter alia) of providing the said finance;

D. MSC, which up to the date hereof has financed the sugar cane production of Outgrowers, is to be reimbursed by MOC for the outstanding balance of designated goods and services (as hereinafter defined) it has supplied on credit to Outgrowers who become members of MOC;

E. For some time past MSC has been collecting from Outgrowers for the benefit of MOC a levy of K.Sh.1/- per tonne of sugar cane delivered;

F. MSC and MOC have agreed to co-operate in the operation of the Outgrowers Scheme as herein appears;

NOW IT IS HEREBY AGREED as follows:-

1. In this Agreement except where the context otherwise requires

"cane supply contract" means a contract for the supply of sugar cane to MSC (sometimes referred to as a cane farming contract);

"the Outgrowers Scheme" means the scheme more particularly described in the Schedule hereto (as such scheme may from time to time be amended by agreement between MOC and MSC) for the production by Outgrowers within the Mumias Zone of up to 20,000 acres (or such greater area as may from time to time be agreed by MOC and MSC) of sugar cane for processing by MSC at its factory at Mumias;

"designated goods and services" means all goods and services for the costs of which the Outgrowers are liable under the Outgrower Scheme except goods and services in connection with the harvesting and transport of cane and except administrative and supervisory services;

"the Factory" means MSC's sugar cane processing factory at Mumias;

"Member" means a Grower Member of MOC under its Articles of Association;

"Mumias Zone" means the area within a radius of approximately 8 miles from the centre of Mumias Township (or such greater area as may from time to time be agreed by MOC and MSC);

"Outgrower" means a person or persons with a farm in the Mumias Zone who has in force a cane supply contract in respect of sugar cane grown on such farm.

2. Except as otherwise agreed by MOC, MSC shall during the continuance of this Agreement -

(a) Adhere to the Outgrowers Scheme and do all the things referred to therein as to be done by MSC;

(b) not buy or take or process any sugar cane grown outside the Mumias Zone except on a casual ad hoc basis and without MSC carrying out cultivation or harvesting

(c) not allow any credit in respect of designated goods and services to any Outgrower who is not a Member of MOC, except to the extent from time to time necessary to maintain cane supplies;

(d) subject to the provisions of his supply contract, buy all sugar cane of requisite quality harvested from the area specified in the supply contract of each Member in accordance with the orderly timed programme provided for in clause 3 hereof and at the price prescribed by Government notice from time to time;

(e) subject to weather conditions, unavoidable closures for repairs or maintenance, strikes, civil disturbances, governmental action or other factors beyond the control of MSC, operate the Factory to a capacity capable of processing all sugar cane supplied by Outgrowers in accordance with their supply contracts;

(f) notify MOC in advance of any planned closure of the Factory for any reason;

(g) prepare, operate and maintain (subject as provided in paragraph (e) of this clause) an adequate transport system for loading, transport to the Factory and unloading of all cane harvested from the land of Outgrowers;

(h) provide the technical and administrative services required to operate the Outgrower Scheme effectively and to sound agronomic standards; — Cost-implications to MOC.

(i) on or before the 31st October 1975 and each subsequent 31st October advise MOC of MSC's anticipated total requirements for the ensuring calendar year (or longer) of sugar cane for processing at the Factory and of the approximate total acreage that needs to be planted or re-planted in the Mumias Zone in such year or longer period;

(j) advise MOC of any change in such requirements as soon as the need for such change becomes apparent.

3. During the continuance of this Agreement, MSC will in consultation with MOC -

(a) before the start of each calendar year prepare a

provided always that the circumstances occasioning such failure shall

cultivation and planting programme covering all Outgrowers and showing the acreages, approximate timings and production quantities anticipated for each Outgrower;

(b) at the appropriate time prepare a harvesting programme for the Mumias Zone showing the approximate expected time of harvesting the crop of each Outgrower;

(c) furnish MOC with copies of such programmes as soon as they are completed; and consult with MOC regarding any significant changes therein that MSC may subsequently consider necessary to make:

Provided that such programmes shall be tentative only and subject in their implementation to the exigencies of subsequent operations and circumstances.

4. MSC's current charges for goods and services which it may supply to Outgrowers in accordance with the Outgrower Scheme are set out in Appendix B to this Agreement. MSC will give to MOC adequate notice of any proposed change in such charges or any of them and will if so required by MOC consult with MOC and give due weight to any views expressed by MOC before bringing any change into effect. Such charges shall at all times be assessed as provided in the Schedule hereto.

5. Forthwith after the signing of this Agreement MSC shall (1) pay to MOC the proceeds of the levy collected by MSC as mentioned in Recital E of this Agreement; and (2) furnish MOC with a list of all Outgrowers who have a current sugar cane supply contract with MSC, showing -

(a) the acreage of each Outgrower's sugar cane area (as specified in his cane supply contract);

(b) the total amount (exclusive of interest) owed to MSC by each Outgrower as at the date of the list in respect of designated goods and services.

6. (1) MOC shall admit as Members of MOC all Outgrowers with existing cane supply contracts as shown on the list to be furnished by MSC under clause 5 hereof, forthwith upon their respectively making application for such membership in

accordance with its Articles of Association: Provided that where several persons have entered jointly into a cane supply contract, MOC shall be entitled to require that such person may only become joint Members.

(2) New or prospective growers wishing to become Outgrowers and Members of MOC shall make written application for membership of MOC, who shall refer such application to MSC.

(3) MSC shall notify MOC (as well as the grower) forthwith upon approving a grower's land and resources for the purposes of the Outgrower Scheme and granting such grower a cane supply contract and if such grower has applied to be a Member, MOC shall thereupon admit him as a Member.

(4) MSC shall notify MOC forthwith upon any Member's cane supply contract being terminated or expiring without renewal or replacement and upon any Member committing any material breach of his cane supply contract.

(5) MOC shall maintain at all times a register showing in respect of each Member his name, postal address, land designation and the acreage specified for growing sugar cane in his cane supply contract.

(6) Whenever it supplies goods or services to a Member after the date hereof, MSC shall obtain from such Member a signed receipt in the following form (or such other form as MOC and MSC may from time to time agree) -

"I have received the above goods and services and agree that they may be paid for by Mumias Outgrower Company Limited and treated as a loan made to me by Mumias Outgrower Company Limited on the date of delivery of the goods and services and repayable by me with interest as provided in that Company's Articles of Association".

7. (1) The outstanding balance (as notified under clause 5) of MSC's charges for designated goods and services supplied to those Outgrowers who become Members of MOC and MSC's charges for designated goods and services hereafter supplied to Members shall be reimbursed to MSC by MOC as follows -

(a) the said outstanding balance in respect of each

Outgrower who becomes a Member shall be paid to MSC by MOC within 30 days after he becomes a Member;

(b) charges incurred after the date on which an Outgrower becomes a Member shall be debited by MSC to the Member, notified collectively by MSC to MOC and reimbursed in the aggregate to MSC by MOC, all on the date on which they are incurred:

Provided always that MOC shall not be bound to make any reimbursement hereunder which would cause the total principal amount of such loans at any one time outstanding to exceed K.Sh.11,000,000/- or such other amount as MOC and MSC may from time to time agree in writing.

(2) All reimbursements made by MOC as aforesaid shall be deemed to be loans made by MOC to the respective Members concerned on the date on which the corresponding charge was incurred and in accordance with the Outgrower Scheme and MOC's Articles of Association and shall bear interest accordingly.

