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THE SENATE
 TWELFTH PARLIAMENT

OF THE AD HOC COMMITTEE INQUIRING INTO THE CHALLENGES
 FACING TEA SECTOR IN KENYA

for approval
 19/7

10/7/19

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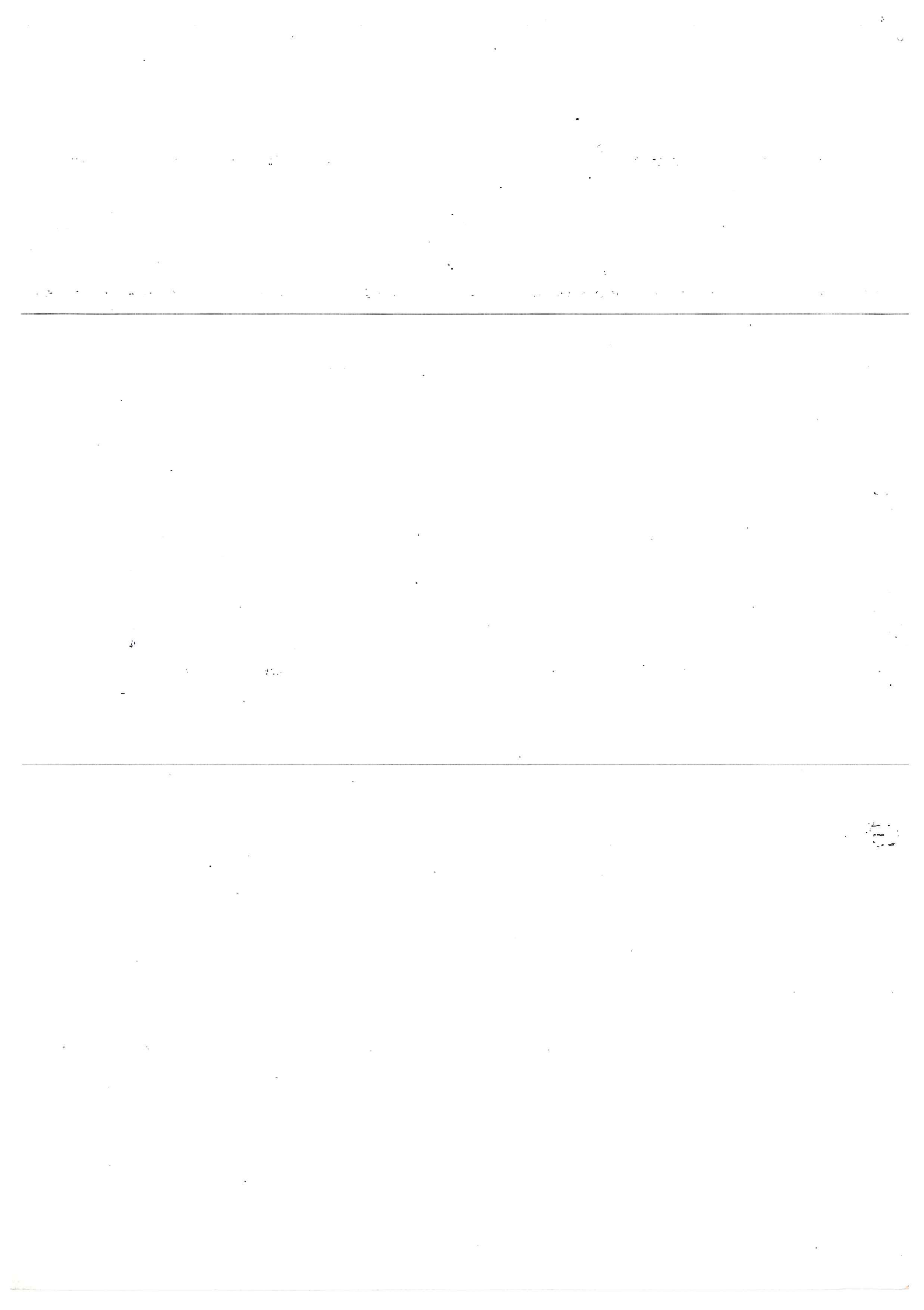


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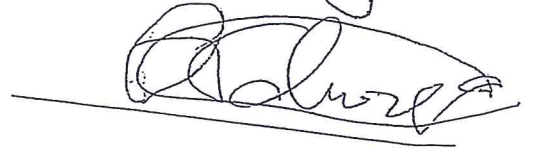
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ADOPTION PAGE

1. Sen. Aaron Cheruiyot
-Chairman

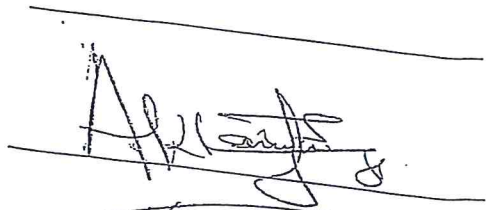


2. Sen. Njeru Ndwiga, EGH - Vice Chairman

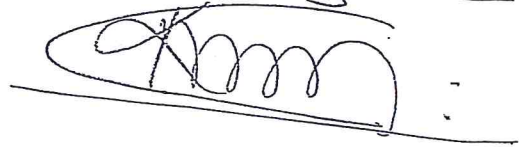


3. Sen. Irungu Kang'ata

4. Sen. (Dr.) Christopher Lang'at



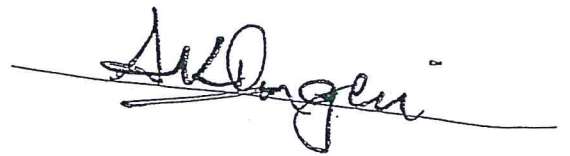
5. Sen. Samson Cherargei



6. Sen. Cleophas Malalah



7. Sen. (Prof.) Sam Ongeru, EGH



8. Sen. George Khaniri, MGH



9. Sen. Mercy Chebeni



PREFACE

Mr. Speaker Sir,

The Ad hoc Committee inquiring into the challenges facing tea sector in Kenya was established by a Senate Resolution on 14th March 2018. The Committee was established to conduct an inquiry into the challenges facing the tea sector in Kenya and to submit a Report to the Senate within five months, with specific legislative and policy interventions to address the problems facing the tea sector in Kenya.

Committee Membership

The Committee comprised the following Members;

10. Sen. Aaron Cheruiyot-Chairman
11. Sen. Njeru Ndwiga, EGH- Vice Chairman
12. Sen. Irungu Kang'ata
13. Sen. (Dr.) Christopher Lang'at
14. Sen. Samson Cherargei
15. Sen. Cleophas Malalah
16. Sen. (Prof.) Sam Ongeru, EGH
17. Sen. George Khaniri, MGH
18. Sen. Mercy Chebeni

Terms of Reference

The Terms of Reference of the Ad hoc Committee inquiring into the challenges facing tea sector in Kenya is spelt out in the senate resolution of 14th March 2018 as follows;

- i. Identify factors that have led to tea farmers receiving disproportionate returns from tea despite the resources and time they put in tea production
- ii. Identify numerous other challenges which require urgent intervention to ensure that this critical sector of tea thrives for the benefit of Kenyan economy

- iii. Recommend specific legislative and policy interventions to address the problems facing the tea sector in Kenya

Committee proceedings

The Committee held its First Sitting on 28th March 2018, during which Sen. Aaron Cheruiyot and Sen. Njeru Ndwiga were elected the Chairperson and the Vice-Chairperson respectively. The Committee immediately afterwards embarked on its core business.

To effectively fulfill its mandate, the Committee held deliberative sessions, reviewed documents and literature on the subject and analyzed the submissions and further undertook fact-finding tours to various counties to seek views of Kenyans to comprehensively address the resolution of the Senate. The Minutes of the Committee sittings are annexed to the report.

All documents tabled and provided to the Committee are also annexed to this report. The List of individuals and organizations that appeared before the Committee can be found in the appendices. The Records of the information collected in tours and the documents and notes received by the Committee form the basis of the Committee observations and recommendations.

Acknowledgment

I would wish to express gratitude to the Members of this Committee for their commitment and tireless effort in ensuring that the Committee effectively discharged its mandate. The Members took time off their busy schedules to attend to the activities of the Committee.

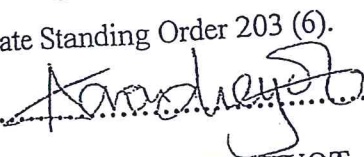
This Committee acknowledges the contributions made by the Governors, Members of the County Assemblies, Members of Parliament the tea farmers, KTDA, EATTA, Tea Directorate and the Ministry and other stakeholders during the county visits and those who appeared before committee on upon invitation. The Committee further acknowledges the Offices of the Speaker and the Clerk of the Senate for the support extended to it during the entire duration of the Committee.

Finally, we sincerely express our gratitude to the House for having entrusted us with this important mandate of coming up with recommendations that we believe would address the problems facing the tea sector in Kenya

Mr. Speaker Sir,

It is therefore my pleasant duty and privilege, on behalf of the Senate Adhoc Committee inquiring into the challenges facing tea sector in Kenya, to table this report in accordance with the provision of the Senate Standing Order 203 (6).

SIGNED



DATE

12/06/19

SENATOR AARON CHERUIYOT

ABBREVIATIONS

CUF	- Common User Facility
EATTA	- East Africa Tea Trading association
KTDA	- Kenya Tea development Agency
KTGA	- Kenya Tea growers association
SEZs	- Special Economic Zones

EXECUTIVE SUMMARY

The Ad hoc Committee inquiring into the challenges facing tea sector in Kenya was established pursuant to a resolution of the Senate on 14th March 2018. The Committee held its first meeting on 28th March 2018 from which the committee was able to draw its work plan.

The Committee, in accordance with the principle of public participation as enshrined under article 118 of the Constitution of Kenya 2010, made between June and September, 2018, visited to six counties and held public hearings.

The objective of the county visits was to meet tea farmers, members of the county government officials and investors of tea living in those counties, with a view to collecting their views in line with the Terms of Reference of the Committee.

During those visits and the public hearings, the Committee observed tea farmers were faced with numerous challenges in their endeavors to eke a living out of tea growing. The main challenges in the small-scale tea sub sector included: low farm gate prices; poor extension services; limited marketing channels; poor access to credit and low level of farmers' participation in decision making at various points of value chains amongst others. The challenges impacted negatively in their living standards as farmers have perpetually received a disproportionate returns for the resources and time they put in tea production.

There were gaps in the policy and legal frameworks in the regulation of tea production as well as marketing of the finished products. The committee made proposals on policy and legislation to address the challenges facing the tea sector in Kenya.

CHAPTER 1

INTRODUCTION

Kenya is the third leading producer of black tea in the world accounting for about 10 per cent of the total world tea production. It contributes to four per cent of Kenya's Gross Domestic Product (GDP) and 26 per cent of the country's export earnings. The tea industry supports close to seven hundred thousand small scale farmers and provides direct or indirect employment to over five million Kenyans. The government of Kenya lists tea industry as one of the pillars of realizing the government's Vision 2030 and that the sector is organized with diverse players having different roles that complement each other viz. regulatory, research, producers, traders and value addition operations.

Despite tea being Kenya's most important cash crop, the Kenyan tea farmers, who are mainly small-scale farmers spread over twenty-one counties, continue to receive a disproportionate return for the resources and time they put in tea production. Further that the sector continues to face numerous other challenges which require urgent intervention to ensure that this critical sector thrives for the benefit of our economy. Small-scale tea farmers are managed by Kenya Tea development (KTDA) and for eighteen years down the line since its inception the tea farmers are now worse off than before.

It is important appreciate the fact that the if current situation is left unchecked, it may lead to the collapse of this critical sector of Kenya's economy and great loss to the nation, investors and the Kenyan taxpayers. It is arising from the aforementioned that the Senate resolved to establish the Adhoc Committee to conduct an inquiry into the challenges facing the tea sector in Kenya and to submit a Report to the Senate within five months, with specific legislative and policy interventions to address the problems facing the tea sector in Kenya

APPROACH OF THE COMMITTEE

The committee in the process of gathering information was guided by the terms of reference as captured in the Senate resolution. The Committee visited six counties and held public hearings. Among those who made presentations were; tea farmers, tea stakeholders, and other interested parties. The sole objective of the visits by the committee was to gather information to initiate

evidence-informed policy and enact legislation that would address the problems facing the tea sector in Kenya.

The information given to the committee was necessary in order to for it holistically address the issues surrounding challenges facing tea sector in Kenya. The committee also received submissions from various stakeholders in the tea industry and also examined other key documents including reports and legal instruments that have bearing on tea industry in Kenya.

1.1 Public Hearing

The Committee, pursuant to Article 118 of the Constitution and Senate Standing Order 202, visited the following counties between June and July, 2018 for public hearing.

- a) Kisii and Nyamira
- b) Bomet
- c) Kericho
- d) Murang'a
- e) Embu

The selection of the above counties was designed to be representative tea growing counties and give as much variation in terms of geographical location and weather patterns. The objectives of the county visits were meant to engage the committee with;-

- a) Tea Farmers
- b) Investors of tea living in those counties with a view to collecting their views in line with the Terms of Reference of the Committee.
- c) the county governments officials (Both the Executive and County assembly)

1.1.1 Kisii and Nyamira Counties

The Committee visited Kisii County on 11th May 2018 and held public hearing at Kisii County Hall.

Members Present:

Sen. Aaron Cheruiyot Chairperson.

Sen. (Prof) Sam Ongeru EGH Member

Sen. Cleophas Malalah Member

Sen. (Dr.) Christopher Langat Member

Sen. Mercy Chebeni Member

Among those who made presentations were the Governor of Kisii County Government, the Speaker of the Kisii County Assembly, Members of the County Assembly (MCAs), County Executive Committee (CEC) member for Agriculture, the KTDA officials, and farmers from Kisii and Nyamira counties. The following issues were raised during the meeting;

- (a) Tea farmers have continuously received low monthly and bonus payments in both Kisii and Nyamira counties and wanted to know the parameters used for tea pricing and how such imbalances in earnings occur.
- (b) There was no clear-cut boundary between the roles performed by the County government and KTDA on tea due lack of legislation to streamline the anomaly.
- (c) The low return to investment in tea was due to high cost of production and that both Kisii and Nyamira counties were at crossroads in terms of tea production due to revival of coffee and pyrethrum in the area which could seriously pose a challenge to tea growing in the area.
- (d) To boost tea production, Kisii County government funded construction of Sombogo Tea factory at a tune of 30 million. The tea farmers in the area would benefit much from the new factory as they do not have to go for long distances to very far factories with their tea leaves.
- (e) The County government of Kisii indicated that delays in leaf collection were attributed to poor fleet management of vehicles by KTDA and inept governance system in tea factories primarily due to its monopoly.
- (f) The lack of competition has stifled innovation and put tea operations on a decline mode. There was need to modernize machines and do value addition at factory level.
- (g) Farmers expressed need for fertilizer subsidy by the government be extended to tea farmers' and the loans owed by factories written off.
- (h) Further it emerged that tea farmers have serious medical issues and imperative that factories come up with clear CSR policies such as construction and stocking medical centres to cater for minor ailments.