8. Before making payment to any Member for any sugar cane sold by him to MSC (and notwithstanding anything contained in any contract written or otherwise between MSC and such Member or in any assignment or security purporting to affect the same or any right of deduction or set-off then exercisable by MSC) MSC will deduct from such payment the aggregate of -

(a) interest on all loans deemed to have been made by MOC to such Member in accordance with clause 7 of this Agreement, such interest to be calculated at the rate and in the manner provided for in MOC's Articles of Association and for the period from the respective dates when the loans were deemed to be made to the date of the delivery to MSC of the sugar cane from the payment for which the deduction is made;

(b) capital levies if any then payable by such Member in accordance with the Articles of Association of MOC, as such levies are notified to MSC by MOC from time to time;

(c) operating levies if any then payable by such Member as aforesaid as the same are notified as aforesaid; and

(d) the principal amount of the loans referred to in (a) above;

and will forthwith pay to MOC the aggregate amount so deducted.

Provided that in the event of the payment due to the Member for sugar cane being insufficient to meet the said aggregate amount, the payment shall be applied in the deduction of the items specified in paragraphs (a), (b), (c) and (d) above in that order (and before the deduction of any amount due from such Member to MSC); and the balance shall be carried forward for first deduction from the next available proceeds.

9. (1) Throughout the term of this Agreement MSC shall act as accountant of MOC and as such accountant shall keep proper books of account and records for MOC as from time to time required under the Companies Acts of Kenya.

(2) Such accounts and records shall inter alia show -

(a) loans advanced by MOC to each Member (by way of reimbursement of MSC's charges against him as provided in clause 7);

(b) interest charges on such loans as provided in clause 8 (a) hereof;

(c) the amount of the levies payable by each Member as mentioned in clause 8 hereof (showing capital and operating levies separately);

(d) the quantity and proceeds of all sugar cane sold by each Member to MSC;

(e) interest, levies and loan repayments recovered from each Member by deduction as aforesaid;

(f) all transactions between MSC and MOC.

(3) All such accounts and records shall be held by MSC on behalf and to the order of MOC and MOC and its auditors, servants and agents shall be allowed to inspect and take extracts from them at all reasonable times on request.

10. In the event of MSC terminating any cane supply contract between it and any Member MSC will forthwith repay to MOC the amount of all loans made by MOC to such Member by way of re-imbursement of MSC's charges against him as provided in clause 7 together with interest thereon to the date of repayment as provided in clause 8(a) hereof and forthwith on MSC harvesting any cane then growing on such Member's land will pay to MOC any levy or levies due in respect of such sugar cane or by such Member.

11. Any dispute arising between the parties as to the construction of this Agreement or the rights and obligations of the parties hereunder shall be submitted to arbitration by an arbitrator to be appointed by the Chairman for the time being of the Law Society of Kenya. Such arbitration shall be conducted in accordance with the Arbitration Act, Cap. 49 of the Laws of Kenya.

12. Any notice hereunder may be served by either party sending it by registered post or cable, telegram or radiogram or delivering it by hand to the registered office in Kenya for the time being of the other (or to such other address for the service of notices as may have been notified by such other) and shall be deemed to have been delivered in the absence of proof to the contrary in the normal time of transmission for the method by which it was sent or as the case may be at the time when it was delivered by hand.

13. This Agreement shall be governed by and construed in accordance with the Law of Kenya.

14. This Agreement shall commence on the date hereof and shall remain in force until 30th April, 1980 and thereafter until it is terminated by either party giving to the other eighteen months notice in writing to that effect such notice to expire on the 30th day of April in 1980 or in any subsequent year.

The Common Seal of [illegible] SUGAR OUTGROWERS COMPANY LIMITED is hereunto affixed in the presence of:

.....Director

.....Director or Secretary

The Common Seal of MUMIAS SUGAR COMPANY LIMITED is hereunto affixed in the presence of:

.....Director

.....Director or Secretary

Exh 2

ANNEX 15

MUMIAS SUGAR COMPANY LIMITED

MUMIAS SUGAR COMPANY LIMITED

Head Office
P.O. Private Bag Mumias Kenya
Tel +254 56 641020, 641621
Cell +254 722 203391-5, 0734 60[illegible]
Fax +254 56 641234
email msc@mumias-sugar.com

Nairobi Office
P.O. Box 57092 City Square 00200 Nairobi, Ke
Tel. +254 20 271 2317-8
Cell +254 720 140080
Fax: +254 20 271 2316
email msc@mumias-sugar.com

GM/MD/9.1

19 May 2009

M/s Rosemary Mkok
The Chief Executive Officer
Kenya Sugar Board
P. O. Box 51500
Nairobi

Dear M/s Mkok,

MUMIAS OUTGROWERS CO. (1998) LTD

Mumias Outgrowers Company (1998) Limited have requested us for a letter of undertaking for the purchase of land preparation, transport tractors and support units.

Mumias Outgrowers Company (1998) Limited owns the outgrower farmers debt which Mumias Sugar Co. Ltd administers on their behalf and from which MOCO earns a monthly interest averaging KShs 15 million. MOCO also runs a fleet of transport units that they now wish to increase among other activities.

In consideration of the foregoing and the detailed work programme upon which MOCO is applying these funds, Mumias Sugar Company Limited undertakes to make monthly recoveries from their proceeds and remit the same directly to yourselves. This will be in addition to other previous undertakings by MSC or MOCO's behalf.

Kind regards,

Evans Kidero
Managing Director

cc:- Chief Executive Officer, MOCO
Head of Finance, MSC

3

44

Directors:

3 Annex 18 892

MUMIAS SUGAR COMPANY LIMITED

PRIVATE BAG
MUMIAS
KENYA

TELEPHONE : MUMIAS - 41620, 41621
TELEX : 31070 MUSUCO KE
FAX : 0333 - 41234
TELEGRAMS : SUGARCANE, MUMIAS
EMAIL : msc@africaonline.co.ke

NAIROBI OFFICE : P.O.Box 57092
TELEPHONE : 02 - 712317
FAX : 02 - 712316

MANAGING AGENTS:
Booker Tate

FIN/FA/2002/3059

November 2002

Mumias Outgrowers Savings & Credit Society Ltd. GENERAL MANAGER 29 NOV 2002 P.O. Box 295, Mumias, Tel. 41267

Chief Executive Officer
Mumias Outgrowers Company Limited
P.O. Box 132
MUMIAS

Please redirect this letter to Moco'98 Ltd

Sir,

INTEREST RECEIVABLE FOR THE MONTH OF NOVEMBER 2001

Your letter Ref.MOCO(1998)/FIN.II/Vol.1/135 of 28th October 2002 on the above subject refers.

Attached herewith please find our cheque no.133767 dated 22nd November 2002 for Kshs.20,565,744.90 (Twenty million five hundred sixty five thousand seven hundred and forty four cents ninety only) being interest payable for the month of November 2001.

Please note that the amount payable is net of 15% withholding tax payable to Kenya Revenue Authority as detailed below:-

Gross Interest	-	Kshs. 24,194,994.00
Less WHT	-	Kshs. 3,629,249.10
		Kshs. 20,565,744.90

892

We shall remit the withholding tax certificate when received from Kenya Revenue Authority.

Please acknowledge receipt.

Yours faithfully
MUMIAS SUGAR COMPANY LIMITED

Ernest O.Kivai
FINANCIAL ACCOUNTANT

M. Mutanda
HEAD OF AGRICULTURE

Encls.

Exb 3

MUMIAS OUTG. P.O. Box 132, MUMIAS CHIEF EXECUTIVES OFFICE RECEIVED 03 DEC 2002

4

872

MUMIAS
SUGAR COMPANY
LIMITED

PRIVATE BAG
MUMIAS
KENYA

TELEPHONE : 056-641620, 641621
FAX : 056-641234
TELEGRAMS : SUGARCANE, MUMIAS
EMAIL : msc@mumias-sugar.com
MOBILE : 0722-203891-5 0734-600334/5
NAIROBI OFFICE : P.O. Box 57092
TELEPHONE : 020-2712317/8
FAX : 020-2712316

MOSA/2005/103

31st May 2005

The Chief Executive Officer
Mumias Outgrowers Company (1998) Limited
P.O. Box 132
MUMIAS

Dear Sir

RE: INTEREST RECEIVABLE FOR THE MONTH OF JUNE 2004

Enclosed please find our cheque no.151353 dated 31st May 2005 for Kshs.12,444,211.75 (Twelve million four hundred forty-four thousand two hundred and eleven cents seventy five only) being interest receivable for June 2004 as follows:-

Interest for June	- Kshs.21,68[illegible]3.00
Resettlement/Supplementary JV for June 2004	- Kshs. 1,03[illegible]3.45
	Kshs.22,72[illegible]1.45
Less:	
WHT on interest	(Kshs.3,40[illegible]3.20)
Interest from 15% Retention (Gross)	(Kshs.4,37[illegible]4.50)
Net payable to MOCO	Kshs.12,44[illegible]1.75
Net Payable	

872

Please acknowledge receipt.

Yours faithfully
MUMIAS SUGAR COMPANY LIMITED

Patrick M. Ogema
OUTGROWERS SERVICES ACCOUNTANT

Peter M Kebati
HEAD OF FINANCE

Encls.

Exb 4

Exh 5

10

Exb 5

REPUBLIC OF KENYA

MINISTRY OF AGRICULTURE
OFFICE OF THE PERMANENT SECRETARY

Telephone:2718870/9
Fax:2711149
When replying please quote;

KILIMO HOUSE
CATHEDRAL ROAD
P.O. Box 30028
NAIROBI

Ref: MOA/S.II/1A VOL.VII/(58)

Date: 31st March, 2010

Mr. Joseph K. Kinyua, CBS
Permanent Secretary
Office of the Deputy Prime Minister
Ministry of Finance
NAIROBI

Dear Mr. Kinyua,

RE: TAX RECOVERY BY KENYA REVENUE AUTHORITY AGAINST MUMIAS OUTGROWERS COMPANY (1998) LTD. (MOCO)

Reference is made to the above subject matter regarding Mumias Outgrowers Ltd.

MOCO and Mumias Sugar Company Ltd. have been working together over a period of time but at some point differed over a Kshs.4 billion Cane Development Fund allegedly held by Mumias Sugar Company on behalf of MOCO.

The Government through Kenya Sugar Board has invested money in MOCO in an attempt to support the farmers through provision of working capital and machinery.

The dispute between the two organizations has hampered the operation of MOCO which solely depends on Mumias Sugar Company for business.

Kenya Sugar Board in its capacity as the regulator has appointed an arbitrator to resolve the dispute and a hearing is scheduled for 16th April, 2010..

Before the dispute is resolved, KRA through Ms. Leakey's Auctioneers has attached the property of MOCO for unpaid taxes. Some of the machinery attached belong to Kenya Sugar Board and are registered as Kenya Sugar Board Property.

As Kenya Sugar Board sorts out the issue of its property attachment, we are kindly placing a request through you for KRA to put on hold the auction of MOCO property until the arbitration exercise is sorted out with a hope that Mumias Sugar Company Ltd. will release the funds at issue and enable MOCO defray their liabilities.

Yours

Kiritu M. Wamai, EBS
Ag. PERMANENT SECRETARY

Cc. Ms. Rosemary Mkok
Chief Executive Officer
Kenya Sugar Board
P.O. Box 51500
NAIROBI

Exh 6

10

AGREEMENT

FOR THE

REDEPLOYMENT, OPERATION AND MANAGEMENT

OF

CHARGED MOVABLE ASSETS

AND

REMUNERATION IN CONSIDERATION THEREFOR

BETWEEN

MUMIAS OUTGROWERS COMPANY LIMITED

AND

MUHORONI COMPANY LIMITED. (IN-RECEIVERSHIP)

AND

KENYA SUGAR BOARD

NAIROBI _____ JUNE 2010

THIS AGREEMENT is made on this ..... day of ..... 2010 between the Mumias Outgrowers Company, of P.O. Box 132, Mumias, hereinafter referred to simply as 'MOCO', which term shall, where the context permits, include, its successors and assigns, of the one part and Muhoroni Sugar Company Limited (In Receivership), of P. O. Box 2, Muhoroni, hereinafter referred to simply as 'MUSCO', which term shall, where the context permits, include its successors and assigns of the second part, and the Kenya Sugar Board, of P. O. Box 51500 Nairobi, hereinafter referred to simply as the Board and which term shall, where the context admits, refer to its successor, and says as follows.

WHEREAS MOCO possesses a fleet of sugarcane transport and haulage machinery which is presently idle and/or underutilized.

AND WHEREAS the said machinery forms part of assets charged under debenture to the Board whose loans MOCO is obligated to repay.

AND WHEREAS MOCO is desirous of deploying the machinery to gainful use.

AND WHEREAS MUSCO is desirous of employing the machinery in its transport and haulage operations for a consideration,

AND WHEREAS as debenture holder the Board must be notified of and consent to any transaction affecting the assets of MOCO.

AND WHEREAS all the parties to this agreement desire, approve and concur with the terms thereof, NOW THIS AGREEMENT WITNESSETH as follows:-

1. MOCO has availed the machinery described hereunder, and whose specific particulars shall be annexed to this agreement for use to supplement MUSCO's fleet.

a) Ten (10) transport units complete with double baskets
b) Four (24) land preparation units (120 HP)
c) One (1) 'Cameco' loader
d) One (1) Boughton Winch
e) One (1) Pickup Nissan 4WD
f) One (1) Yamaha Motocrcycle, whose particulars are set out as follows:

Transport

1. KAE 869Y	TS90
2. KAW 868Y	TS90
3. KAW 865Y	TS90
4. KAW 819Y	TS90
5. KAW 818Y	TS90
6. KAW 870Y	TS90
7. KAW 864Y	TS90
8. KAS 631K	TS90
9. KAS 634K	TS90
10. KAW 814Y	TS90

Land Preparation

1. KAX 202C	TS120
2. KAX 205C	TS120

Loader

1. KAY 532Y	Comeco 1850

Winch

KAX 428C	TS120 Boughton Winch

Pickup

1. KAXC 793X — Nissan 4WD

Motorcycle

1. KAM 723Z — Yamaha 175cc

2. In operating the aforesaid fleet, MOCO shall be deemed, to be an Lessor/independent contractor and MUSCO shall accord it the rights and MOCO shall observe the obligations of such Lesser/Contractor throughout the term of this agreement.