- (i) Most of directors of KTDA had overstayed in office and it was high time new ones were elected to replace them.
- (j) On its part KTDA said it could patch up roads only if there was a clear legislation to give distinction between its roles in tea growing and those of County government. KTDA lamented that the ratio of extension officers to farmer was too low and this impacted negatively on the husbandry practices targeted to improve tea production.
- (k) The increase in the cost of production was partly due to power outages that prompted use of standby generators that produced up to 70% of power. It was further observed that the packaging materials used by factories were expensive.
- (l) To address these challenges there was a suggestion to remove fuel levy on diesel and review cost of physical planning and public works and also zero rate packaging materials in order to encourage value addition at factory level.
- (m) The licensing of new factories should consider the source of green leaf. This has been a big challenge in the region because this has led to tea hawking practice where registered tea growers of a particular factory sell their tea leaves to such factories thus affecting the production capacity.
- (n) It featured prominently that tea hawking was a great threat to tea growing in both Kisii and Nyamira Counties and the practice should not be allowed to continue.
- (o) Taxes and levies on tea should be reviewed by both levels of governments since there too many and all serve to reduce the farmers pay.
- (p) Possibilities of grouping farmers be sought so as to make use of economies of scale

1.1.2 Bomet County

The Committee visited Bomet County on 11th June 2018 and held a public hearing at Bomet County Assembly grounds.

Members Present:

Sen. Aaron Cheruiyot Chairperson.

Sen. (Prof) Sam Ongeru EGH Member

Sen. Cleophas Malalah	Member
Sen. (Dr.) Christopher Langat	Member
Sen. Mercy Chebeni	Member

In attendance was the Bomet County Governor, the Speaker of the Bomet County Assembly, MCAs, tea farmers and KTDA officials, though farmers did not want them to make any presentations. The following issues were raised;

- (a) Tea farmers strongly urged the government to give them fertilizer subsidy just like it has done with maize farmers.
- (b) The voting structure model in the election of KTDA directors should be changed from the traditional method of using shares to that of one man one vote. A proposal to amend the Companies Act to provide for a one man, one vote structure was mooted.
- (c) Tea farmers felt that the construction a low-cost hydroelectricity facility would assist in the access of cheap source of energy and also act to boost their bonuses from the sales of parts of the energy generated to the national grid.
- (d) The problem of tea pricing at the auction was not clear. There was a proposition that brokers and buyers collude to fix prices. It was also observed that the rates in form of commissions paid to the tea brokers are decided by the KTDA but the costs are deducted from tea payments to the farmers. This was seen as the biggest problem happening at the tail end of the tea market chain.
- (e) Farmers further urged the government to write off the loans that were borrowed on their behalf by KTDA. A factory loan of Kshs. 2.2 billion, they said was outstanding and needed to be waived.
- (f) The factory building program initiated by KTDA involved a great deal of investment but farmers were kept out of the process even though they have to carry the burden of the loans repayment.
- (g) There was a suggestion to establish an EPZ in Bomet for farmers to sell their own produce and farmers proposed to set the tea prices per kg to at least \$3. This was seen as the modest figure.

- (h) It was alleged that Kshs. 100 billion missing from KTDA accounts needs to be investigated and findings reported. The audit reports of KTDA need to be scrutinized as they are not reflective of the actual situation on the ground.
-
- (i) Payment of interim bonus should not be denied and this was blamed on leadership problem in the tea agency.
- (j) Nyayo Tea Zones (NTZ), being a government entity, was relying on KTDA factories to process their tea at the expense of farmers.
- (k) Satellite factories should be removed or separated from main factories for easy and transparent accountability.
- (l) There was a concern over the existence of tea multinationals in the county and their contributions to the residents of Bomet County. It was alleged that the multinationals fire workers haphazardly.
- (m) Tea farmers challenged the local leadership to come up with development strategies to address the tea farmer's challenges.

1.1.3 Kericho County

The Committee visited Kericho County on 12th June 2018 and held a public hearing at Moi Gardens' grounds.

Members Present:

Sen. Aaron Cheruiyot	Chairperson.
Sen. (Prof) Sam Ongeru EGH	Member
Sen. Cleophas Malalah	Member
Sen. (Dr.) Christopher Langat	Member
Sen. Mercy Chebeni	Member

In attendance was the Kericho County Governor, the Speaker of the Kericho County Assembly, MCAs, tea farmers and KTDA officials. The following issues were raised

- (a) Farmers blamed parliament for the mess in tea sector by claiming that it did nothing to stop the building factories so often without regard to burden levied onto farmers

- (b) KTDA was equated to a 'monster' that has consumed tea farmers' proceeds and had made them poorer than ever before. It has remained to be permanent thorn in the flesh with no change in its management styles even when tea prices have remained very low for a long time.
- (c) The continued levying of management fee by KTDA was unwarranted and meant to further impoverish the tea farmers.
- (d) Factory construction as well as transportation of made tea should be done by the government so as to lessen the burden to the farmer
- (e) Cartels were blamed for the poor prices of tea in the country and that there existed conflict of interest among the directors in the running of tea industry with regard to tendering process.
- (f) Farmers expressed the concern that cess money be taken back to the factories so as to improve the roads
- (g) Weighing machines at the tea buying centres should be calibrated to avoid losses in weighing tea leaves
- (h) There was concern that Leadership of KTDA was mainly from East of Rift and there were many satellite factories in the west
- (i) There was a feeling from tea stakeholders that the tea multinational companies in Kericho County should compensate the locals for the loss of agricultural land
- (j) Increase of the ksh 14 per kg per month fee. Farmers are living in very poor conditions despite having tea bushes.

1.4 Murang'a County

The Committee visited Murang'a County on 22nd June 2018 and held a public hearing at Njunu and Ngere tea factories.

Members Present:

Sen. Aaron Cheruiyot	Chairperson.
Sen. Njeru Ndwiga	Vice Chairperson
Sen. Irungu Kangata	Member

In attendance were the farmers, KTDA officials and other county leaders. The following issues were raised;

- (a) The county government had improved the feeder roads in the coffee producing areas and forgot the ones producing tea despite Murang'a being one of the tea leading producing regions in Kenya.
- (b) There was concern that both Tea Board and Tea Research Institute had been reduced to small entities when AFA Authority was formed. Tea directorate was seen as very ineffective and it should start taking its work seriously.
- (c) There was conflict in roles performance between National Government, County government, and KTDA with respect to tea industry in Murang'a county and there should be clear separation
- (d) There was need for KTDA to review its contract engagement with the tea farmers as the contract was now and taking into account changes that have taken place with the new constitutional dispensation
- (e) There was need to pay farmers for monthly and at the end of the year and need to stagger the payment
- (f) Factories to be converted to EPZ to enable farmers to earn more money
- (g) Tea hawking had risen significantly and the hawkers were coming from Kiambu County. This is against the regulations and it is affecting the quality and quantity of tea
- (h) The leadership of KTDA run factories was wanting. The management who are elected by farmers, usually sideline farmers after election and appear to be KTDA employees
- (i) Advalorem Levy fee that had been given to County Governments for infrastructure has not be shared within the factories.
- (j) Tea was a heavily taxed commodity and very soon the small holder farmer will not be able to afford tea
- (k) Fertilizers should be supplied at a low cost. The Government should take similar action as that taken with respect to coffee and maize farmers.
- (l) Increase in the monthly fee per kg paid to farmers to enable farmers have a decent living

1.1.5 Embu County

The Committee visited Embu County on 6th July 2018 and held a public hearing at Mungania Tea and Kianjokoma Factory grounds.

Members Present:

Sen. Aaron Cheruiyot	Chairperson.
Sen. Njeru Ndwiga	Vice Chairperson
Sen. Irungu Kangata	Member
Sen. (Dr.) Christopher Langat	Member

In attendance were the tea farmers and KTDA officials. The following issues were raised

- (a) Tea cultivation among indigenous smallholders was introduced in 1954 under the Swynerton Plan and that tea bushes are now over 50 years old and their productivity is on the decline. These bushes need to be replaced with elite clones that have high productivity but unfortunately; the farmers cannot afford to replace them due to the high cost involved.
- (b) On taxation it was mentioned that tea is heavily taxed with over 40 different duties, fees, levies, licenses and taxes. More are being introduced including the air quality regulations by NEMA to cost the factories an extra Kshs. 350,000 in license fees and compliance testing. As an example, the Kenya Bureau of Standards (Kebs) charges every factory Kshs. 400,000 annually yet they have to pay for services like calibration of equipment to the same institution.
- (c) The imposition of the current forty-two taxes on tea was seen as authentic business sabotage as farmers cannot realize good payment when the government imposes such high taxes.
- (d) Tea is either the first or second foreign exchange earner to the government of Kenya but the lives of tea farmers constantly declines due to low payments of their yields. This contributes to the problem of crop diversification amongst farmers which has an adverse effect on the tea sector and would affect the future economic gains of farmers.
- (e) A poor road increases motor vehicle, fuel consumption and maintenance costs, hence reducing income to farmers. After the recent rains roads have been left in deplorable state. Since levying of tea cess was stopped, the elaborate roads maintenance programmes are no longer supported.
- (f) Affirmative action on roads for economic zones like tea areas requires to be developed by the government

- (g) Tea machinery and equipment acquired for purpose of value addition should be zero-rated as an incentive for enhanced value addition projects.
- (h) Energy makes up to 25% of tea production costs. This is made up of both electric and thermal components. In order to reduce these costs, factories are investing in land for wood fuel development and also in small hydropower stations.
- (i) Tea is one of the scheduled crops as specified in the First Schedule of the Crops Act 2013. Tea Directorate is the government body that regulates the tea industry in Kenya, under Agriculture and Food Authority (AFA).
- (j) There are various regulations that govern the growing, production, manufacturing, marketing and trading of tea. The Crops Act 2013, section 14, 15 and 16 set the registration requirements for scheduled crops:
- (k) Tea hawking is an illegal activity where unscrupulous middlemen buy leaf directly from farmers who are registered with their tea factories and sell it to other factory companies.
- (l) Middlemen entice the smallholder farmers by buying their tea in cash and a number of them have fallen to this trap; even though they have signed a supply contract with the factory.
- (m) This illegal trade thrives through a misguided interpretation of the concept of “free market” doing so in the belief that the liberalized market permits it, but in actual sense the practice is against the Agriculture and Food Authority (AFA) Act set up not only to guide the tea industry operations, but also to safeguard the capacities of the factories.
- (n) Impact of Green Leaf Hawking
 - (i) Factories may end up operating under their designed capacities. This will create an idle resource which is a loss to the farmers who built and own the factories.
 - (ii) Factories are still repaying loans for expansion. The expansions were done to increase processing capacities based on projections so that all the increasing production can be accommodated.
 - (iii) Theft -Leaf is being stolen from the farms, at leaf collection centres and from factory vehicles on transit to factories.

- (iv) Security Threat-Competition among the middlemen delivering to these other factories and the sellers has heightened acrimony amongst themselves, which is a security concern.
- (v) Family disputes are on the rise where family members disagree on where to deliver green leaf.
- (vi) Increase in poverty levels as farmers engage in cash business, where the main beneficiaries are the few middlemen and the private factories. Farmers are only paid Kshs17/Kg of green leaf by the hawkers whereas the annual payment is above Kshs 50/Kg green leaf for farmers affiliated to KTDA.
- (vii) Other social issues may arise with increased cases of hawking.
- (viii) Loss of revenue to respective counties and the government.
- (ix) Loss of jobs as it will lead to downsizing at the local tea factories
- (x) High loan default will adversely affect local financial institutions.
- (xi) Reduced revenue to farmers due to compromised green leaf quality and declined productivity as factories do not supply fertilizer to hawkers.
- (xii) Increased poverty will be a burden to the county and affect service delivery to the citizen
- (xiii) Negative public image. The mode of leaf transportation by the leaf hawkers, when published by
 - (o) The East Africa Tea Trade Association which is involved in facilitating the buying and selling of black tea at the Mombasa auction does not represent the Kenya tea industry stakeholder's best interests for it is a barrier that perpetrates the monopoly of KTDA by blocking individual buyers to bid during the auction, unless such buyers are registered by EATTA. There needs to be transparency and accountability in tea transactions
 - (p) The government should review licensing regulations for cottage tea factories to ensure applicants have adequate green leaf. This is to ensure the establishment of such will not adversely affect the existing factories through hawking of green leaf. The hawking practice if not nipped could lead to factories closure as a result of sustained operation below economic capacity. We urge the government to protect the smallholder tea farmers in Kenya, whose livelihood mostly depends on tea. The Tea Board of Kenya should be mandated to regulate all matters pertinent to tea trade to promote both domestic and international tea consumption.
 - (q) The Tea Board of Kenya should champion the formation of a national tea producers' association which will provide a forum for the farmers to ventilate issues of vital importance affecting them.

In 2014 a stakeholders meeting with the Government committed to contribute to a price stabilization fund. The fund would be used to pay farmers when the tea prices significantly drop.

We at KTDA have already initiated this for the last 3 years

- (r) Fertilisers should be supplied at a low cost. The Government should take similar action as that taken with respect to coffee and maize farmers.
- (s) The tea growing areas have experienced rapid subdivision of land to uneconomic units. This has led to further fragmentation of tea holdings to the extent the more than 70% of the tea farmers have less than 0.5 acres of tea.
- (t) Farmers are paid in three tranches as follows:-
 - Monthly payment at Kshs 15 per Kilogram of Green Tea Leaf
 - A mini bonus, usually Kshs 5 per Kg of green tea leaf
 - A final payment which is variable and depending on performance of each factory unit. The total payments for Embu County currently constitute more than 80% of revenue generated. During the parastatal days, this was 60%.
- (u) Every farmer should be paid Kshs. 20 per kilo and after six months, Kshs. 50 as a mini-bonus. At the end of the year, farmer should be paid a bonus of Kshs. 20/= bringing the total payment to Kshs. 120.
- (v) There should be private auditors to conduct audits in factories. The number of directors should be reduced from six to three i.e. the factory unit manager, green leaf and logistics and field manager. The salaries paid to the directors should be redirected to different projects.

1.2 Submissions

1.2.1 Submissions by the Cabinet Secretary, Ministry of Agriculture and Irrigation

While appearing before the Adhoc committee on 28th August 2018 at Parliament Buildings, the Cabinet Secretary in the Ministry of Agriculture and Irrigation highlighted on the following with respect to tea in Kenya;

- (a) The tea industry plays an important role in the economy of Kenya in terms of foreign exchange earnings. It accounts for 2% of GDP and ranks second after diaspora remittances with 23 % of the total exports' earnings. In 2017 it netted Kshs. 125 Billion in export earnings and Kshs 24 Billion in Local sales. Tea growing has expanded to the present 219,000 hectares under tea bushes and is grown under large scale and small-scale holder subsectors.
- (b) The small-scale holder subsector accounts for 140,000hectares (64%) with over 700,000 farmers. It is the largest and most successful smallholder schemes in the world and employs directly and indirectly over 5 million people making it one of the leading sources of livelihood in the country.
- (c) The above notwithstanding, tea farmers encounter challenges in their endeavors which cut across, productions, governance, marketing, policy and legal issues. The production of tea under small scale is low and stands at 1.2kg of Green leaf (GL) per bush per annum compared to 2.4kg recorded in plantation sector.
- (d) The main difference arises from the resource levels and management styles available among the subsectors. More research is needed with respect to best husbandry practices, right types of fertilizers per locations with proper soil sampling and testing. This means that the Tea Research Institute needs a lot of support to be able to undertake these activities. Currently the Tea Research Institute is not giving clones to farmer that increase input. Additionally farmers are not getting the right inputs or advice in management of their crops.
- (e) Some tea bushes are too old and need to be uprooted and replaced with elite clones. To be able to uproot one acre of tea bushes one requires four hundred thousand (Kshs.400,000) and wait for two to three years for the bushes to establish before meaningful harvest can be made. This is not only expensive for the farmers but it is also a dry period because there is no harvest and there is need to cushion framers during such times. The government has initiated a programme to supply seedlings of superior clones at subsidized price kshs.2.00 per seedling.