3. Notwithstanding the foregoing, the following terms and conditions shall attend the operation of this agreement.

   a) MUSCO shall manage the fleet on behalf of MOCO.
   b) MUSCO shall employ a Clerk and Supervisor – cum – Mechanic nominated by MOCO, both of whom shall report to a manager to be assigned by MUSCO to oversee the operation of the fleet.
   c) The Clerk and Supervisor – cum – Mechanic aforesaid shall be remunerated in accordance with MOCO terms of service.
   d) MUSCO shall be under no obligation to employ drivers formally employed by MOCO to be assigned to man the fleet, but where it does so, such drivers shall be under MUSCO terms of employment.
   e) The Clerk assigned to the fleet shall undertake monitoring and accounting in respect of the fleet operations, and shall maintain an account for all proceeds thereof and issue reports on the same to the parties every 14 days.

f) The fleet's operational and administrative expenses shall be charged to the said account and reported accordingly.

g) The net proceeds from the operation of the fleet shall be deposited in an account opened in the names of both MOCO and MUSCO.

h) MOCO shall assign its Fleet Management Software for use by MUSCO in managing the fleet.

i) The bank account shall be opened and kept in the name of MUSCO with the following as its mandatory signatories.

   i) Agriculture Manager, MUSCO
   ii) Finance Manager, MOCO
   iii) Kisumu Regional Manager, KSB

4. MUSCO shall assess the grounded machinery belonging to MOCO to identify those that can cost-effectively be returned to operation and advise the parties on whether the same can be operated under the terms of this agreement.

5. COMMENCEMENT DATE

The commencement and effective date for the agreement shall be the date of execution thereof by the parties.

6. DURATION

The agreement shall last for one (1) year from inception and commencement, to completion, unless earlier terminated in accordance with Clause 11 and 13 of thereof.

7. GOOD FAITH

The parties hereby undertake to secure utmost good faith in their dealings with each other pursuant to this agreement and hereby warrant that in all such dealings they shall neither do nor omit to do

anything whose doing or omission may prejudice or detract in any manner whatsoever, the rights, assets or interests of the other parties.

8. AMENDMENT & MODIFICATION

This agreement may not be modified except by an instrument in writing duly executed by all the parties.

9. PROPER LAW AND JURISDICTION

This agreement shall be governed by and interpreted under the Laws of Kenya, and any litigation under this agreement shall be resolved in the courts of Kenya.

10. ARBITRATION

Any difference or dispute between any or all the parties concerning the interpretation or validity of this agreement or any part thereof, or the rights and liabilities of any party thereto, and which cannot be settled amicably within twenty-one (21) days shall be submitted to the Sugar Arbitration Tribunal for determination.

11. NOTICES

Any notice, request, consent or the like (in this clause referred to generally as 'notice') required or permitted to be given under this agreement shall only be binding if given in writing and may be given personally or sent to the party to be notified by registered post at its address as set out in this agreement.

i) Notice given personally shall be deemed given at the time of its actual delivery.

ii) Notice sent by post shall be deemed given at the commencement of business of the notified party on the second day of business next following its posting.

For purposes of this clause, the parties addresses of service are as set out below:-

Kenya Sugar Board
Sukari Plaza,
Waiyaki Way,
P. O. Box 51500 - 00200
NAIROBI

Muhoroni Sugar Company (In Receivership)
P.O. Box 2
MUHORONI

Mumias Outgrowers Company
P.O. Box 132
MUMIAS

12. PARTIES' RELATIONSHIP

Nothing contained in this agreement shall be construed as establishing or intending the establishment of a principal and agent, employer and employee, or other relationship between a superior ad lesser entity, and every party shall have full control of its activities in relation to its rights and obligations, and bear full responsibility therefore and the agreement.

13. TERMINATION AND CONSEQUENTIAL PROVISIONS

a) This agreement may be terminated by any party giving ninety (90) days' notice to every other party of such termination.

b) This agreement shall in the absence of prior termination by parties in accordance with (a) above be deemed terminated at the expiry of the period contained in this agreement without extension.

c) The termination of this agreement shall not prejudice any rights, liabilities or obligations accrued to, or by any party pursuant to the execution of its provisions and such rights, liabilities and obligations as shall have accrued at the time of termination shall survive the termination and be effected to their full effect.

14. SEVERABILITY OF TERMS

In the event that any provision of this agreement is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable, the parties shall amend that provision in such a reasonable manner as achieves the intention of the parties without illegality or at the discretion of the parties, such provision may be severed from this agreement and, in either event, the remaining provisions of this agreement shall remain in full force and effect.

15. CONFIDENTIALITY

Each party agrees to maintain secret and confidential all confidential information obtained or availed by any other party pursuant to and/or prior or to this agreement, or in contemplation of it (including but not limited to the existence and terms of this agreement) and all other information that a party may acquire in the course of this agreement, and to respect other parties' proprietary right in such material, and to use the same exclusively for the purposes of this agreement, and to disclose the same only to its professional advisers and those of its employees, officers, agents and representatives

pursuant to this agreement to whom, and to such extent that such disclosure is reasonably necessary for the purposes of this agreement (and which employees, officers, agents and representatives shall be made aware of and required to acknowledge and observe the confidentiality arrangements in writing).

16. WHOLE AGREEMENT

This agreement contains the whole agreement between the parties and supersedes any prior written or oral understandings or agreements between all or any of them in relation to the subject matter of the agreement, and no oral explanation or oral information given by or on behalf of any party shall alter or affect in any manner whatsoever the interpretation of this agreement.

17. ASSIGNMENT

No party may assign the benefit of nor its obligations under this agreement without the prior written consent of all the other parties.

18. BINDING EFFECT

This agreement shall bind and endure to secure the roles, responsibilities, rights and obligations of the parties.

IN WITNESS WHEREOF this agreement has been executed by the parties under their respective hand and seal on the day and year first set down herein.

For the said

SIGNED AND SEALED WITH THE COMMON SEAL OF MUMIAS OUTGROWERS COMPANY LIMITED

.....

CHIEF EXECUTIVE OFFICER

.....

COMPANY SECRETARY

SIGNED AND SEALED WITH THE COMMON SEAL OF MUHORONI SUGAR COMPANY LIMITED (IN RECEIVERSHIP)

.....

JOINT RECEIVER-MANAGERS

COMPANY SECRETARY

SIGNED AND SEALED
WITH THE COMMON SEAL OF
THE KENYA SUGAR BOARD



.....
CHIEF EXECUTIVE OFFICER

.....
CORPORATION SECRETARY

EXH 7

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 7th June, 2011

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

COMMUNICATIONS FROM THE CHAIR

Mr. Speaker: Hon. Members, I have three Communications to make.

MEMBERS' KAMKUNJI TO DISCUSS YOUTH EMPOWERMENT PROJECT

The Ministry of Youth Affairs and Sports through the Office of the Minister, hon. Dr. Otuoma Nyongesa, has requested for a *Kamukunji* for Members of Parliament on Thursday, 9th June, 2011, in the Old Chamber, Main Parliament Buildings at 10.30 a.m. to discuss "Youth Empowerment Project – *Kazi kwa Vijana*." This will be an open forum from where hon. Members will be free to raise issues, problems, questions and concerns on the said project. All Members are, therefore, invited to attend the *Kamukunji* on Thursday, this week at 10.30 a.m.

TABLING OF JUDICIARY AND NATIONAL GOVERNMENT ESTIMATES

Hon. Members, pursuant to the provisions of Article 173(3) and Article 221 of the Constitution, the Estimates of the Parliamentary Service Commission, the Judiciary and the National Government are submitted to the National Assembly for approval and on submission are tabled in the House. By practice, reports and official documents from Government are tabled in the House by the responsible Ministers. In view of the fact that we are in a transitional period, and upon reflection, I do direct that the Estimates of the National Government and for the Judiciary be tabled by the Deputy Prime Minister and Minister for Finance and the Minister for Justice, National Cohesion and Constitutional Affairs, respectively, in similar fashion as was the case with the Estimates for the Parliamentary Service Commission which were tabled by the Vice-Chairperson of the Commission.