- (f) Labor costs in tea have been rising. The Collective Bargaining Agreements (CBA) are mainly done between the plantation's tea farms and trade unions where wages are fixed at the exclusion of small-scale tea farmer. This has a ripple effect on the profit margins of the small-scale farmer who has no influence on fixing labor cost. Farmers are paid per kilogram of green tea Kshs.14.00 and the cost of employing tea pickers is 10 ksh per kg of green leaf tea.
- (g) The Kenya Tea Development Agency (KTDA) manages the small-scale holder subsector although about 100,000 small scale farmers are out-growers to multinational tea estates and other private tea estates.
- (h) KTDA has shifted from its core mandate at inception. They have now shifted to other commercial functions like, insurance, real estate, warehousing at the farmers cost. KTDA has seven subsidiary companies. Farmers in KTDA only have ownership of Tea factories and yet they fund other six companies.
- (i) There is no transparency at the tea auction in Mombasa where multinationals buy good quality tea from KTDA to blend their lower quality tea. There is also need for the KTDA factories to undergo serious audits. It is alleged that KTDA has never changed auditors in the last 17 years. That raises an issue of governance in the companies. Additionally all company have the same company secretary, who also serves as the company secretary for the group.
- (j) Despite efforts by the government to supply the fertilizers to farmers like it has done in other crops like maize, KTDA has mounted great resistance claiming full control on this. It is therefore necessary that the quality of the fertilizer which is supplied to the farmers be tested since it is uniformly supplied across all the regions yet there are variations in soil characteristics. Additionally KTDA gives on type of fertilizer for all its farmers despite farmers being from different regions and having different soil types.
- (k) On taxation and levies imposed on tea, there are a total of forty-two (42) charged along the value chain by the state and non-state actors. These taxes/ fees have an impact on the cost of production and marginal profits gain by the farmers. Out of these, 38 taxes/levies are charged by various government agencies administering various legislations like Income Tax Act 2012, VAT Act 2013, Custom & Excise Act 1978, Industrial Training Cap 237, Standards Act Cap 496, KEPHIS Act 2012, Kenya Ports Authority Act 2012, NEMA Act 1999, Various County governments Legislations, Weights and Measures Act Cap 513, water Act 2016 Miscellaneous levies and Fees, 2015 and the Ministry of Health. The remaining four (4) are either voluntary subscriptions or

contractual agreements between tea traders and their service providers. A committee from the Ministry of Agriculture and the Senate should review the levies

- (l) There have been quite a number of impediments to value addition for the Kenyan tea since independence period. These include competitions from established multinational corporations from the consuming countries which have well established brands and strong consumer loyalty among others, trade barriers in form of tariff and non-tariff restrictions, packaging materials and other inputs attracting VAT, high cost of equipment for value addition, poor interface between research and markets, lack of incentives to brand owners, lack of knowledge and experience in specific value addition in the international market and that the value addition facilities outside the country are more attractive foreign Direct Investment destinations and have reduced the chances for local establishments.
- (m) The government is optimistic that with the enactment of the National Tea Policy, a number of challenges mentioned above with respect to value addition would be tackled through the following measures; i) provision of targeted fiscal incentives and enhancing of capacity in packaging, equipment and machinery; ii) ensuring that new foreign direct investors in tea trade demonstrate ability to export Kenyan tea in value added form; iii) improving access to tea by SMEs and providing targeted fiscal and monetary incentives for value addition; iv) establishment of value addition Common User Facility (CUF) and incubation centres for SMEs to pave way for auxiliary in industries to support packaging and branding; v) establishment of Special Economic Zones(SEZs) that will allow creation of auxiliary industries for value addition that include packaging, diversification of tea products, markets and blending.
- (n) In addition to the above, the ministry expects parliament to play an active role in legislating to remove taxes and levies that hamper production as well as value addition of tea. There should be an affirmative action taken towards such crops of economic value to the country like tea so as to be exempted from excessive taxation.
- (o) At county level, tea is grown and support economies of 21 counties namely; Kericho, Bomet, Nandi, Trans-Nzoia, Uasin Gishu, Elgeyo -Marakwet, Narok, Nakuru, Vihiga, Migori, Kakamega, Bungoma, Kisii, Nyamira, Kiambu, Murang'a, Nyeri, Kirinyaga, Embu, Tharaka Nithi and Meru

1.2.2 Submissions by the Kenya Tea development Agency (KTDA)

To promote the cultivation of cash crops, the Special Crops Development Authority (SCDA) was formed under the Agriculture Act in 1960. This body was replaced by the Kenya Tea Development Authority (KTDA) in 1964 when the Kenya Tea Development Order 1964 was promulgated. Thus, the Kenya Tea Development Authority was established under the Agriculture Act (Cap 318) Section 191 (Legal Notice No.42). KTDA (authority) then took over small-holder tea management from multinational tea companies.

At the time of independence in December 1963, the tea estates and the new small-scale farms had 21,448 hectares of planted tea. The area planted increased over the years to stand at 113,892 hectares by 1997.

The Government decided that KTDA and smallholder sub-sector should result in to incorporation of KTDA under the Companies Act (Cap 486) as an independent and private tea enterprise, owned by smallholder tea farmers through their respective tea factory companies. The Company's shareholding would therefore be held indirectly by individual tea farmers through their tea factory companies. The Ministry of Agriculture through the sessional paper No 2 of 1999 detailed out the roles of the various actors such as the Tea Board of Kenya, the Tea Research Foundation the Kenya Tea Development Authority (KTDA), the Nyayo Tea Zones Development Authority.

After liberalization, the direct management and day to day running of the smallholder tea factories was placed in the hands of elected directors who represent the interests of the farmers from the areas served by the respective factories. Tea factories were also converted into companies limited by shares.

The name of the new company was changed from KTDA (Authority) to "Kenya Tea Development Agency (KTDA) Limited". The Agency was to be regulated by the Tea Board of Kenya with the mandate of offering management services to the individual Factory Companies. Since liberalization the tea sub sector has realized growth in area planted, number of growers, production and earnings. However stakeholders have raised concerns on various aspects of the arrangements e.g. Management fee of 2.5% is viewed as being too high, lack of competition in the selection of a management agent and governance issues.

Thus in the post liberalization period, the smallholder tea farmers would be the real owners of the KTDA limited but their influence would be exercised through their factory companies. The Board would be responsible for policy and management but the Factory Companies would be in control as the shareholders and owners of the company. The KTDA Board would direct the work of the management and other staff of the company. Ultimately, the directors of the KTDA Ltd were also sitting in the Factory Company Boards.

The Taskforce of 2007 reviewed the smallholder subsector and its management by KTDA and recommended that the management agent be separated from the other operations of KTDA so as to enhance service delivery and minimize conflict of interest. As a result the KTDA (MS) Ltd was formed to focus on management of tea factories while KTDA (H) Ltd became the parent Company. In the new company structure, the KTDA (H) directors sit in factory company boards in their zones. In the new structure the Directors of factories sit on KTDA Holdings while KTDA (MS) has independent Directors.

Smallholder Factory Companies

The Factory Companies are owned by smallholder farmers through allotting of shares based on green leaf delivery to the factory between 1988 and 1996. In the liberalization agenda, governance and management of Factory Companies was transferred to the smallholder farmers who are the shareholders. The farmers elect the Directors of their tea factories and hold Annual General Meetings in accordance with the Companies Act and their Memo and Articles of Association. Each factory has 6 Directors and serve for three years and retire by rotation. The Taskforce of 2007 noted capacity challenges and recommended a minimum education level of form four for factory directors and voting by shares. Since then considerable improvement in governance has been achieved though concerns were raised about representation and the conduct of elections. In line with the Constitution the Factories have appointed one female Director per factory in an effort to comply the one third gender rule.

The structure of liberalization was generally implemented well and the Smallholder sub-sector survived the challenges of privatization. The industry actually came out of it stronger. However,

the systems and their operations are causing concern to the stakeholders. Governance and the way elections are conducted is viewed to be unfair. Most of the challenges are as a result of human conduct and behavioral inefficiencies such as perceived high expenditure on factory Board members due to frequent Board and Committee meetings at the factories; nepotism in hiring of factory workers resulting in poorly skilled and undisciplined workers, inflated prices of goods and services etc. Ultimately most of the concerns are on governance and the management of the factory companies.

THE ROLE OF KENYA TEA DEVELOPMENT AGENCY (KTDA) IN TEA INDUSTRY

- 1 The Kenya Tea Development Agency Limited was incorporated on 15th June 2000 as a private company under (CAP 486) of the laws of Kenya, becoming one of the largest private tea management agencies.
- 2 The Agency currently manages 67 factories in the small-scale tea sub-sector in Kenya
- 3 Majority of the tea is produced by small scale farmers, through KTDA, which represent about 60% of the export and the rest by plantation tea
- 4 KTDA sells tea on behalf of small-scale tea growers through the Mombasa Auction.

KTDA Subsidiaries

- 1 KTDA has several subsidiary companies which include;
 - a) Chai Trading Company
 - b) Majani Insurance Brokers
 - c) TEMEC (Tea Machinery and Engineering Company)
 - d) Greenland Fedha Ltd
 - e) KTDA Power
 - f) KTDA Management Services Ltd (MS)
 - g) Kenya Tea Packers Ltd – Not fully owned KTDA

1.2.3 Submissions by the Competitions Authority of Kenya (CAK)

The CAK appeared before the committee on the 29th August 2018 to apprise it on the perceived monopoly on the management of the tea sector impeding competitiveness by the KTDA.

The Competition Authority of Kenya (“the Authority”) in response to the invitation by the Senate AD Hoc Committee on the Tea Sector, wishes to submit the following, specifically in respect

of “perceived monopoly of KTDA” in tea industry in Kenya. The Authority’s submission is restrained within its mandate, which includes regulation of market conduct including Abuse of Dominance (AoD), and; advising the government and other government agencies in regard to competition matters. In actualizing its mandate, the Authority is required to interact with the relevant Sector regulators. Towards this, the Authority has entered into an MoU with the Agriculture and Food Authority (AFA) to facilitate competition regulation in the Agriculture sector.

AoD, as provided under the Competition Act, can be manifested by a dominant firm imposing unfair prices/conditions to its buyers; discriminating among its customers, applying predatory pricing, foreclosure, among others. Dominant firm is defined as a firm that produces goods or supplies services that constitute not less than 50% of the goods/services rendered in Kenya. It is important therefore to highlight that the Act does not prohibit dominance but its Abuse is what is prohibited by law. A firm may abuse its position against its competitors through applying conditions highlighted under Para 3 above. Therefore, to prove AoD, firms have to be in competition (in the same relevant market) and in addition they should be totally independent in terms of ownership and strategic policy direction.

The Tea Directorate, established under Agriculture and Food Authority (AFFA) of 2014, regulates the tea sector. The mandate of the Directorate includes: -

- a. licensing of tea manufacturing factories;
- b. licensing and registering of growers, buyers, brokers, packers, management agents and any other person dealing in tea; and
- c. Promotion of Kenya tea in both the local and the international markets.

Currently there are 62 licensed smallholder-owned tea factories owned by KTDA Ltd and about 66 tea processing factories; about 50-70 buyers (countries) globally (i.e. destinations of tea exports), 5 management agents across the country. The management Agents for tea factories include KTDA Ltd, Williamsons Tea Ltd, Kaisugu Ltd, Tropical Farm Management Ltd and Eastern Produce Kenya (EPK) Ltd.

A Management Agent is any person appointed through a specific management agreement contract or agreement by another person to perform or offer professional services in specific functions. These services include; Processing, Marketing, Financial and Internal audit services, and Company secretarial services. This is the arrangement Kenya Tea Development Agent (KTDA) has with the factories.

KTDA limited was incorporated in the year 2000, as part of liberalizing the tea industry, to replace the Kenya Tea Development Authority which was then a public monopoly. The privatization of KTDA was carried pursuant to the Sessional Paper No. 2 of 1999. Subsequent to this KTDA Ltd (Agency) took over the mandate and assets of the defunct KTDA (Authority) and assumed the management of all the smallholder tea factory companies through management agreements. The understanding at the time was that the growers would exercise control over the management of their factories through their respective factory Boards while KTDA Ltd would manage the factories as a management agent through management agreements. By virtue of having taken over the mandate and the management of assets of the defunct KTDA, the privatised KTDA (KTDA Ltd) assumed the management of the entire smallholder tea factory companies through Management Agreements. The Agency currently manages 68 factories in the small-scale tea sub-sector in the country.

The current relationship between KTDA Ltd and the smallholder factories is as follows:

- a. The 65 factories are independent private companies registered under the Companies Act (CAP 486) of 2015, Laws of Kenya). These factories are geographically grouped into 12 zones spread out in all the 15 tea growing counties;
- b. The KTDA Ltd Board of Directors, composed of one member from each of the twelve zones, and has the mandate of managing the affairs of the Company in accordance with the provisions of the Companies Act (CAP 486), Laws of Kenya, and shareholders of KTDA Ltd; and
- c. The other level of relationship is contractual where small holder tea factories enter into an engagement with KTDA Ltd as a managing agent. This latter relationship is governed through

management agreements which run for 8-10 years.

The above arrangement, from the face of it, mirrors representation of farmers in the KTDA Board and management of its affairs. In addition, the Management contracts are negotiated and they have a sunset clause; expires after 10 years. According to the data available, as Figure 4 below shows, there has been considerable increase in productivity per acreage by the smallholder farmers in the sector.

A. Issues of concern in the sector and Regulatory Interventions

However, despite the aforementioned, concerns have been raised by one factory in Murang'a regarding the conduct of KTDA specifically allegations on transparency, accountability and inclusion of the factories in its marketing, investments, strategies and operations. This, according to the complainant, results to KTDA arriving at decisions that are not optimal to the farmers such as late payments and overpricing the farmer input costs. The other allegations include overcharging of management fees at 2.5% on net sales.

Although, as indicated earlier KTDA's arrangement with the factories cannot meet the AoD test criteria, it is our submission that since this is a regulated sector, Tea Directorate should be able to build capacity, in terms of regulatory framework, to support:

- i. The required transparency in arriving at farmers earnings and also inputs costs;
- ii. Time taken to remit famers payments;
- iii. Capacity of the tea factories to negotiate with KTDA, especially through provision of management agents contracts framework indicating the minimum warranties from KTDA; and
- iv. Setting of maximum management fees by KTDA, among others.

The other concern that has been attended to by the Authority was in regard to licensing of Specialty Tea manufacturers. Licensing has to be accorded a no objection by the incumbents.

This arrangement obviously does not support competition since it bars entry. It would not be realistic to expect an incumbent operator to support entry into the specific market.

To spur competition, innovation and growth in the sector, and thereof deepen the resultant gains especially to the rural poor, as envisaged in the Kenya Vision 2030, it was desirable that the Applicant be issued with a license. To concretize this intervention, there is need to review the Tea Act and repeal the “grandfathers’ provisions” within the law and allow entry into the sector based on the criteria set by the regulator.

Tea Marketing is done through EATTA. EATTA has 200 members drawn from 10 countries who are all actively engaged in growing (producers), buying (buyers), broking (brokers), and warehousing (Warehousemen) tea. The principal mandate of EATTA is to run the Mombasa Tea Auction Centre, which is currently the second largest black tea auction centre in the World¹ in terms of volumes of tea traded and also the only one dealing with tea from more than one country. On average, EATTA trades in 457,731,330 kilograms of tea per year, which for example was valued at over KES 129 billion in 2017.