(Several Members stood at the Bar)

I thank you.

Mr. Speaker: Do you have an extra copy, Assistant Minister?

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Nguyai): Mr. Speaker, Sir, I do.

Mr. Speaker: Then, maybe, you can table that so that it is passed on to the Member.

(Mr. Nguyai laid the document on the Table)

Member for Limuru, would you be comfortable to proceed or you want more time?

Mr. Mwathi: Mr. Speaker, Sir, I need time! If you can reschedule that for Thursday this week, I do not mind.

Mr. Speaker: Very well! It is so directed! Thursday this week!

(Question deferred)

Next Question; Member for Chepalungu!

Is there any indication from the Clerk-at–the Table that he is a member of the COIC? No, Question dropped!

Question No.928

PAYMENT OF COMPENSATION
TO FAMILY OF LATE R.C. LANG'AT

(Question dropped)

Mr. Speaker: Next Question! Member for Mumias!

Question No.899

WHEREABOUTS OF CAPITAL LEVY PAID TO MOCO FARMERS

Mr. Washiali asked the Minister for Agriculture:-

(a) whether he could explain the whereabouts of the Kshs6 per tonne capital levy paid by cane farmers to Mumias Outgrowers Company Ltd. (MOCO) for a total of 21 years;

(b) how much was collected during this period, and,

(c) when sugar-cane farmers will benefit from the accruals.

The Assistant Minister for Agriculture (Mr. Ndambuki): Mr. Speaker, Sir, I beg to reply.

(a) MOCO has taken Mumias Sugar Company to court on the matter; the whereabouts of Kshs6 per tonne capital levy paid by Mumias Sugar-cane farmers. Hence, it will be prejudicial for me to give any further information.

(b) Between 1975 to 1998, a total sum of Kshs288,117,285 was deducted by MOCO as sugar-cane levy from farmers between commencement and stoppage time.

(c) Sugar-cane farmers will benefit once arbitration process between MOCO and Mumias Sugar Company stayed by the court is fully determined.

Mr. Washiali: Mr. Speaker, Sir, there is a procedure in this House that if the subject matter of a Question is before the court, the Minister responding should give evidence that it is *sub judice*. Therefore, could the Assistant Minister prove to us that this matter is active in the court? According to the report that I have, the matter before the court is the usage of sugar development levy by Kenya Sugar Board to fund the arbitration case of MOCO and not the Kshs6 capital levy that farmers pay to MOCO.

Mr. Ndambuki: Mr. Speaker, Sir, the case, the hon. Member is talking about is at Kakamega High Court. I am talking of a case in Kisumu High Court whereby MOCO took Mumias Sugar Company to court challenging the Sugar Company to pay them capital levy. The case was moved, when Mumias Sugar Company went to Kakamega and sued MOCO to stop it, so that they could continue with the process of arbitration. So, there are two cases.

(Loud consultations)

Mr. Speaker: Order, just allow the Assistant Minister to finish.

Mr. Ndambuki: Mr. Speaker, Sir, there are two cases here. There is a case filed in Kisumu. Another one was filed in Kakamega.

Mr. Speaker, Sir, what the hon. Member was given last week by my colleague was the Kakamega case, but the Kisumu one was not given. There is a dispute. It is true that there is about Kshs3.5 billion which is supposed to be paid to MOCO. However, because there is a fight between MOCO and Mumias Sugar Company, it cannot be determined. So, they have moved to court for arbitration. I believe they will be heard and then the money can be released.

Mr. Speaker, Sir, the argument here is that Mumias Sugar Company is challenging KSB for helping MOCO in arbitration. So, it is a bit tricky case, but I can assure the House that it is being looked into. It will be determined and farmers of MOCO will be paid their money.

Mr. Olago: On a point of order, Mr. Speaker, Sir.

As I understand, the hon. Assistant Minister is claiming *sub judice* to stop him from giving answers to this Question, which I think is relevant to the farmers of Mumias. If it is the intention of the Assistant Minister to claim *sub judice*, is it in order for him to attempt to do so, without complying with the strict requirement of Standing Order No.80 by producing copies of pleading, and also proving to the House that the matter is actually active?

Mr. Speaker: Mr. Assistant Minister, what is your reaction to that?

Mr. Ndambuki: Mr. Speaker, Sir, I can table the Kakamega case.

Mr. Speaker: You have all the pleadings!

Mr. Washiali: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it, Member for Mumias?

Mr. Washiali: Mr. Speaker, Sir, my Question is very well framed. In part (a), the Question seeks to know where the Kshs6 per tonne Capital Levy Fund (CLF) is. However, the Assistant Minister has laid on the Table a document detailing the use of the Sugar Development Fund (SDF) money by the Kenya Sugar Board to support MOCO.

That is not the question I am asking. I am asking where the Kshs6 in respect of the CLF that the farmers pay to MOCO is. There is an answer which MOCO has already given. I do not know why the Assistant Minister does not want to read it out.

Mr. Speaker: Assistant Minister, that is a valid point of order. You have a very specific Question here, asking you where the Kshs6 per ton levied on the farmers for the past 21 years is.

Mr. Ndambuki: Mr. Speaker, Sir, I said that the money is there, and that the case is about the money.

Mr. Speaker: Where is the money?

Mr. Ndambuki: Mr. Speaker, Sir, the money is with Mumias Sugar Company. That is the Kshs3.7 billion I was talking about.

Mr. Speaker: Last Question, Member for Mumias.

Mr. Washiali: Mr. Speaker, Sir, now that the Assistant Minister has accepted liability and confirmed to this House that the money is with the Mumias Sugar Company, and given that this money was meant to be capital levy for farmers in MOCO, when is Mumias Sugar Company transferring this money back to MOCO, so that the farmers can access it?

Mr. Ndambuki: Mr. Speaker, Sir, there is an arbitration process that is going on. Once the matter is determined, the money will be released.

(Mr. Washiali stood up in his place)

Mr. Speaker: What is it Member for Mumias?

Mr. Washiali: On a point of order, Mr. Speaker, Sir. Is the Assistant Minister in order to mislead this House that the matter is before the Arbitration Court when, in the actual sense, the Ministry, through the Permanent Secretary (PS), has written a letter to stop the arbitration case?

Mr. Ndambuki: Mr. Speaker, Sir, the Minister did not write a letter stopping the arbitration. He wrote a letter stopping use of the money. They were asking for Kshs4 million for the arbitration case. They have already used Kshs850,000. The Kenya Sugar Board money is used for development. It is not used for arbitration. So, it is a question of MOCO trying to get money for arbitration and not the KSB to use levy money for the arbitration process.

Mr. Washiali: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order, Member for Mumias! I have not allowed you to raise a point of order! What is it? Let us hear it!

Mr. Washiali: Mr. Speaker, Sir, the Assistant Minister has said that the Ministry stopped the KSB from supporting the arbitration process, whereas in the Sugar Act, 2001, part of the functions of the KSB is arbitration. So, why would the Ministry interfere with the functioning of the KSB when in the actual sense it is supposed to be funding the arbitration process? Part of the functions of the KSB is to support arbitration in matters affecting the industry. Why should the Ministry refuse to fund this matter?

Mr. Speaker: Order! Order! Member for Mumias, I am conscious even from where I am sitting, and from your demeanour, that you are aware that that is not a point of order. You have merely asked a question seeking to interrogate the matter further. So,

you are out of order, but I want to ask the Assistant Minister, if he is generous, to give you an answer.