Pursuant to section 25 of the Competition Act, EATTA submitted an application to sought for an exemption on 1st April, 2016 of some specific activities of the Association for an indefinite period. The application, among others, sought to be granted exemption to continue fixing commission rates and warehousing fees. The Authority declined to grant the exemption since fixing of prices is considered as a hardcore contravention to the competition law.

EATTA has appealed the decision to the Competition Tribunal and the Tribunal is yet to hear and determine the appeal.

B. Conclusion and Recommendations

1. To conclude, a firm may abuse its position against its competitors through applying unfair conditions. Our position is that the current arrangement between KTDA and the tea factories does not meet this criteria. Indeed, this is a contractual arrangement which is time bound.
2. We are of opinion also that the current arrangement is desirable taking into account that Tea is generally an export commodity (crop) and therefore single marketing and advertisement ensures economies of scale relevant to penetrate and sustain the competitive global market.
3. However, the allegations regarding KTDA specifically on transparency, accountability and inclusion of the factories in its marketing, investments, strategies and operations merit attention. In addition, the allegations in relation to late payments; overpricing of farmers' input costs and overcharging of management fees at 2.5% on net sales, if proved can be detrimental to the farmers.
4. It is on these basis that the Authority posits that since this is a regulated sector, AFA, through its Tea Directorate should endeavor and be facilitated to build both regulatory and other requisite capacity to:
 - i. Establish a minimum thresholds for transparency by the KTDA in arriving at farmers' earnings and also inputs costs;
 - ii. Establish and enforce time limits taken to remit farmers payments;
 - iii. Deepen negotiating capacity of the tea factories while negotiating Management contracts with Agents including indicating the minimum warranties from the agents; and,
 - iv. Set and enforce the maximum management fees that can be charged by a Management agent.
5. To spur competition, innovation and growth in the tea sector is desirable to amend, and eliminate some of the regulatory barriers that hinder entry in the sector. These include a licensing regime that requires the benefits the incumbents to sanction the entry of a competitor.

6. The Sector regulator should also endeavor to facilitate entry and manufacture of unorthodox tea, which not only increases farmers' earnings but offers credible competition to the traditional tea. This could be through research and supportive regulatory regime including marketing mechanisms.

1.2.4 Submissions by the Tea Research Institute (TRI)

The TRI, appearing before the committee on 29th August 2018, apprised the committee on the following;

- a) The Institute is focused on development of improved clones, appropriate technologies for improvement of yield (quantity of green tea leaf/made tea per hectare) and quality of tea products
- b) It has reoriented its research agenda to focus more on tea products diversification, value addition and Tea and health. To this end, it has developed a new tea clone ("Purple tea") rich in a pigment called anthocyanin widely used for the manufacturing of fast moving consumer goods such as soaps, shampoo and detergents. Research is currently assessing the potential health benefits relating to anti-inflammatory and anti-parasite properties some of which may be used to protect the liver from damage.
- c) The Institute has developed over 1000 improved clones, out of which 59 clones have been selected for consistent superiority in yield and quality and released for commercial exploitation by both smallholder and large estate growers. Seventeen of these clones yield between 5,000 and 8,000 kg of processed tea per hectare per year. These yield levels are some of the highest in the world and are three times the average yields of unimproved tea varieties.
- d) The above notwithstanding, the institute has faced numerous challenges in fulfilling its mandate. These include lack of modern facilities, inadequate staff, poor funding, factory not complete to test new technology in tea processing, and no fund to establish cottage facility.
- e) When advalorem Levy was present, resech was assigned 40% of the total amount raised. Today TRI has to get its funding from the ex-checker which is not enough.

1.2.5 Submissions by Kenya Tea growers Association (KTGA)

On 30 August, 2018, KTGA presented its views to the Committee.

The Kenya Tea Growers Association (KTGA) is a long-standing association representing the commercial tea growers throughout Kenya. The Association (KTGA) was established in 1931 to promote the common interests of the members in the cultivation and manufacture of tea and to promote good industrial relations and sound wage policies for the workers.

The Kenya Tea Industry contributes over 25% of the Republic's foreign exchange earnings, pays massively into the government of Kenya tax revenues and employs directly and indirectly over 600,000 Kenyans

The tea plantation sub-sector maintains 40% of Kenya's tea Industry and employs directly close to 60,000 workers in the rural economy.

Its membership is drawn from public and private Tea Companies in Kenya mainly the tea plantations found in Kericho, Bomet, Nyamira, Nandi and Kiambu and includes;

James Finlay (Kenya) Ltd, Williamson Tea K Ltd (Changoi / Lelsa) Estates, Williamson Tea K Ltd (Tinderet) Estate, Williamson Tea K Ltd (Kaimosi) Estate, Kapchorua Tea Co Ltd, Sotik Tea Co Ltd, Sotik Highlands Tea Co Ltd, Kaisugu Ltd, Nandi Tea Estates Ltd, Kipkebe Ltd, Karirana Tea Estates Ltd, Kamiti Tea Estates, Gakoe Tea Estates, Mogusii Farmers Co. Ltd, Lynton Tea Estates, Kacharoba Tea Estates and Emrok (EPZ) Tea Factory Ltd.

Roles and functions of the Kenya Tea Growers Association

The KTGA has a fulltime secretariat and uses this office to formally engage both National and County Governments and other institutions on behalf of its members to influence policy and legislation that affect the industry and is at the moment engaged in the following;

1. Engagement with the County Government's on their various legislations that affect cost of doing business.
2. KTGA is a member of the Kenya Private Sector Alliance (KEPSA) and represents its members in the following sector boards, a) Land and Environment, b) Agriculture, c) Devolution and Planning, d) Water and Irrigation. These sector boards' holds periodic Ministerial Stakeholder forums with the relevant Cabinet Secretaries and addresses pertinent issues that affect businesses which are later escalated to the Presidential Round-Table for appropriate executive directions.

3. KTGA is a member of AIN (Agricultural Industry Network) and is actively involved in lobbying for enactments of Laws that will address the deficiencies in the Agricultural and Food Authorities Act (AFA) and reduce stiff regulations, policies etc. that stifle the tea sector.
4. KTGA is represented in the FKE (Federation of Kenya Employers) Management Board representing the entire Agriculture Industry and uses the forum to articulate for favorable employer's legislation and policies.
5. The Executive Officer is a gazzetted member of the Agricultural Industry Wages Council under the Labour Institutions Act 2007 and represents employers in the agricultural industry and advices the CS Labour, Social Security and Protection on matters of industrial and labour relations in the Agriculture sector.
6. The Association has a recognition and a collective bargaining agreement with the Kenya Plantation and Agricultural Workers Union and all labour matters and issues are handled within these instruments for industrial peace and harmony in the industry and represents employers in disputes arising in work places both at shop level and at the Ministry of Labour. Negotiations on the Industry CBAs are undertaken every two years.
7. It is important to note that smallholder and commercial (and independent manufacturers) sectors are very different from one another, and therefore it is often inappropriate to apply blanket recommendations as happened in the 2015 Tea Industry Tea task force report. Such reports should be segmented with recommendations for each specific sector.

Challenges affecting the Association in the fulfilment of its mandate

Misalignment of the Tea Directorate and the Tea Research Institute

The Agriculture, Fisheries and Food Authority (AFFA) Act 2012, the Crops Act 2012 and the Kenya Agricultural Livestock Research Organization Act 2012 introduced radical changes in the agriculture sector. These Acts were developed by the Ministry of Agriculture unilaterally without adequate involvement of key sector stakeholders and despite their promulgation, the Acts have not been fully implemented due to re-organization in the Ministry (MoAL&F).

There are several structural challenges that have emerged as a result of these legislations. There is duplication between the role of the MOAL&F and AFA. In addition, there has been no evidence of enhanced efficiency as was envisaged since most of the tea stakeholders complain of the delinking of the Tea Research Institute under KALRO from AFA Tea Directorate operations and the tea industry at large. This has in essence created unnecessary bureaucracy, in efficiency, disharmony and near collapse of this critical industry. With a view to salvaging the tea sector from the risks of failure as a result of structural challenges emanating from the AFA Tea Directorate and the KALRO Tea Research Institute, KTGA and the Tea stakeholders seeks your intervention in pressuring the Ministry in finalizing the Agricultural Policy and National Tea Policy and in moving amendments to the AFA Act, KALRO Act and Crops Act with a view to achieving the following:

- a. The Tea Directorate be delinked from AFA and be renamed the Tea Board of Kenya while the Tea Research Institute be renamed the Tea Research Foundation of Kenya as was the case previously. These two institutions were Kenyan brand names known all over the world which have now been dimmed by AFA and in essence the visibility of Kenya in the world tea market. The original mandates should subsequently be retained as is the case with our competitors in India and Sri Lanka.
- b. Further, due to its strategic importance to the Kenyan economy, Tea and other strategic commodities should be de-linked from AFA where they are just small departments and be placed directly under a PS in the Ministry of Agriculture as it is in other tea growing and competing countries like Sri Lanka.
- c. The tea sector stakeholders should be allowed to continue electing their representatives to both the Boards of the Tea Board of Kenya and the Tea Research Foundation of Kenya. This shall ensure synergies in the operations of the two organizations.
- d. There should be adequate funding of the Tea Board of Kenya and the Tea Research Foundation of Kenya by the National Treasury in view of the important role being played by the tea sector. A leaf could be borrowed from the Ministry of Tourism & the Tourism Board and similarly how the National Export Board and Agricultural Boards of Rwanda operate.

Cost of production - especially Labour

Tea is grown in 18 counties within Kenya, over 650,000 small-scale tea farms employing approximately 600,000 employees account for 60% of Kenya's production while the remaining 40% is produced by commercial tea estates who employ over 60,000 employees directly.

Over the last 10 years, the industry has continued to suffer escalating production costs across the entire value chain against a backdrop of depressed prices at the Tea Auction. As a consequence, the net return to the industry has been low and unsustainable.

Labour is the single most expensive component in tea production, contributing between 50% - 60% of the total production cost without taking into account the other indirect benefits provided by the commercial sector such as free water, electricity, housing, medical benefits and service gratuity that adds a further 30% on the employment costs.

The Unit cost of production per Kilogram of made tea is approximately 2.3Usd while the average auction price of tea was about 2.5Usd. Tea Producers have no control over the market price for their product sold at auction and are price takers

The plucker's productivity target of 862 kgs green leaf per month, or 33kgs per day, has not been increased for a period of over 30 years. Within the same period of time, through improved husbandry and plant breeding, each plucker is currently able to harvest with ease on average at least 45 kgs green leaf. This plucker productivity aspect should increase with wage increase in wage rates to reflect the actual increase in productivity.

In summary; the supply/demand balance which should set wage levels applicable to the sector no longer apply. This in turn undermines the competitiveness of Kenyan tea in the global market.

High labour cost has rendered many low yielding fields unprofitable under hand plucking and farmers have been compelled to innovate by introducing mechanized harvesting, improved factory processing, replanting with higher yielding clones and improving their crop husbandry practices in order to survive.

In a region with high youth unemployment and a dire need for development, the industry must be allowed to thrive and investment be encouraged. Indeed, the aspirations espoused within Vision 2030 are founded upon a vibrant agricultural sector. Unlimited wage escalation puts all of this at risk and threatens the entire tea sector.

NB The commercial plantations tea plucker earns more than what the small holder tea farmer receives as his initial payment for a kg of green leaf delivered to KTDA

Smallholders utilize up to 85% of their income to pay plucker's and in a situation where 71% (406,000) of these small holders are vulnerable on farm holdings of less than 0.50 acres, opportunity to diversify is limited. Potentially, the only option being to uproot the tea bushes and venture into alternative small-scale cash crop activities. This would translate to 71 % reduction of tea production for the country and consequently the same percentage in foreign exchange.

Proposed amendments to the NHIF Act and the introduction of the National Housing Development Fund

Following the publication of the Statute Law (Miscellaneous Amendments) Bill, 2018, there is a proposal to Amend the National Hospital Insurance Fund Act, 1998, contributions under section 15 that employers start matching the employee's contributions; while the Governments desire to roll out Universal Health Care to all Kenyans using the NHIF is laudable, Employers are already required by law under the Employment Act 2007, Medical Treatment Rules (2014) to ensure that their workers access medical attention at employers cost including building and running expensive medical facilities in their premises which will be closed down if the "matching" contributions are implemented.

Further, the proposal for the Establishment of a National Housing Development Fund that is funded by both employer and employee will be yet another additional cost in the production process in a situation where the plantation tea producers have already invested heavily on housing facilities with supporting amenities (water, electricity, medical, education and recreational).

The increased wage costs will result in local rural wage scales being inflated and consequently, small scale farmers who have to compete for the same labour source with the commercial plantations for a limited labour resource are adversely affected by the consequences of the unsustainable labour costs

Perhaps more importantly, the Kenyan economy as a whole will continue to be negatively impacted by unchecked labour cost increases viz:

Revenue collection by KRA will diminish substantially as a result of declining profitability and lower corporation tax

Kenya's image as a destination for foreign investment will be tarnished.

Investment in the tea sector will reduce, resulting in negative impact for local suppliers and contractors, and creation of fewer jobs.

Smallholder farmers competing with commercial tea farms for the same pool of labour will have to pay more to attract hired labour, resulting in lower incomes earned by smallholder tea farmers.

The tea sector remains a key pillar of the Kenyan economy with significant contributions to Kenya's GDP. The employment creation opportunities that exist within the sector both directly and indirectly remain a key ingredient to Kenya's success within the region thus the potential risk posed by escalating labour costs cannot go unchallenged.

KTGA Recommendations

Moderate wage increase NOW – freeze wage increments beyond the Inflationary compensation

Wage increments should go hand in hand with increases in the labour productivity.

Encourage the uptake and development of appropriate technology.

Upskilling and enhanced training in line with V2030.

Maintain competitive edge on global market

Approximately 95% of tea produced in Kenya is exported and therefore zero-rated for VAT while 5% is sold locally to tea packers. Tea, therefore, does not constitute a significant source of VAT revenue.

The imposition of VAT on tea translates into high supply chain costs, which are ultimately borne by the farmers. Exporters buying directly from Kenyan tea producers through private sales are required to pay 16% VAT that is claimable.

Kenya is one of the tea producing countries with one of the lowest per capita consumption of tea at less than 0.5 kg per capita due to VAT charged among other factors on locally consumed tea, making tea costly as compared to the neighbouring country like Tanzania which has zero rated.

KTGA proposed solution

The following interventions are proposed to address the effect of VAT on the tea industry;

Exempt tea from VAT- since the National Treasury has indicated that zero rating of tea is not feasible exemption of VAT on tea should be considered.

Classify tea as a Food crop: Tea is a beverage and forms part of the staple diet for most households like other food stuffs such as maize flour, rice, wheat flour. However, since most of the tea produced is exported, it should be zero-rated, rather than exempt it from VAT.

Timely VAT Refunds: Timely VAT refund and adopt a reverse VAT regime whereby businesses recover any refund claim before making their payments.

Exemption of VAT on packing material and machineries for value addition: Government is to consider the removal of VAT charged on packing materials and machineries in order to encourage value addition initiatives.

Despite the intervention of His Excellency the President, Hon. Uhuru Kenyatta, during a visit to State House in June, 2014 there has been some reluctance from the National Treasury and the Kenya Revenue Authority to address the matter.

County Laws (Produce Cess)

Tea is grown in the highlands of the Country and some of the gardens are located in areas where the road networks are not categorised under KeNHA, KURRA or KERRA and the movement of greenleaf to the factories becomes very challenging. Counties where tea is grown have enacted

Acts that have imposed Produce Cess ostensibly for the repairs and maintenance of such feeder roads. However, in counties where such laws and Cess is collected, the said roads haven't been touched and a lot of crop continues being lost as a result. Under the Tea Board Act (repealed), Zonal Cess committees which had representatives from the tea factories in the said regions used to operate where 80% of the Cess collected by the Tea Board would be channelled to roads and roads were always passable. The other 20% of the Cess would be remitted to the defunct County / Local Authorities. Needless to say that in 2016, all the tea growing Counties received 10% of the repealed Advalorem levy which run into hundreds of Millions and to date, these funds haven't been used for the intended purposes and farmers continue to suffer delivery of their green leaf to factories.

Anti-counterfeit campaign

Despite the formation of the Anti-Counterfeit Agency through the Anti-Counterfeit Act 2008, as a State Corporation, a number of tea companies have lost substantial amounts through substandard tea being packed in established companies' brand names. It is in view of the foregoing that KTGA seeks support of the Government to support policy and legislative review of the Kenyan Anti-counterfeiting policy and legislation. This will also entail conduct of workshops involving relevant agencies that are entrusted to curtail this vice.

Review of Agricultural Policy and National Tea Policy

The Review of the Agricultural Policy and National Tea Policy has been on the drawing board since 2014 and should therefore be accorded priority. There is need for due process to be followed in the formulation of agricultural policies, legislation and regulations in that priority order.

The fast tracking of the review of the Agricultural Policy and National Tea Policy development provides a perfect opportunity to correct this significant procedural issue. The problems bedeviling agriculture and tea sector will be correctly identified in the process and policy directions that are owned by government and Kenyans would be correctly given. There is all the possibility that new legal instruments and new institutions would emanate from the ongoing agricultural policy development.

KTGA further suggests that it would be a prudent decision for the Ministry of Agriculture, Livestock and Irrigation to await the conclusion of the policy development before making any further agricultural legislation to implement the policy and draft the regulations thereafter.

Impacts by other Government agencies

The effect on industry of knee jerk reactions from Government institutions –NEMA suspension of aerial fertilizer application which is cheap and efficient and has been practiced overtime by industry with no adverse effect on the public will ultimately lead to high cost of production and the unsustainability of the industry; the recent ban on logging and movement of forest products that threatened the closure of the tea industry which relies 100% on wood fuel to run their boilers in the manufacturing process; the blanket re-validation of work permits on strategic and specialised positions is creating vacuums and operational lapses in the industry.

1.2.6 Submissions by the East Africa Tea traders Association (EATTA)

The East Africa Tea Trade Association (EATTA) is a voluntary, non-profit umbrella body representing the interests of the tea industry in Africa. EATTA was registered in 1957 and has 200 members drawn from 9 countries (Kenya, Uganda, Tanzania, Rwanda, Burundi Democratic Republic of Congo, Malawi,

Madagascar and Mozambique) all actively engaged in growing, buying, broking and warehousing of tea. 90% of the members are based in Kenya.

EATTA's principal mandate is to run the weekly Mombasa Tea Auction Centre, currently the largest Tea auction centre in the world and the only one dealing in teas from more than one country.

The critical players in the tea auction are the producer, the buyer and the broker. The producers offer tea in the auction for sale but does not physically attend the auction. The producer appoints a broker as a selling agent who will represent him in the auction. The broker earns a commission of a percentage of the sales value for the tea they have sold.

The Mombasa Auction has more than, seventy buyers reflecting the Kenya export volume into the key markets of Pakistan, Egypt, UK, Sudan Yemen and UAE among many others.

The auction operates on forces of demand and supply. When the volume of tea offered increases against a static demand the price will decline. In 2013 the tea offered for sale in the auction was 75 million Kgs above the amount offered in 2012. This was a huge increase in volume and had a major effect in the declined auction price of tea.

What makes Mombasa Auction Centre Attractive?

1. It is dollar denominated making it convenient for the international tea buyer
2. It is the only multi origin auction centre handling tea from nine producer countries. This is a benefit as it offers the buyer variety of tea thereby more attractive
3. It is the auction Centre that most embraces innovation ; including the electronic bill board tea sales payment system, live streaming that allows remote access to the auction proceedings by the producer from the comfort of their farm. The next move is to develop an electronic auction platform to enhance efficiency and transparency.
4. Access to the port thereby allowing efficient delivery to overseas customers
5. It runs every week throughout the year, except during the week of Christmas.

In future, Kenya should strive to make Mombasa the single sourcing hub for all world teas and more so home value addition.

Performance of the Tea industry in Kenya

The performance of the tea industry is vital to the Kenyan economy. Tea is the largest foreign exchange earner in Kenya contributing over Kshs 114 billion in 2013 and Kshs 101 billion in 2014.

The tea industry contributes about 4% to the GDP and more than 20% of the foreign exchange. More than 650,000 Kenyans directly earn a living from tea. More than 4 million Kenyans directly or indirectly earn a living from tea. Tea accounts for approximately 26% of Kenya's export earnings. Tea generates 4% to the Kenya GDP.

Tea is grown in 15 counties and is therefore an effective catalyst for development. Tea has assisted to fund maintenance of rural roads through tea cess and voluntarily provides health and education facilities to rural populations.

Tea is also the only cash crop grown widely in geographically dispersed areas in Kenya. The small scale tea farmers' account for over 60% of Kenya's production through 66 KTDA managed tea factories with the rest being produced by the medium and large size tea estates.

67% of the volume of tea was traded through the Tea Auction Centre. Being the dominant producer in Africa and commanding the largest exportable surplus from any tea growing country, the Mombasa auction and Kenya tea in particular is closely watched by all quality tea importers in the world.

The top ten export markets for Kenyan tea are Egypt, Pakistan, United Kingdom, Afghanistan, Sudan, United Arab Emirates, Russia, Yemen, Kazakhstan and Iran.

Kenyan tea is of such a high premium in some consuming markets that the importers keep track of the auction trends on a weekly basis and will make purchase orders for a specific plantations or garden marks.

Kenya experienced very high production which started towards the fourth quarter of 2013. The situation was exacerbated by overstocking towards the run-up to the March 4th General Election in anticipation of supply disruptions by possible political violence. It has been stated by industry stakeholders that whenever there is an unprecedented increase in tea production in Kenya, auction prices usually experiences a big slump as recorded in the year 1995, 1999,

2001, 2007, and 2013. The converse was also observed when higher prices were recorded in 1997, 2000, 2006, 2008, 2009, 2011 and 2012 when there was lower production.

The upward and downward trends in tea prices are cyclical and dependent on supply and demand situation. This cannot be easily controlled. However, what is within the purview and control of the legislative is the reduction of the ad valorem levy and the multiplicity of taxes and levies. This shall reduce the suffering of the farmers that has been worsened by the declining tea prices.

1.3 Reports

3.1 Report of the County Assembly of Kericho

The County Assembly of Kenya formed an Adhoc Committee that looked into the challenges facing tea in Kericho County and came up with the following recommendations;

- a) legislation on zoning be reviewed to balance voting of directors

- b) voting of directors be based on each tea farmer (that is one man one vote)
- c) each factory appoints an auditor for a period of three years as required by the companies Act, 2015. This will ensure that accountability and transparency is realized.
- d) small holders be capacity built by KTDA on good tea husbandry practices
- e) analysis of tea value chain be conducted in the west of rift
- f) cost cutting measures be introduced in terms of factory operations and power generation
- g) improve management governance of KTDA
- h) County government of Kericho to partner with KTDA on extension serve provisions
- i) Small holder tea farmers should be empowered to 'own' the KTDA factory
- j) Regular meeting between Framers, KTDA and County government of Kericho come up with a tea value addition bill that seeks to address payment to tea farmers, facilitate the setting of an agro processing plant in Kericho to package, blend and market tea from Kericho county
- k) each satellite factory conducts an AGM independently and the board of directors should be independent as the company is a registered legal entity
- l) each KTDA factory appoints a different company secretary from the management agency company secretary to avoid issues of conflict of interest.
- m) each payment of bonuses be declared independently and paid to each KTDA factory so as to encourage competition and enhance quality tea
- n) the management agency employees i.e. the regional manager should not overstay in a certain region or factory.

1.4 Legal Instruments Examined by the Committee

The Adhoc committee relied on the following legal documents in their investigations;

(a) The Constitution of Kenya 2010

Agriculture is a devolved function as stipulated in the Fourth Schedule. Policy formulation is however a function of the National Government.

(b) The County Government Act,2012

This is an Act of Parliament to give effect to Chapter Eleven of the Constitution and sets to provide for county governments' powers, functions and responsibilities to deliver services and for connected purposes.

(c) **The Intergovernmental Relations Act, 2013**

This is an Act of Parliament which establishes a framework for consultation and cooperation between the National and County governments and amongst county governments and further establishes mechanisms for the resolution of intergovernmental disputes pursuant to Articles 6 and 189 of the Constitution, and for connected purposes.

(d) **The Crops Act, 2013**

This is an Act of Parliament to consolidate and repeal various statutes relating to crops and further to provide for the growth and development of agricultural crops and for connected purposes.

The objective of this Act is to accelerate the growth and development of agriculture in general, enhance productivity and incomes of farmers and the rural population, improve investment climate and efficiency of agribusiness and develop agricultural crops as export crops that will augment the foreign exchange earnings of the country, through promotion of the production, processing, marketing, and distribution of crops in suitable areas of the country.

(e) **The AFA Act, 2013**

This is an Act of Parliament to provide for the consolidation of the laws on the regulation and promotion of agriculture generally, to provide for the establishment of the Agriculture and Food Authority, to make provision for the respective roles of the national and county governments in agriculture excluding livestock and related matters in furtherance of the relevant provisions of the Fourth Schedule to the Constitution and for connected purposes.

(f) **Competition Act, 2010**

This is an Act of Parliament to promote and safeguard competition in the national economy and to protect consumers from unfair and misleading market conduct, to provide for the

establishment, powers and functions of the Competition Authority and the Competition Tribunal, and for connected purposes

(g) Companies Act, 2015

This is an Act of Parliament to consolidate and reform the law relating to the incorporation, registration, operation, management and regulation of companies; to provide for the appointment and functions of auditors; to make other provision relating to companies; and to provide for related matters

The objects of this Act are to facilitate commerce, industry and other socio-economic activities by enabling one or more natural persons to incorporate as entities with perpetual succession, with or without limited liability, and to provide for the regulation of those entities in the public interest, and in particular in the interests of their members and creditors.

2 COMMITTEE OBSERVATIONS

The committee observed that;

- (a) The tea Policy was still in draft form and it has been for over 5 years
- (b) Smallholder tea sector in Kenya can contribute significantly to the wellbeing of the farmers as well as foreign exchange earner if well regulated
- (c) Smallholder tea farmers still use low level of technology in terms of clones of tea being old as well as husbandry practices
- (d) Smallholder tea farmer experience both production and marketing challenges occasioned by small farm holdings
- (e) Farm inputs such as fertilizers are not readily available to farmers and are expensive

- (f) Earnings from tea by smallholder tea farmer is low and on downward trend
- (g) Too many taxes and levies on tea. There are over 42 taxes from leaf to cup
- (h) Operations costs by factories are high which eats in to the farmers profit
- (i) There is very little value addition of the finished products at factory level due to high cost of packaging materials
- (j) There is lack of transparency in factory operations and the managing agent, KTDA
- (k) KTDA has initiated other company projects other than tea to the detriment of the farmers
- (l) There is no justification for tea testing tea at Mombasa tea auction instead of doing it at the factory
- (m) There are too many middlemen along the value chain
- (n) Tea hawking not only contribute to lack of quality but also affect the factory capacities among the registered growers

3 RECOMMENDATIONS

The committee came up with the following recommendations

- (a) The President to form a Commission of Inquiry to look into the issues raised by tea farmers which include:
 - i. Avenues that were availed to farmers to address their grievances after KTDA was converted from a parastatal to managing agency

- ii. Alleged misappropriation of farmer's income in dubious investments that do not earn the farmers any profit.
 - iii. Advice on possibility of carrying out a forensic audit of the operations of KTDA since it became a private entity.
 - iv. Alleged price fixing at the auction and the role multinationals play given that they are both producers and buyers.
 - v. Modernizing operations at the tea auction to enable the Government of Kenya to earn maximum returns from the tea industry by ensuring all tea produced in Kenya are accounted for by employing a single platform of sales.
 - vi. A forensic audit of the Advalorem fund from its inception
- (b) Removing tea from AFA and have a board created in its place.
 - (c) There is need to have a strong policy, institutional and regulatory framework to govern tea industry since it is a major foreign exchange earner crop to the country
 - (d) Provide elite clones of tea to smallholder farmers and government to assist them in uprooting and replacing the old bushes
 - (e) Train the farmers on new technologies and have a robust extension services to provide the requisite information to the farmers
 - (f) There is need to review taxation regime on tea so as to harmonize levies charged by the county and national government to eliminate double taxation
 - (g) There need to review the contract agreements between smallholder tea factories and the managing agent, KTDA in tandem with current realities
 - (h) There is need to allow for more managing agents in tea to spur competition and transparency
 - (i) Review taxes on packaging materials so as to encourage value addition and job creation in the rural areas
 - (j) Fertilizer subsidy be extended to smallholder tea farmers and soil testing be done to get the right types of fertilizers
 - (k) Factories need to embrace energy saving technologies and thereby reduce operation cost
 - (l) Stringent penalties to be meted on brokers who collude to fix the prices at auction

**MINUTES OF THE 1ST MEETING OF THE ADHOC COMMITTEE ON TEA
HELD ON WEDNESDAY, 28TH MARCH, 2018 IN COMMITTEE ROOM FIVE,
MAIN PARLIAMENT BUILDING FROM 5.00 P.M.**

MEMBERS PRESENT

1. Sen. (Dr.) Christopher Lang'at -Member
2. Sen. Samson Cherargei -Member
3. Sen. (Prof.) Sam Onger, EGH -Member
4. Sen. Njeru Ndwiga, EGH -Member
5. Sen. Aaron Cheruiyot -Member
6. Sen. Mercy Chebeni -Member

ABSENT WITH APOLOGIES

1. Sen. Irungu Kang'ata -Member
2. Sen. Cleophas Malala -Member
3. Sen. George Khaniri, MGH -Member

SENATE SECRETARIAT

1. Mr. Samuel Njenga Njuguna - Director Committee's
2. Ms. Mary Chesire - Deputy Director Committee's
3. Mr. Crispus Njogu -Clerk Assistant
4. Ms. Gloria Wawira -Clerk Assistant
5. Mr. David Ngeno -Researcher

MINUTE SEN/SCH/1/2018: PRAYERS

The meeting was called to order at 5.10 pm by the Director Committee's followed by a word of prayer.

MINUTE SEN/SCH/2/2018: ADOPTION OF AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Aaron Cheruiyot and seconded by Sen. Njeru Ndwiga, EGH as follows;

AGENDA

1. Prayers;
2. Adoption of the Agenda;
3. Election of the Chairperson ;
4. Election of the Vice Chairperson;
5. Any Other Business;
6. Adjournment.