Mr. Ndambuki: Mr. Speaker, Sir, the Ministry set up an arbitration court for anybody who has a problem to go there. However, the Ministry is not supposed to meet the expenses of anybody who goes for arbitration. So, MOCO is free to pay whatever is required, and their case will be heard and determined.

Mr. Speaker: Member for Mumias, you may want to pursue that matter further with the Minister. I am sure that you can secure a satisfactory solution even away from the House.

Mr. Washiali: I am most obliged, Mr. Speaker, Sir.

Mr. Speaker: Very well.

Next Question, Member for Turkana Central.

Question No.921

CONTRAVENTION OF PENSIONS (AMENDMENT) ACT BY GOVERNMENT

Mr. Ethuro asked the Minister of State for Public Service:-

(a) why the Government is contravening the provisions of the Pensions (Amendment) Act, 2003, by failing to either retain or pay retiring employees until their pension is processed;

(b) whether he could indicate the outstanding pensions before 2003 and table the quantum of pension and the number of pensioners per cadre, month and year for all public servants who have retired from 2003 to date; and,

(c) what action the Government is taking to ensure compliance with the statute.

The Minister of State for Public Service (Mr. Otieno): Mr. Speaker, Sir, I beg to reply.

(a) The Government is not contravening the provisions of the Pensions Act, 2003. Delays are normally occasioned by the failure by the retirees themselves to submit or complete the required documentation for pension processing. In the case of dependants, the delay is usually due to the lengthy process to determine the next of kin and failure to procure the required documentation in time, which is a problem with both the beneficiaries and the Pensions Department. In order for the Ministry to complete and pay a pension, documents must be submitted. Amongst the documents we need are the Tax Clearance Certificate, the last payslip and a certificate indicating that the person's name has been deleted from the payroll.

(b) There are no outstanding pension claims with the Pensions Department for the periods before 2003. On the question of pension paid and number of pensioners paid per month and year for public servants who have retired from 2003 to date details are attached as Appendix A, which is a list of 56 pages, which I beg to table.

(Mr. Otieno laid the document on the Table)

8

LUTTA & COMPANY
ADVOCATES

P. O. Lutta, LL.B (Hons) Nrb.
Benard B. Chenge , LL.B (Hons) Moi .

Consultant
Prof. Arthur A. Eshiwani, JSD (U.C Berkley)

Commissioners for Oaths
Notaries Public

Jameson Court, Block A, 3rd Floor
Ngong Rd, (Next to Ngong Hills Hotel)
P. O. Box 73705 - 00200
Tel:+254-2-2503067/3874184/3867040
Cell Phone No. +254722692116
Fax: +254-2-3862601
NAIROBI, KENYA
P. I. N. NO.: A001122052V
V.A.T. Reg. No.:0139789M
Email: zenas@bidii.com

When replying please quote:
Our Ref: LC/CIV/MOCO/040/08
Your Ref: AA/001/2010/ARB

17th August, 2011

COPY



AHMEDNASIR, ABDIKADIR
& COMPANY ADVOCATES
CBA BUILDING 2ND FLOOR
STANDARD STREET
NAIROBI

Dear Sir,

RE: **IN THE MATTER OF ARBITRATION BETWEEN**
MUMIAS OUTGROWERS COMPANY (1998) LTD -VS- MUMIAS SUGAR COMPANY LIMITED

Refer to the letter of M/s Hamilton Harrison & Mathews Advocates dated 13th July, 2011 addressed to you on the above matter.

A meeting was held between the advocates of the parties and no issues have been agreed upon as of today.

In order not to delay the Arbitral process, kindly fix a Mention date when directions can be taken for further proceedings.

Yours faithfully
For **LUTTA & COMPANY**

for: P.O. LUTTA

cc. 1. Hamilton Harrison & Mathews Advocates
I.C.E.A. Building 4th Floor
Kenyatta Avenue
P. O. Box 30333 - 00100
Nairobi

Exb 8

2. Client

9

Kenya Sugar Board
Sukari Plaza, Off Waiyaki Way.
P.O. Box 51500 - 00200, Nairobi
Tel: (254-20) 8018750/1/2/3
Tel: (254-20) 2023316/7/8
Mobile: +254-722-203127/8
+254-733-333378/9
Fax: (254-20) 2021266/77/2023319
Email: info@kenyasugar.co.ke
Website: www.kenyasugar.co.ke

KSB/C/CS/54 VOL.II/119

8th March, 2010

COMPANY (1998) LIMITED
MUMIAS
RECEIVED
15 MAR 2010
CHIEF EXECUTIVE'S OFFICE
P. O. Box 132 - MUMIAS

Ag. Chief Executive Officer
Mumias Outgrowers Company
P.O. Box 132
MUMIAS

RE: REPORT ON MOCO

During the Board meeting held on 23rd February 2010, it was resolved that to further protect the Board's interest, the Registration Number Plates of the SDF financed tractor fleet at MOCO should be changed to blue to reflect ownership by KSB.

The purpose of this letter therefore is to request you to provide the necessary assistance to the Transport Officer, KSB to facilitate the transaction.

Yours faithfully,

R. MKOK, MBS
CHIEF EXECUTIVE OFFICER

EXB 9

7

Seen 10

COMMODITIES FUND

2nd floor, Railway Headquarters Building - Block D
Workshop Road
Off Haile Selassie Avenue
P.O. Box 52714 - 00200
CITY SQUARE
NAIROBI

Phone: +254-20 - 2210806-9/12
Mobile: 0728 - 602427/8
0772 602427/8
0737 - 204277/8
Fax: +254-20 - 2210816
E-mail: info@codf.co.ke
Website: www.codf.co.ke

Our Ref: AFFA/CF/C/MOCO (2016) VOL.1/05

Date: 9th May 2016

The Joint Receiver Managers
Muhoroni Sugar Company Limited (In Receivership)
P.O. Box 2
MUHORONI

Dear Sirs,

RE: ACKNOWLEDGEMENT FOR MACHINERY LOAN REPAYMENT

We wish to acknowledge receipt of your loan repayment on 22nd April 2016 for Kshs. **250,000.00 (Two Hundred and Fifty Thousand Only)** towards part settlement of your transport machinery loan advanced to Mumias Outgrowers Co. Ltd (MOCO) on 6th November 2006.

I wish to take this opportunity to commend you for your effort and further request you ensure you consistently adhere to the agreed loan repayment agreement on timely basis.

Yours faithfully,

Nancy C. Cheruiyot
Interim Managing Trustee

Copy to: 1. Mr. G. Anamanjia
Chief Executive Officer
Mumias Outgrowers Company
P. O. BOX 132
MUMIAS

2. Interim Head of Sugar Directorate
Sukari Plaza
P.O. Box 51500 – 00200
NAIROBI

(11)

COMMODITIES FUND

2nd floor, Railway Headquarters Building - Block D
Workshop Road
Off Haile Selassie Avenue
P.O. Box 52714 - 00200
CITY SQUARE
NAIROBI

Phone: +254-20 - 2210806-9/12
Mobile: 0728 - 602427/8
0772 602427/8
0737 - 204277/8
Fax: +254-20 - 2210816
E-mail: info@codf.co.ke
Website: www.codf.co.ke

Our Ref: AFFA/CF/C/MOCO (2016) VOL.1/06

Date: 13th June 2016

The Joint Receiver Managers
Muhoroni Sugar Company Limited (In Receivership)
P.O. Box 2
MUHORONI

Dear Sirs,

RE: ACKNOWLEDGEMENT FOR MACHINERY LOAN REPAYMENT

We wish to acknowledge receipt of your loan repayment on 7th June 2016 for Kshs. **100,000.00 (One Hundred Thousand Only)** towards part settlement of your transport machinery loan advanced to Mumias Outgrowers Co. Ltd (MOCO) on 6th November 2006.

I wish to take this opportunity to commend you for your effort and further request you ensure you consistently adhere to the agreed loan repayment agreement on timely basis.

Yours faithfully,

Nancy C. Cheruiyot
Interim Managing Trustee

Copy to: 1. Mr. G. Anamanjia
Chief Executive Officer
Mumias Outgrowers Company
P. O. BOX 132
MUMIAS

2. Interim Head of Sugar Directorate
Sukari Plaza
P.O. Box 51500 – 00200
NAIROBI

COMMODITIES FUND

2nd floor, Railway Headquarters Building - Block D
Workshop Road
Off Haile Selassie Avenue
P.O. Box 52714 - 00200
CITY SQUARE
NAIROBI

Phone: +254-20-2210806-9
Mobile: 0728 - 602427/8
0737 - 204278/9
Fax: +254-20-2210816
E-mail: info@codf.co.ke
Website: www.codf.co.ke

Our Ref: AFFA/CF/C/MOCO (2016) VOL.1/07

Date: 6th July 2016

The Joint Receiver Managers
Muhoroni Sugar Company Limited (In Receivership)
P.O. Box 2
MUHORONI

Dear Sirs,

RE: ACKNOWLEDGEMENT FOR MACHINERY LOAN REPAYMENT

We wish to acknowledge receipt of your loan repayment on 1st July 2016 for Kshs. **200,000.00 (Two Hundred Thousand Only)** towards part settlement of your transport machinery loan advanced to Mumias Outgrowers Co. Ltd (MOCO) on 6th November 2006.

I wish to take this opportunity to commend you for your effort and further request you ensure you consistently adhere to the agreed loan repayment agreement on timely basis.

Yours faithfully,

Nancy C. Cheruiyot
Interim Managing Trustee

Copy to: 1. Mr. G. Anamanjia
Chief Executive Officer
Mumias Outgrowers Company
P. O. BOX 132
MUMIAS

2. Interim Head of Sugar Directorate
Sukari Plaza
P.O. Box 51500 – 00200
NAIROBI

(61)

(13)

COMMODITIES FUND

2nd floor, Railway Headquarters Building - Block D
Workshop Road
Off Haile Selassie Avenue
P.O. Box 52714 - 00200
CITY SQUARE
NAIROBI

Phone: +254-20-2210806-9
Mobile: 0728 - 602427/8
0737 - 204278/9
Fax: +254-20-2210816
E-mail: info@codf.co.ke
Website: www.codf.co.ke

Our Ref: AFFA/CF/C/MOCO (2016) VOL.1/08

Date: 14th September 2016

The Joint Receiver Managers
Muhoroni Sugar Company Limited (In Receivership)
P.O. Box 2
MUHORONI

Dear Sirs,

RE: ACKNOWLEDGEMENT FOR MACHINERY LOAN REPAYMENT

We wish to acknowledge receipt of your loan repayment on 26th September 2016 for Kshs. **100,000.00 (One Hundred Thousand Only)** towards part settlement of your transport machinery loan advanced to Mumias Outgrowers Co. Ltd (MOCO) on 6th November 2006.

I wish to take this opportunity to commend you for your effort and further request you ensure you consistently adhere to the agreed loan repayment agreement on timely basis.

Yours faithfully,

Nancy C. Cheruiyot
Interim Managing Trustee

Copy to:
1. Mr. G. Anamanjia
   Chief Executive Officer
   Mumias Outgrowers Company
   P. O. BOX 132
   MUMIAS

2. Interim Head of Sugar Directorate
   Sukari Plaza
   P.O. Box 51500 – 00200
   NAIROBI

Republic of Kenya

Traffic Act (Cap 403)

R0218607X

R0218607X

Kenya Revenue Authority

Registration Book for Motor Vehicle

(Section 8(6))

Duplicate No 20081370329

Particulars:

Registration:	KAX793C
Chassis/Frame:	JN1AJUD22Z0037689
Make:	NISSAN
Model:	J46
Type:	Motor Vehicle
Body:	VAN
Fuel:	DIESEL
Man.Year:	2006
Rating:	3153
Engine No:	QD32-235842
Color:	M/SILVER
Reg. Date:	14-MAR-07
Gross weight:	2810
Duty:	Paid
Number of previous owners:	1

Particulars:

Passengers:	2
Tare weight:	1760
Tax class:	Commercial goods
Axles:	2
Load capacity(kg):	1050
Previous Reg. country:	
Previous registration:	

Registered Owner(s)

ID:	P051091361Q
Name:	MUMIAS OUTGROWERS COMPANY LTD
Pin:	P000607936C
Name:	KENYA SUGAR AUTHORITY
Box No.:	132
Code:	50102
Town:	MUMIAS

For official use only:-

Authorising Signature and official seal

16/05/08

Usual signature: _____

Important:-

The person in whose name a vehicle is registered shall, unless the contrary be proved, be deem to be the owner of the vehicle. Before you use any vehicle on the road, please ensure that your insurance against third party risk is in order.It is a serious offence to drive without proper insurance.

R0218607X R0218607X

KENYA

19

(15)

Page 2

BEFORE YOU USE ANY VEHICLE ON THE ROAD, MAKE CERTAIN THAT YOUR INSURANCE AGAINST THIRD PARTY RISKS IS IN ORDER. IT IS A SERIOUS OFFENCE TO DRIVE WITHOUT PROPER INSURANCE.

LICENCE FEES

TWELVE MONTHS ..... 12609/=

FOUR MONTHS .....

EXTRACT FROM REGISTRATION PARTICULARS

Registration Mark and No. ZB 7667

Make LOCAL

Type of Body H/SIDED BASKET 12609

Colour of Body YELLOW

Propelled by .....

Manufacturer's:

Year of Manufacture NINETY NINE 30-9-2000

Type of Model .....

Chassis Type, Letter and Number PEWL-528

Engine No. .....

Rating (c.c.) .....

Tyres	Size	Ply	Single or Dual
FRONT	184 × 30		D
CENTRE	×		
REAR	184 × 30		D

Gross Vehicle Weight 21,000 kg.

Tare Weight .. .. 6870 kg.

Carrying Capacity .. 14130 kg.

Date of Registration 30-9-99

Date-stamp and initials of officer: Mlhsani

Page 3

RECORD OF LICENCES

Amount paid and date of expiry of licence	Date stamp and initials of officer	Amount paid and date of expiry of licence	Date stamp and initials of officer
	REGISTRAR OF MOTOR VEHICLES KENYA 1		REGISTRAR OF MOTOR VEHICLES KENYA 1
	J00105 GO		

Page 4

Name and address of the person registered with the Registrar, whose date-stamp is affixed hereto, as the person keeping the vehicle, the particulars of which are given on page 2.

FULL NAME MUMIAS OUTGROWERS (in block capitals)

Address C/O KENYA SUGAR AUTHORITY P.O. BOX 132 MUMIAS

Usual Signature .....

1st Change

FULL NAME ..... (in block capitals)

Address .....

Usual Signature .....

2nd Change

FULL NAME ..... (in block capitals)

Address .....

Usual Signature .....

3rd Change

FULL NAME ..... (in block capitals)

Address .....

Usual Signature .....

IMPORTANT.—The person in whose name a vehicle is registered shall, unless the contrary is proved, be deemed to be the owner of the vehicle.