MINUTE SEN/SCH/3/2018: REMARKS BY THE DIRECTOR;

The Director welcomed the members to the inaugural meeting of Adhoc Committee on Tea. He explained that pursuant to S.O 187 the Clerk is required to carry out election of the Chairperson and Vice Chairperson of Committee once Committees are constituted to enable them execute their mandate. The Director advised that he was representing the Clerk.

MINUTE SEN/SCH/4/2018: ELECTION OF THE CHAIRPERSON OF THE ADHOC COMMITTEE ON TEA

Election of the Chairperson

Sen. (Prof.) Sam Onger, EGH proposed Sen. Aaron Cheruiyot as the Chairperson of the Committee. This was seconded by Sen. Njeru Ndwiga, EGH.

There being no other members nominated for the position of Chairperson, the Director declared Sen. Aaron Cheruiyot as the Chairperson of the Adhoc Committee on Tea.

Remarks by the Chair person

Sen. Aaron Cheruiyot, the Chairperson began by thanking the members for electing him. He indicated that the tea industry was facing major challenges and this was affecting farmers significantly. The success of the Adhoc Committee would greatly influence the livelihood of tea farmers in the country.

MINUTE SEN/SCH/5/2018: ELECTION OF THE VICE CHAIRPERSON OF THE ADHOC COMMITTEE ON TEA

Election of the Vice Chairperson

Sen. (Prof.) Sam Onger, EGH proposed Sen. Njeru Ndwiga, EGH as the Vice-Chairperson of the Committee. This was seconded by Sen. (Dr.) Christopher Lang'at

There being no other members nominated for the position of Vice-Chairperson, the Director declared Sen. Njeru Ndwiga, EGH as the Vice-Chairperson of the Adhoc Committee on Tea.

Remarks by the Vice-Chair Person

Sen. Njeru Ndwiga, EGH, the Vice-Chairperson began by thanking the members for electing him. He indicated that the Committee needs to find out the root cause of all the problems afflicting tea industry. He asked for the member's diligence in the five months the committee will be sitting.

MINUTE SEN/SCH/6/2018: AOB & ADJOURNMENT;
The following issues were raised by Members in AOB:-

- 1) Congratulatory messages to both the Chairperson and the Vice Chairperson of the Committee;
- 2) The Committee was informed that people on the ground do not know the mandate of the Senate and such a committee by helping tea farmers will enlighten the farmers;
- 3) The Committee Secretariat was requested to come up with a draft work plan as well as share as much documents as possible regarding tea.

There being no other business, the meeting was adjourned at 5.35 p.m.

SIGNATURE.....

(Chairperson: SEN. Aaron CHERUIYOT, M.P.)

DATE.....

**MINUTES OF THE 2nd MEETING OF THE ADHOC COMMITTEE ON TEA
HELD ON THURSDAY, 3rd MAY, 2018 IN COUNTY ALL BUILDING GROUND
FLOOR BOARD ROOM STARTING AT 9AM.**

MEMBERS PRESENT

1. Sen. Aaron Cheruiyot -Chairperson
2. Sen. Njeru Ndwiga, EGH -Vice-Chairperson
3. Sen. Mercy Chebeni -Member

ABSENT WITH APOLOGIES

1. Sen. Irungu Kang'ata -Member
2. Sen. Cleophas Malala -Member
3. Sen. George Khaniri, MGH -Member
4. Sen. (Dr.) Christopher Lang'at -Member
5. Sen. Samson Cherargei -Member
6. Sen. (Prof.) Sam Ongeru, EGH -Member

SENATE SECRETARIAT

1. Ms. Mary Chesire - Deputy Director Committee's
2. Mr. Crispus Njogu -Clerk Assistant

MINUTE SEN/ACT/7/2018: PRAYERS

The meeting was called to order at 9.10 am by the followed by a word of prayer.

MINUTE SEN/ACT/8/2018: ADOPTION OF AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Mercy Chebeni and seconded by Sen. Njeru Ndwiga, EGH as follows;

AGENDA

1. Prayers;
2. Adoption of the Agenda;
3. Confirmation of Minutes
4. Review of workplan
5. Any Other Business;
6. Adjournment.

MINUTE SEN/ACT/9/2018: CONFIRMATION OF MINUTES

Confirmation of Minutes of the first sitting was postponed to the next meeting

MINUTES OF THE 3RD MEETING OF THE ADHOC COMMITTEE ON TEA HELD ON TUESDAY, 28TH AUGUST, 2018 AT COMMITTEE ROOM 5 PARLIAMENT BUILDINGS STARTING AT 2PM.

MEMBERS PRESENT

- | | | |
|----|--------------------------------|-------------------|
| 1. | Sen. Aaron Cheruiyot | -Chairperson |
| 2. | Sen. Njeru Ndwiga, EGH | -Vice-Chairperson |
| 3. | Sen. George Khaniri, MGH | -Member |
| 4. | Sen. (Prof.) Sam Ongeru, EGH | -Member |
| 5. | Sen. Irungu Kang'ata | -Member |
| 6. | Sen. (Dr.) Christopher Lang'at | -Member |
| 7. | Sen. Mercy Chebeni | -Member |

ABSENT WITH APOLOGIES

- | | | |
|----|-----------------------|---------|
| 1. | Sen. Cleophas Malala | -Member |
| 2. | Sen. Samson Cherargei | -Member |

INATTENDANCE

- | | | |
|----|-------------------------------|------------------------------|
| 1. | Hon. Mwangi Kiunjuri EGH, MGH | -CS Ministry of Agriculture |
| 2. | Dr. Andrew Tuimur | -CAS Ministry of Agriculture |
| 3. | Mr. Zakayo Mogara | -Ministry of Agriculture |
| 4. | Mr. Willy Mutai | -Ministry of Agriculture |
| 5. | Ms. Grace Agili | -Ministry of Agriculture |
| 6. | Mr. John Kairuki | -Ministry of Agriculture |

SENATE SECRETARIAT

- | | | |
|----|-----------------------|-------------------|
| 1. | Mr. Crispus Njogu | -Clerk Assistant |
| 2. | Ms. Josephine Kusinyi | -Legal Counsel |
| 3. | Mr. David Ngeno | -Researcher |
| 4. | Mr. Abdallah Bore | -Sergeant at Arms |

MINUTE SEN/ACT/12/2018: PRAYERS

The meeting was called to order at 2.15 pm by the followed by a word of prayer.

MINUTE SEN/ACT/13/2018: ADOPTION OF AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Mercy Chebeni and seconded by Sen. Njeru Ndwiga, EGH as follows;

AGENDA

1. Prayers;
2. Adoption of the Agenda;
3. Meeting with CS Agriculture regarding Tea sector
4. Any Other Business;

5. Adjournment.

MINUTE SEN/ACT/14/2018: CONFIRMATION OF MINUTES

Confirmation of Minutes was deferred to the next meeting.

MINUTE SEN/ACT/15/2018: MEETING WITH THE CS AGRICULTURE REGARDING THE TEA SECTOR

The CS Agriculture informed the members of the following information.

The tea industry plays an important role in the economy of Kenya in terms of foreign exchange earnings. It accounts for 2% of GDP and ranks second after diaspora remittances with 23 % of the total exports' earnings. In 2017 it netted Kshs. 125 Billion in export earnings and Kshs 24 Billion in Local sales. Tea growing has expanded to the present 219,000 hectares under tea bushes and is grown under large scale and small-scale holder subsectors. The small-scale holder subsector accounts for 140,000 hectares (64%) with over 700,000 farmers. It is the largest and most successful smallholder schemes in the world and employs directly and indirectly over 5 million people making it one of the leading sources of livelihood in the country. Notwithstanding, tea farmers encounter challenges in their endeavors which cut across, productions, governance, marketing, policy and legal issues. The production of tea under small scale is low and stands at 1.2kg of Green leaf (GL) per bush per annum compared to 2.4kg recorded in plantation sector. The main difference arises from the resource levels and management styles available among the subsectors. More research is needed with respect to best husbandry practices, right types of fertilizers per locations with proper soil sampling and testing. This means that the Tea Research Institute needs a lot of support to be able to undertake these activities.

Members were informed that currently the Tea Research Institute is not giving clones to farmer that increase input. Additionally farmers are not getting the right inputs or advice in management of their crops. Some tea bushes are too old and need to be uprooted and replaced with elite clones. To be able to uproot one acre of tea bushes one requires four hundred thousand (Kshs.400,000) and wait for two to three years for the

bushes to establish before meaningful harvest can be made. This is not only expensive for the farmers but it is also a dry period because there is no harvest and there is need to cushion framers during such times. The government has initiated a programme to supply seedlings of superior clones at subsidized price kshs.2.00 per seedling.

Labor costs in tea have been rising. The Collective Bargaining Agreements (CBA) are mainly done between the plantation's tea farms and trade unions where wages are fixed at the exclusion of small-scale tea farmer. This has a ripple effect on the profit margins of the small-scale farmer who has no influence on fixing labor cost. Farmers are paid per kilogram of green tea Kshs.14.00 and the cost of employing tea pickers is 10 ksh per kg of green leaf tea. The Kenya Tea Development Agency (KTDA) manages the small-scale holder subsector although about 100,000 small scale farmers are out-growers to multinational tea estates and other private tea estates. KTDA has shifted from its core mandate at inception. They have now shifted to other commercial functions like, insurance, real estate, warehousing at the farmers cost. KTDA has seven subsidiary companies. Farmers in KTDA only have ownership of Tea factories and yet they fund other six companies. There is no transparency at the tea auction in Mombasa where multinationals buy good quality tea from KTDA to blend their lower quality tea. There is also need for the KTDA factories to undergo serious audits. It is alleged that KTDA has never changed auditors in the last 17 years. That raises an issue of governance in the companies. Additionally all company have the same company secretary, who also serves as the company secretary for the group. Despite efforts by the government to supply the fertilizers to farmers like it has done in other crops like maize, KTDA has mounted great resistance claiming full control on this. It is therefore necessary that the quality of the fertilizer which is supplied to the farmers be tested since it is uniformly supplied across all the regions yet there are variations in soil characteristics. Additionally KTDA gives on type of fertilizer for all its farmers despite farmers being from different regions and having different soil types.

The Cabinet Secretary indicated that on taxation and levies imposed on tea, there are a total of forty-two (42) charged along the value chain by the state and non-state actors. These taxes/ fees have an impact on the cost of

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production and marginal profits gain by the farmers. Out of these, 38 taxes/levies are charged by various government agencies administering various legislations like Income Tax Act 2012, VAT Act 2013, Custom & Excise Act 1978, Industrial Training Cap 237, Standards Act Cap 496, KEPHIS Act 2012, Kenya Ports Authority Act 2012, NEMA Act 1999, Various County governments Legislations, Weights and Measures Act Cap 513, water Act 2016 Miscellaneous levies and Fees, 2015 and the Ministry of Health. The remaining four (4) are either voluntary subscriptions or contractual agreements between tea traders and their service providers. A committee from the Ministry of Agriculture and the Senate should review the levies. There have been quite a number of impediments to value addition for the Kenyan tea since independence period. These include competitions from established multinational corporations from the consuming countries which have well established brands and strong consumer loyalty among others, trade barriers in form of tariff and non-tariff restrictions, packaging materials and other inputs attracting VAT, high cost of equipment for value addition, poor interface between research and markets, lack of incentives to brand owners, lack of knowledge and experience in specific value addition in the international market and that the value addition facilities outside the country are more attractive foreign Direct Investment destinations and have reduced the chances for local establishments. The government is optimistic that with the enactment of the National Tea Policy, a number of challenges mentioned above with respect to value addition would be tackled through the following measures;

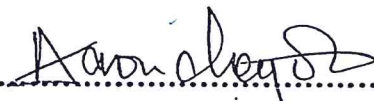
- i) provision of targeted fiscal incentives and enhancing of capacity in packaging, equipment and machinery;
- ii) ensuring that new foreign direct investors in tea trade demonstrate ability to export Kenyan tea in value added form;
- iii) improving access to tea by SMEs and providing targeted fiscal and monetary incentives for value addition;
- iv) establishment of value addition Common User Facility (CUF) and incubation centres for SMEs to pave way for auxiliary in industries to support packaging and branding;
- v) establishment of Special Economic Zones(SEZs) that will allow creation of auxiliary industries for value addition that include packaging, diversification of tea products, markets and blending.

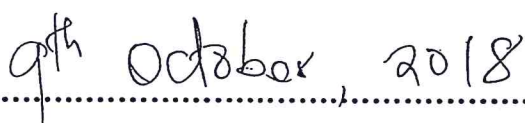
In addition to the above, the ministry expects parliament to play an active role in legislating to remove taxes and levies that hamper production as

well as value addition of tea. There should be an affirmative action taken towards such crops of economic value to the country like tea so as to be exempted from excessive taxation. At county level, tea is grown and support economies of 21 counties namely; Kericho, Bomet, Nandi, Trans-Nzoia, Uasin Gishu, Elgeyo -Marakwet, Narok, Nakuru, Vihiga, Migori, Kakamega, Bungoma, Kisii, Nyamira, Kiambu, Murang'a, Nyeri, Kirinyaga, Embu, Tharaka Nithi and Meru.

MINUTE SEN/ACT/16/2018: AOB & ADJOURNMENT;

There being no other business, the meeting was adjourned at 3.25 p.m.

SIGNATURE.....
(Chairperson: **SEN. Aaron Cheruiyot, M.P.**)

DATE.....

MINUTES OF THE 4TH MEETING OF THE ADHOC COMMITTEE ON TEA HELD ON WEDNESDAY, 29TH AUGUST, 2018 AT COUNTY HALL MINI CHAMBER PARLIAMENT BUILDINGS STARTING AT 2PM.

MEMBERS PRESENT

- | | | |
|----|--------------------------------|-------------------|
| 1. | Sen. Aaron Cheruiyot | -Chairperson |
| 2. | Sen. Njeru Ndwiga, EGH | -Vice-Chairperson |
| 3. | Sen. George Khaniri, MGH | -Member |
| 4. | Sen. Irungu Kang'ata | -Member |
| 5. | Sen. (Dr.) Christopher Lang'at | -Member |
| 6. | Sen. Mercy Chebeni | -Member |

ABSENT WITH APOLOGIES

- | | | |
|----|------------------------------|---------|
| 1. | Sen. (Prof.) Sam Ongeru, EGH | -Member |
| 2. | Sen. Cleophas Malala | -Member |
| 3. | Sen. Samson Cherargei | -Member |

INATTENDANCE

- | | | |
|----|--------------------------|--------------------------|
| 1. | Mr. Lerionka Tiampati | -CEO KTDA |
| 2. | Mr. Peter Kanyago | -Chairman KTDA |
| 3. | Mr. Phillip Ngetich | -Vice Chairman KTDA |
| 4. | Dr. John Omanga | -Company Secretary KTDA |
| 5. | Mr. Benson Ngari | -Finance Director KTDA |
| 6. | Dr. Charles Mbui Trading | -Managing Director Chair |
| 7. | Mr. John Bett | - General Manager KTDA |
| 8. | Ms. Jeffithaha Karua | - Director KTDA |

SENATE SECRETARIAT

- | | | |
|----|-----------------------|-------------------|
| 1. | Mr. Crispus Njogu | -Clerk Assistant |
| 2. | Ms. Josephine Kusinyi | -Legal Counsel |
| 3. | Mr. David Ngeno | -Researcher |
| 4. | Mr. Abdallah Bore | -Sergeant at Arms |

MINUTE SEN/ACT/12/2018: PRAYERS

The meeting was called to order at 2.15 PM by the followed by a word of prayer.

MINUTE SEN/ACT/13/2018: ADOPTION OF AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Mercy Chebeni and seconded by Sen. Njeru Ndwiga, EGH as follows;

AGENDA

1. Prayers;
2. Adoption of the Agenda;
3. Meeting with CS Agriculture regarding Tea sector

4. Any Other Business;

5. Adjournment.

MINUTE SEN/ACT/14/2018: CONFIRMATION OF MINUTES

Confirmation of Minutes was deferred to the next meeting.

**~~MINUTE SEN/ACT/15/2018: MEETING WITH THE CS AGRICULTURE
REGARING THE TEA SECTOR~~**

The CS Agriculture informed the members of the following information.

The tea industry plays an important role in the economy of Kenya in terms of foreign exchange earnings. It accounts for 2% of GDP and ranks second after diaspora remittances with 23 % of the total exports' earnings. In 2017 it netted Kshs. 125 Billion in export earnings and Kshs 24 Billion in Local sales. Tea growing has expanded to the present 219,000 hectares under tea bushes and is grown under large scale and small-scale holder subsectors. The small-scale holder subsector accounts for 140,000hectares (64%) with over 700,000 farmers. It is the largest and most successful smallholder schemes in the world and employs directly and indirectly over 5 million people making it one of the leading sources of livelihood in the country. Notwithstanding, tea farmers encounter challenges in their endeavors which cut across, productions, governance, marketing, policy and legal issues. The production of tea under small scale is low and stands at 1.2kg of Green leaf (GL) per bush per annum compared to 2.4kg recorded in plantation sector. The main difference arises from the resource levels and management styles available among the subsectors. More research is needed with respect to best husbandry practices, right types of fertilizers per locations with proper soil sampling and testing. This means that the Tea Research Institute needs a lot of support to be able to undertake these activities.

Members were informed that currently the Tea Research Institute is not giving clones to farmer that increase input. Additionally farmers are not getting the right inputs or advice in management of their crops. Some tea bushes are too old and need to be uprooted and replaced with elite clones. To be able to uproot one acre of tea bushes one requires four hundred thousand (Kshs.400,000) and wait for two to three years for the

bushes to establish before meaningful harvest can be made. This is not only expensive for the farmers but it is also a dry period because there is no harvest and there is need to cushion framers during such times. The government has initiated a programme to supply seedlings of superior clones at subsidized price kshs.2.00 per seedling.

Labor costs in tea have been rising. The Collective Bargaining Agreements (CBA) are mainly done between the plantation's tea farms and trade unions where wages are fixed at the exclusion of small-scale tea farmer. This has a ripple effect on the profit margins of the small-scale farmer who has no influence on fixing labor cost. Farmers are paid per kilogram of green tea Kshs.14.00 and the cost of employing tea pickers is 10 ksh per kg of green leaf tea. The Kenya Tea Development Agency (KTDA) manages the small-scale holder subsector although about 100,000 small scale farmers are out-growers to multinational tea estates and other private tea estates. KTDA has shifted from its core mandate at inception. They have now shifted to other commercial functions like, insurance, real estate, warehousing at the farmers cost. KTDA has seven subsidiary companies. Farmers in KTDA only have ownership of Tea factories and yet they fund other six companies. There is no transparency at the tea auction in Mombasa where multinationals buy good quality tea from KTDA to blend their lower quality tea. There is also need for the KTDA factories to undergo serious audits. It is alleged that KTDA has never changed auditors in the last 17 years. That raises an issue of governance in the companies. Additionally all company have the same company secretary, who also serves as the company secretary for the group. Despite efforts by the government to supply the fertilizers to farmers like it has done in other crops like maize, KTDA has mounted great resistance claiming full control on this. It is therefore necessary that the quality of the fertilizer which is supplied to the farmers be tested since it is uniformly supplied across all the regions yet there are variations in soil characteristics. Additionally KTDA gives on type of fertilizer for all its farmers despite farmers being from different regions and having different soil types.

The Cabinet Secretary indicated that on taxation and levies imposed on tea, there are a total of forty-two (42) charged along the value chain by the state and non-state actors. These taxes/ fees have an impact on the cost of

production and marginal profits gain by the farmers. Out of these, 38 taxes/levies are charged by various government agencies administering various legislations like Income Tax Act 2012, VAT Act 2013, Custom & Excise Act 1978, Industrial Training Cap 237, Standards Act Cap 496, KEPHIS Act 2012, Kenya Ports Authority Act 2012, NEMA Act 1999, Various County governments Legislations, Weights and Measures Act Cap 513, water Act 2016 Miscellaneous levies and Fees, 2015 and the Ministry of Health. The remaining four (4) are either voluntary subscriptions or contractual agreements between tea traders and their service providers. A committee from the Ministry of Agriculture and the Senate should review the levies. There have been quite a number of impediments to value addition for the Kenyan tea since independence period. These include competitions from established multinational corporations from the consuming countries which have well established brands and strong consumer loyalty among others, trade barriers in form of tariff and non-tariff restrictions, packaging materials and other inputs attracting VAT, high cost of equipment for value addition, poor interface between research and markets, lack of incentives to brand owners, lack of knowledge and experience in specific value addition in the international market and that the value addition facilities outside the country are more attractive foreign Direct Investment destinations and have reduced the chances for local establishments. The government is optimistic that with the enactment of the National Tea Policy, a number of challenges mentioned above with respect to value addition would be tackled through the following measures;

- i) provision of targeted fiscal incentives and enhancing of capacity in packaging, equipment and machinery;
- ii) ensuring that new foreign direct investors in tea trade demonstrate ability to export Kenyan tea in value added form;
- iii) improving access to tea by SMEs and providing targeted fiscal and monetary incentives for value addition;
- iv) establishment of value addition Common User Facility (CUF) and incubation centres for SMEs to pave way for auxiliary in industries to support packaging and branding;
- v) establishment of Special Economic Zones(SEZs) that will allow creation of auxiliary industries for value addition that include packaging, diversification of tea products, markets and blending.

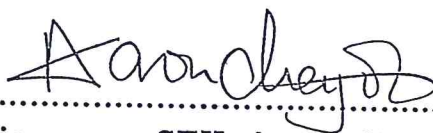
In addition to the above, the ministry expects parliament to play an active role in legislating to remove taxes and levies that hamper production as well as value addition of

tea. There should be an affirmative action taken towards such crops of economic value to the country like tea so as to be exempted from excessive taxation. At county level, tea is grown and support economies of 21 counties namely; Kericho, Bomet, Nandi, Trans-Nzoia, Uasin Gishu, Elgeyo - Marakwet, Narok, Nakuru, Vihiga, Migori, Kakamega, Bungoma, Kisii, Nyamira, Kiambu, Murang'a, Nyeri, Kirinyaga, Embu, Tharaka Nithi and Meru

MINUTE SEN/ACT/16/2018: AOB & ADJOURNMENT;

There being no other business, the meeting was adjourned at 3.25 p.m.

SIGNATURE.....



(Chairperson: SEN. Aaron CHERUIYOT, M.P.)

DATE.....

9th October, 2018.

MINUTES OF THE 5TH MEETING OF THE ADHOC COMMITTEE ON TEA HELD ON WEDNESDAY, 29TH AUGUST, 2018 AT COUNTY HALL MINI CHAMBER PARLIAMENT BUILDINGS STARTING AT 3.30PM.

MEMBERS PRESENT

- | | | |
|----|--------------------------------|-------------------|
| 1. | Sen. Aaron Cheruiyot | -Chairperson |
| 2. | Sen. Njeru Ndwiga, EGH | -Vice-Chairperson |
| 3. | Sen. George Khaniri, MGH | -Member |
| 4. | Sen. Irungu Kang'ata | -Member |
| 5. | Sen. (Dr.) Christopher Lang'at | -Member |
| 6. | Sen. Mercy Chebeni | -Member |

ABSENT WITH APOLOGIES

- | | | |
|----|-----------------------------|---------|
| 1. | Sen. (Prof.) Sam Onger, EGH | -Member |
| 2. | Sen. Cleophas Malala | -Member |
| 3. | Sen. Samson Cherargei | -Member |

INATTENDANCE

- | | | |
|----|----------------------|------------------------------|
| 1. | Mr. Raphael Mburu | -Competition Authority Kenya |
| 2. | Ms. Ninette Mwaramia | -Competition Authority Kenya |
| 3. | Mr. Gideon Mokaya | -Competition Authority Kenya |
| 4. | Ms. Stellah Onyancha | -Competition Authority Kenya |

SENATE SECRETARIAT

- | | | |
|----|-----------------------|-------------------|
| 1. | Mr. Crispus Njogu | -Clerk Assistant |
| 2. | Ms. Josephine Kusinyi | -Legal Counsel |
| 3. | Mr. David Ngeno | -Researcher |
| 4. | Mr. Abdallah Bore | -Sergeant at Arms |

MINUTE SEN/ACT/22/2018: PRAYERS

The meeting was called to order at 3.35 PM by the followed by a word of prayer.

MINUTE SEN/ACT/23/2018: ADOPTION OF AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Mercy Chebeni and seconded by Sen. (Dr.) Christopher Lang'at as follows;

AGENDA

1. Prayers;
2. Adoption of the Agenda;
3. Meeting with Competition Authority
4. Any Other Business;
5. Adjournment.

MINUTE SEN/ACT/24/2018: CONFIRMATION OF MINUTES

Confirmation of Minutes was deferred to the next meeting.

MINUTE SEN/ACT/25/2018: MEETING WITH THE COMPETITION AUTHORITY OF KENYA

The Competition Authority of Kenya ("the Authority") in response to the invitation by **the Senate AD Hoc Committee on the Tea Sector**, submitted the following, specifically in respect of "**perceived monopoly of KTDA**" in tea industry in Kenya.

The Authority's informed the Committee that its submission was restrained within its mandate, which included regulation of market conduct including Abuse of Dominance (AoD), and; advising the government and other government agencies in regard to competition matters. In actualizing its mandate, the Authority was required to interact with the relevant Sector regulators. Towards this, the Authority had entered into an MoU with the Agriculture and Food Authority (AFA) to facilitate competition regulation in the Agriculture sector.

Members were informed that Abuse of Dominance, as provided under the Competition Act, can be manifested by a dominant firm imposing unfair prices/conditions to its buyers; discriminating among its customers, applying predatory pricing, foreclosure, among others. Dominant firm was defined as a firm that produced goods or supplied services that constitute not less than 50% of the goods/services rendered in Kenya. It was important therefore to highlight that the Act does not prohibit dominance but its Abuse is what is prohibited by law. Therefore, to prove AoD, firms have to be in competition (in the same relevant market) and in addition they should be totally independent in terms of ownership and strategic policy direction.

The Tea Directorate, established under Agriculture and Food Authority (AFFA) of 2014, regulates the tea sector. The mandate of the Directorate includes: -

- a. licensing of tea manufacturing factories;
- b. licensing and registering of growers, buyers, brokers, packers,

management agents and any other person dealing in tea; and

- c. Promotion of Kenya tea in both the local and the international markets.

Currently there are 62 licensed smallholder-owned tea factories owned by KTDA Ltd and about 66 tea processing factories; about 50-70 buyers (countries) globally (i.e. destinations of tea exports), 5 management agents across the country. The management Agents for tea factories include KTDA Ltd, Williamsons Tea Ltd, Kaisugu Ltd, Tropical Farm Management Ltd and Eastern Produce Kenya (EPK) Ltd.

A Management Agent is any person appointed through a specific management agreement contract or agreement by another person to perform or offer professional services in specific functions. These services include; Processing, Marketing, Financial and Internal audit services, and Company secretarial services. This is the arrangement Kenya Tea Development Agent (KTDA) has with the factories.

KTDA limited was incorporated in the year 2000, as part of liberalizing the tea industry, to replace the Kenya Tea Development Authority which was then a public monopoly. The privatization of KTDA was carried pursuant to the Sessional Paper No. 2 of 1999. Subsequent to this KTDA Ltd (Agency) took over the mandate and assets of the defunct KTDA (Authority) and assumed the management of all the smallholder tea factory companies through management agreements. The understanding at the time was that the growers would exercise control over the management of their factories through their respective factory Boards while KTDA Ltd would manage the factories as a management agent through management agreements. By virtue of having taken over the mandate and the management of assets of the defunct KTDA, the privatised KTDA (KTDA Ltd) assumed the management of the entire smallholder tea factory companies through Management Agreements. The Agency currently manages 68 factories in the small-scale tea sub-sector in the country.

The current relationship between KTDA Ltd and the smallholder factories is as follows:

- a. The 65 factories are independent private companies registered under the Companies Act (CAP 486) of 2015, Laws of Kenya). These factories are geographically grouped into 12 zones spread out in all the 15 tea growing counties;
- b. The KTDA Ltd Board of Directors, composed of one member from each of the twelve zones, and has the mandate of managing the affairs of the Company in accordance with the provisions of the Companies Act (CAP 486), Laws of Kenya, and shareholders of KTDA Ltd; and
- c. The other level of relationship is contractual where small holder tea factories enter into an engagement with KTDA Ltd as a managing agent. This latter relationship is governed through management agreements which run for 8-10 years.

The above arrangement, from the face of it, mirrors representation of farmers in the KTDA Board and management of its affairs. In addition, the Management contracts are negotiated and they have a sunset clause; expires after 10 years.

Members were informed that, concerns have been raised by one factory in Murang'a regarding the conduct of KTDA specifically allegations on transparency, accountability and inclusion of the factories in its marketing, investments, strategies and operations. This, according to the complainant, resulted to KTDA arriving at decisions that were not optimal to the farmers such as late payments and overpricing the farmer input costs. The other allegations include overcharging of management fees at 2.5% on net sales.

Although, as indicated earlier KTDA's arrangement with the factories cannot meet the AoD test criteria, it is our submission that since this is a regulated sector, Tea Directorate should be able to build capacity, in terms of regulatory framework, to support:

- i. The required transparency in arriving at farmers earnings and also inputs costs;
- ii. Time taken to remit farmers payments;
- iii. Capacity of the tea factories to negotiate with KTDA, especially through provision of management agents contracts framework indicating the minimum warranties from KTDA; and
- iv. Setting of maximum management fees by KTDA, among others.

The Authority also mentioned that another concern that has been raised to the Authority was in regard to licensing of Specialty Tea manufacturers. Licensing has to be accorded a no objection by the incumbents. This arrangement did not support competition since it bars entry. It would not be realistic to expect an incumbent operator to support entry into the specific market.

With regard to tea Marketing, it is done through EATTA. EATTA has 200 members drawn from 10 countries who are all actively engaged in growing (producers), buying (buyers), broking (brokers), and warehousing (Warehousemen) tea. The principal mandate of EATTA is to run the Mombasa Tea Auction Centre, which is currently the second largest black tea auction centre in the World in terms of volumes of tea traded and also the only one dealing with tea from more than one country. On average, EATTA trades in 457,731,330 kilograms of tea per year, which for example was valued at over KES 129 billion in 2017.

Pursuant to section 25 of the Competition Act, EATTA submitted an application to sought for an exemption on 1st April, 2016 of some specific activities of the Association for an indefinite period. The application, among others, sought to be granted exemption to continue fixing commission rates and warehousing fees. The Authority declined to grant the exemption since fixing of prices is considered as a hardcore contravention to the competition law.

EATTA had appealed the decision to the Competition Tribunal and the Tribunal is yet to hear and determine the appeal.

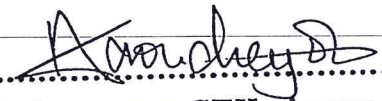
Competition Authority gave the following conclusion.