Ex b 16

Abdallahi - SC
Gichuru
Khan
Koech
Tebino
Wanjohi
Osman

ef:
tef:

AAC/001/2010 ARB

LC/CIV/MOCO/040/08

AHMEDNASIR, ABDIKADIR
& CO. ADVOCATES

CBA Building, 2nd Floor, Standard Street
P.O. Box 57731-00200
Nairobi, Kenya
Tel: 020 2217886/ 2215422
Mobile: 0722 207097/ 0733 207097
Fax: 020 2213582
Email: ahmedabdi@ahmedabdi.com
Web: www.ahmednasirabdikadir.com

Monday, May 4th, 2015

M/s Lutta & Company
Advocates,
Jameson Court, Block A,
3rd Floor,
Ngong Road,
NAIROBI

M/s Prof. Tom Ojienda & Associates
Advocates
Siler Pool Office Suites,
Suite No. A8,
Jabavu Lane, Off Argwings Kodhek Rd.
P. O. Box 13699-00100,
NAIROBI

Dear Sirs,

RE: ARBITRATION BETWEEN MUMIAS OUTGROWERS COMPANY (1998) LIMITED AND MUMIAS SUGAR COMPANY LIMITED

We refer to the above matter.

Considering the stage that we have reached, we require each party to deposit with the Arbitrator a sum of Kshs.2,000,000/- to the bank details set out in this letter. We also enclose our Deposit Request Note to this effect.

Account Name: Ahmednasir, Abdikadir & Company Advocates
Account No: 0095301004
Branch: Wabera

LUTTA & COMPANY
ADVOCATES
RECEIVED
07 MAY 2015
TIME: 9:00am N.A.
P. O. Box 73705 - 00200
NAIROBI

AHMEDNASIR, ABDIKADIR & COMPANY
ADVOCATES

2nd Floor, CBA Building,
Standard Street,
P O Box 57731 -00200 NAIROBI
Tel: 217886, 215422, 333957 - Fax: 213582
E-mail: ahmedabdi@ahmedabdi.com

PIN NO. P051123722K V.A.T. REG. NO. 0109750J

Our Ref: **AAC/001B/2010 ARB**

Your Ref: **T.B.A**

Monday, May 4th, 2015

Client details:

M/s Lutta & Company
Advocates,
Jameson Court, Block A,
3rd Floor,
Ngong Road,
NAIROBI

DEPOSIT REQUEST NOTE

ITEM	SERVICES RENDERED	CHARGES	TOTAL
	ARBITRATION BETWEEN MUMIAS OUTGROWERS COMPANY (1998) LIMITED AND MUMIAS SUGAR COMPANY LIMITED		
1.	Towards your instruction to act as Arbitrator in the above dispute; attending meetings, perusing, analyzing all documentation provided.		
2.	Arbitrators fees:	1,000,000	
3.	16% VAT	160,000	
	GRAND TOTAL	**1,160,000**	**1,160,000**

Payment Details

Cash ☐
Cheque ☐

SIGNED:

Advocate

MUMIAS OUTGROWER S COMPANY (1998) LIMITED

ANNEXTURES

1. MOCO/MSC 1976 Agreement
2. Letter of undertaking by MSC
3. MOCO Interest receivable from MSC
4. MOCO interest receivable from MSC
5. Letter from Permanent Secretary Ministry of Finance
6. MOCO/Muhoroni Sugar Tripartite Agreement
7. National Assembly report on MOCO
8. Letter of Arbitration between MOCO/MSC
9. Letter from KSB on change of machinery registration number plates to parastatal

10.-13 Copies of Loan repayment acknowledgement letters by Commodities Fund

14. Sample tractor logbook copies
15. Letter from Arbitrator AhmedNassir Abdullahi

ANNEX 8S

POLICY ON REVITALIZATION OF THE SUGAR INDUSTRY

2.1.1 SUBMITTED BY SUGAR RESEARCH INSTITUTE

C) Seed Multiplication, Distribution and Certification

Seedcane is an important input in sugarcane production and high seedcane quality is a prerequisite for increasing productivity. The optimal age for seed cane material in Kenya at higher altitude is 8 - 13 months. In coastal region where sugarcane is grown at low altitude optimal seedcane age is 6 - 8 months. Multiplication of seedcane is carried out by sugar research institute and the millers. However, the issue of high quality, adequate seedcane has not been adequately addressed in the Kenya sugar industry as the quantities produced by the two institutions are inadequate.The Kenya sugar industry does not have a structured seed production and distribution system. Most of the seedcane used in the industry originates from milling cane and thus not grown under appropriate seedcane conditions. These seed sources are uncertified and their health and purity cannot be ascertained. Use of poor quality seedcane results in poor crop establishment, development of seed fields with high disease levels hence depressed cane production per unit area.

The industry should adopt **a three tier model** (i.Seed production, ii. seed bulking and iii. seed distribution) in seedcane production and distribution. Adoption of high quality seed cane will contribute to benefits such as control of pests and diseases, improve varietal purity, increased productivity and income. To alleviate this problem there's need to fund SRI in order to enhance seedcane production and certification. Infrastructural improvements such as upgrading of the hot water seedcane treatment plant (HWTP), tissue culture laboratory, and closed and open quarantine units at SRI will contribute immensely in rapid quality seedcane production. The sugar industry should actualize and adopt a structured seedcane production and distribution as proposed and envisaged in the industry seedcane framework policy developed by KALRO SRI and industry stakeholders. This shall in turn improve the sugar industry productivity.

Dr. Betty Muliango
07/09/2023

2.4.5 Challenges in the Provision of Industry Support Services

out grower departments of the various milling companies get overwhelmed especially during the peak panting period.

3) Poor Quality of Supplied Inputs

Quality seed cane for planting is sometimes not available leading to use of inferior planting materials by farmers. There are instances where use of sub-standard fertilizers have been observed resulting in low and poor yields. The other challenges include: inadequate guidelines and calibration for both machine based and manual operations. Where such guidelines exits, there is no enforcement mechanism to ensure quality services such as ploughing, harrowing, planting and weeding.

c) Challenges in Provision of Advisory Services

1) High Cost of Private Extension and Advisory Services

Sugarcane farming relies largely on extension service offered by millers. These services are expensive compared to public extension services. The millers also charge for advisory services such as soil testing and analysis where cost is loaded on production.

2) Poor Research –Extension- Farmer Linkages

There is poor uptake of new technologies and innovations due to inadequate awareness among farmers and extension staff. In addition, there is limited interaction between generators and dissemination of technologies leading to poor feedback to inform technology improvement and review of approaches to extension methodologies. This has been occasioned by limited funding for technology dissemination.

3.4 POLICY INTERVENTIONS

3. Enhance research capacity through introduction of sugar research levy…

a) Upgrading of facilities at SRI mainly soil and plant tissue laboratories, tissue culture laboratories and microbial laboratories and accreditation

Dr. Betty Mulindwa
07/09/2023

b) Fastback development and equipping of molecular biotechnology laboratories at KALRO-SRI

c) Upgrading of green house at sugarcane breeding centre Mtwapa.

d) Upgrading of the quarantine facility.

e) Replace retired staff

4. Broaden sugar research value chain.....

a) Support KALRO SRI with the construction of mini mill at Mtwapa and at Kibos for value addition.

b) Research of other sugar crops eg Sugar beet, stevia and sweet sorghum. This will require a set of mills that are able to process these crops into sugar.

Dr. Betty Nduiang'
07/09/2023