1. A firm may abuse its position against its competitors through applying unfair conditions. Our position is that the current arrangement between KTDA and the tea factories does not meet this criteria. Indeed, this is a contractual arrangement which is time bound.
2. The current arrangement is desirable taking into account that Tea is generally an export commodity (crop) and therefore single marketing and advertisement ensures economies of scale relevant to penetrate and sustain the competitive global market.
3. The allegations regarding KTDA on transparency, accountability and inclusion of the factories in its marketing, investments, strategies and operations merit attention. In addition, the allegations in relation to late payments; overpricing of farmers' input costs and overcharging of management fees at 2.5% on net sales, if proved can be detrimental to the farmers.
4. It is on those basis that the Authority position was that since it is a regulated sector, AFA, through its Tea Directorate should endeavor and be facilitated to build both regulatory and other requisite capacity to:
 - a. Establish a minimum thresholds for transparency by the KTDA in arriving at farmers' earnings and also inputs costs;
 - b. Establish and enforce time limits taken to remit farmers payments;
 - c. Deepen negotiating capacity of the tea factories while negotiating Management contracts with Agents including indicating the minimum warranties from the agents; and,
 - d. Set and enforce the maximum management fees that can be charged by a Management agent.
5. The Sector regulator should also endeavor to facilitate entry and manufacture of orthodox tea, which not only increases farmers' earnings

but offers credible competition to the traditional tea. This could be through research and supportive regulatory regime including marketing mechanisms.

MINUTE SEN/ACT/26/2018: AOB & ADJOURNMENT;

There being no other business, the meeting was adjourned at 4.45 p.m.

SIGNATURE.....
(Chairperson: SEN. Aaron Cheruiyot, M.P.)

DATE..... 9th October, 2018

MINUTE SEN/ACT/29/2018: CONFIRMATION OF MINUTES

Confirmation of Minutes was deferred to the next meeting.


MINUTE SEN/ACT/30/2018: MEETING WITH TEA RESEARCH INSTITUTE

The TRI, appearing before the committee on 29th August 2018, apprised the committee on the following;

The Institute is focused on development of improved clones, appropriate technologies for improvement of yield (quantity of green tea leaf/made tea per hectare) and quality of tea products. It has reoriented its research agenda to focus more on tea products diversification, value addition and Tea and health. To this end, it has developed a new tea clone ("Purple tea") rich in a pigment called anthocyanin widely used for the manufacturing of fast moving consumer goods such as soaps, shampoo and detergents. Research is currently assessing the potential health benefits relating to anti-inflammatory and anti-parasite properties some of which may be used to protect the liver from damage. The Institute has developed over 1000 improved clones, out of which 59 clones have been selected for consistent superiority in yield and quality and released for commercial exploitation by both smallholder and large estate growers. Seventeen of these clones yield between 5,000 and 8,000 kg of processed tea per hectare per year. These yield levels are some of the highest in the world and are three times the average yields of unimproved tea varieties. The above notwithstanding, the institute has faced numerous challenges in fulfilling its mandate. These include lack of modern facilities, inadequate staff, poor funding, factory not complete to test new technology in tea processing, and no fund to establish cottage facility. When advalorem Levy was present, researcher was assigned 40% of the total amount raised. Today TRI has to get its funding from the ex-checker which is not enough or sufficient. This has resulted in reduced researcher which has been detrimental to the tea farmers.

MINUTE SEN/ACT/31/2018: AOB & ADJOURNMENT;

There being no other business, the meeting was adjourned at 5.50 p.m.

SIGNATURE..... 

(Chairperson: **SEN. Aaron Cheruiyot, M.P.**)

DATE..... 9th October 2018

MINUTES OF THE 7TH MEETING OF THE ADHOC COMMITTEE ON TEA HELD ON THURSDAY, 30TH AUGUST, 2018 AT COUNTY HALL MINI CHAMBER PARLIAMENT BUILDINGS STARTING AT 2.00PM.

MEMBERS PRESENT

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|----|--------------------------------|--------------|
| 1. | Sen. Aaron Cheruiyot | -Chairperson |
| 2. | Sen. George Khaniri, MGH | -Member |
| 3. | Sen. Irungu Kang'ata | -Member |
| 4. | Sen. (Dr.) Christopher Lang'at | -Member |

ABSENT WITH APOLOGIES

- | | | |
|----|------------------------------|-------------------|
| 1. | Sen. Njeru Ndwiga, EGH | -Vice-Chairperson |
| 2. | Sen. (Prof.) Sam Ongeru, EGH | -Member |
| 3. | Sen. Cleophas Malala | -Member |
| 4. | Sen. Samson Cherargei | -Member |
| 5. | Sen. Mercy Chebeni | -Member |

INATTENDANCE

- | | | |
|----|------------------|--------------------------------|
| 1. | Mr. Apollo Kiari | -Kenya Tea Growers Association |
| 2. | Ms. Linda Olouch | -Kenya Tea Growers Association |

SENATE SECRETARIAT

- | | | |
|----|-----------------------|-------------------|
| 1. | Mr. Crispus Njogu | -Clerk Assistant |
| 2. | Ms. Josephine Kusinyi | -Legal Counsel |
| 3. | Mr. David Ngeno | -Researcher |
| 4. | Mr. Abdallah Bore | -Sergeant at Arms |

MINUTE SEN/ACT/31/2018: PRAYERS

The meeting was called to order at 2.10 pm by the followed by a word of prayer.

MINUTE SEN/ACT/32/2018: ADOPTION OF AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Irungu Kang'ata and seconded by Sen. (Dr.) Christopher Lang'at as follows;

AGENDA

1. Prayers;
2. Adoption of the Agenda;
3. Meeting with Kenya Tea Growers Association
4. Any Other Business;
5. Adjournment.

MINUTE SEN/ACT/33/2018: CONFIRMATION OF MINUTES

Confirmation of Minutes was deferred to the next meeting.

MINUTE SEN/ACT/34/2018: MEETING WITH KENYA TEA GROWERS ASSOCIATION

On 30 August, 2018, KTGA presented its views to the Committee.

The Kenya Tea Growers Association (KTGA) is a long-standing association representing the commercial tea growers throughout Kenya. The Association (KTGA) was established in 1931 to promote the common interests of the members in the cultivation and manufacture of tea and to promote good industrial relations and sound wage policies for the workers.

The Kenya Tea Industry contributes over 25% of the Republic's foreign exchange earnings, pays massively into the government of Kenya tax revenues and employs directly and indirectly over 600,000 Kenyans

The tea plantation sub-sector maintains 40% of Kenya's tea Industry and employs directly close to 60,000 workers in the rural economy.

Its membership is drawn from public and private Tea Companies in Kenya mainly the tea plantations found in Kericho, Bomet, Nyamira, Nandi and Kiambu and includes;

James Finlay (Kenya) Ltd, Williamson Tea K Ltd (Changoi / Lelsa) Estates, Williamson Tea K Ltd (Tinderet) Estate, Williamson Tea K Ltd (Kaimosi) Estate, Kapchorua Tea Co Ltd, Sotik Tea Co Ltd, Sotik Highlands Tea Co Ltd, Kaisugu Ltd, Nandi Tea Estates Ltd, Kipkebe Ltd, Karirana Tea Estates Ltd, Kamiti Tea Estates, Gakoe Tea Estates, Mogusii Farmers Co. Ltd, Lynton Tea Estates, Kacharoba Tea Estates and Emrok (EPZ) Tea Factory Ltd.

The Committee was informed that KTGA has a fulltime secretariat and uses that office to formally engage both National and County Governments and other institutions on behalf of its members to influence policy and legislation that affect the industry and is at the moment engaged in the following;

1. Engagement with the County Government's on their various legislations that affect cost of doing business.

2. KTGA is a member of the Kenya Private Sector Alliance (KEPSA) and represents its members in the following sector boards, a) Land and Environment, b) Agriculture, c) Devolution and Planning, d) Water and Irrigation. These sector boards' holds periodic Ministerial Stakeholder forums with the relevant Cabinet Secretaries and addresses pertinent issues that affect businesses which are later escalated to the Presidential Round-Table for appropriate executive directions.
3. KTGA is a member of AIN (Agricultural Industry Network) and is actively involved in lobbying for enactments of Laws that will address the deficiencies in the Agricultural and Food Authorities Act (AFA) and reduce stiff regulations, policies etc. that stifle the tea sector.
4. KTGA is represented in the FKE (Federation of Kenya Employers) Management Board representing the entire Agriculture Industry and uses the forum to articulate for favorable employer's legislation and policies.
5. The Executive Officer is a gazzetted member of the Agricultural Industry Wages Council under the Labour Institutions Act 2007 and represents employers in the agricultural industry and advices the CS Labour, Social Security and Protection on matters of industrial and labour relations in the Agriculture sector.
6. The Association has a recognition and a collective bargaining agreement with the Kenya Plantation and Agricultural Workers Union and all labour matters and issues are handled within these instruments for industrial peace and harmony in the industry and represents employers in disputes arising in work places both at shop level and at the Ministry of Labour. Negotiations on the Industry CBAs are undertaken every two years.
7. It is important to note that smallholder and commercial (and independent manufacturers) sectors are very different from one another, and therefore it is often inappropriate to apply blanket recommendations as happened in the 2015 Tea Industry Tea task force report. Such reports should be segmented with recommendations for each specific sector.

Some of the Challenges that KTGA was having include radical changes made by The Agriculture, Fisheries and Food Authority (AFFA) Act 2012, the Crops Act 2012 and the Kenya Agricultural Livestock Research Organization Act 2012 in the agriculture sector. These Acts were developed by the Ministry of Agriculture unilaterally without adequate involvement of key sector stakeholders and despite their promulgation, the Acts have not been fully implemented due to re-organization in the Ministry (MoAL&F). Members were informed of the structural challenges that have emerged as a result of these legislations which include duplication between the role of the MOAL&F and AFA. In addition, there has been no evidence of enhanced efficiency as was envisaged since most of the tea stakeholders complain of the delinking of the Tea Research Institute under KALRO from AFA Tea Directorate operations and the tea industry at large. This has in essence created unnecessary bureaucracy, in efficiency, disharmony and near collapse of this critical industry. With a view to salvaging the tea sector from the risks of failure as a result of structural challenges emanating from the AFA Tea Directorate and the KALRO Tea Research Institute, KTGA and the Tea stakeholders sought members intervention in pressuring the Ministry in finalizing the Agricultural Policy and National Tea Policy and in moving amendments to the AFA Act, KALRO Act and Crops Act with a view to achieving the following:


- a. The Tea Directorate be delinked from AFA and be renamed the Tea Board of Kenya while the Tea Research Institute be renamed the Tea Research Foundation of Kenya as was the case previously. These two institutions were Kenyan brand names known all over the world which have now been dimmed by AFA and in essence the visibility of Kenya in the world tea market. The original mandates should subsequently be retained as is the case with our competitors in India and Sri Lanka.
- b. Further, due to its strategic importance to the Kenyan economy, Tea and other strategic commodities should be de-linked from AFA where they are just small departments and be placed directly under a PS in the Ministry of Agriculture as it is in other tea growing and competing countries like Sri Lanka.

- c. The tea sector stakeholders should be allowed to continue electing their representatives to both the Boards of the Tea Board of Kenya and the Tea Research Foundation of Kenya. This shall ensure synergies in the operations of the two organizations.
- d. There should be adequate funding of the Tea Board of Kenya and the Tea Research Foundation of Kenya by the National Treasury in view of the important role being played by the tea sector. A leaf could be borrowed from the Ministry of Tourism & the Tourism Board and similarly how the National Export Board and Agricultural Boards of Rwanda operate.

Members were informed that tea is grown in the highlands of the Country and some of the gardens are located in areas where the road networks are not categorised under KeNHA, KURRA or KERRA and the movement of greenleaf to the factories becomes very challenging. Counties where tea is grown have enacted Acts that have imposed Produce Cess ostensibly for the repairs and maintenance of such feeder roads. However, in counties where such laws and Cess is collected, the said roads haven't been touched and alot of crop continue being lost as a result. Under the Tea Board Act (repealed), Zonal Cess committees which had representatives from the tea factories in the said regions used to operate where 80% of the Cess collected by the Tea Board would be channelled to and roads were always passable. The other 20% of the Cess would be remitted to the defunct County / Local Authorities. Needless to say that in 2016, all the tea growing Counties received 10% of the repealed Advalorem levy which run into hundreds of Millions and to date, these funds haven't been used for the intended purposes and farmers continue to suffer delivery of their green leaf to factories.

MINUTE SEN/ACT/35/2018: AOB & ADJOURNMENT;

There being no other business, the meeting was adjourned at 5.50 p.m.

SIGNATURE.....
 (Chairperson: SEN- Aaron Cheruiyot, M.P.)

DATE.....^{9th} October, 2018.....

MINUTES OF THE 8TH MEETING OF THE ADHOC COMMITTEE ON TEA HELD ON THURSDAY, 30TH AUGUST, 2018 AT COUNTY HALL MINI CHAMBER PARLIAMENT BUILDINGS STARTING AT 4.00PM.

MEMBERS PRESENT

1. Sen. Aaron Cheruiyot -Chairperson
2. Sen. George Khaniri, MGH -Member
3. Sen. Irungu Kang'ata -Member
4. Sen. (Dr.) Christopher Lang'at -Member

ABSENT WITH APOLOGIES

1. Sen. Njeru Ndwiga, EGH -Vice-Chairperson
2. Sen. (Prof.) Sam Ongeru, EGH -Member
3. Sen. Cleophas Malala -Member
4. Sen. Samson Cherargei -Member
5. Sen. Mercy Chebeni -Member

INATTENDANCE

1. Mr. Edward Mudibo -East Africa Tea Trade Association
2. Mr. Jacob Kahi -Union Tea Brokers
3. Mr. Gideon Mugo -James Finlays Limited Mombasa

SENATE SECRETARIAT

1. Mr. Crispus Njogu -Clerk Assistant
2. Ms. Josephine Kusinyi -Legal Counsel
3. Mr. David Ngeno -Researcher
4. Mr. Abdallah Bore -Sergeant at Arms

MINUTE SEN/ACT/36/2018: PRAYERS

The meeting was called to order at 4.05 pm by the followed by a word of prayer.

MINUTE SEN/ACT/37/2018: ADOPTION OF AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Irungu Kang'ata and seconded by Sen. (Dr.) Christopher Lang'at as follows;

AGENDA

1. Prayers;
2. Adoption of the Agenda;
3. Meeting with East Africa Tea Trade Association
4. Any Other Business;
5. Adjournment.

MINUTE SEN/ACT/38/2018: CONFIRMATION OF MINUTES

Confirmation of Minutes was deferred to the next meeting

MINUTE SEN/ACT/39/2018: MEETING WITH EAST AFRICAN TEA TRADE ASSOCIATION

On 30 August, 2018, EATTA presented its views to the Committee.

The East Africa Tea Trade Association (EATTA) was a voluntary, non-profit umbrella body representing the interests of the tea industry in Africa. EATTA was registered in 1957 and has 200 members drawn from 9 countries (Kenya, Uganda, Tanzania, Rwanda, Burundi Democratic Republic of Congo, Malawi,

Madagascar and Mozambique) all actively engaged in growing, buying, broking and warehousing of tea. 90% of the members are based in Kenya.

EATTA's principal mandate is to run the weekly Mombasa Tea Auction Centre, currently the largest Tea auction centre in the world and the only one dealing in teas from more than one country.

The critical players in the tea auction are the producer, the buyer and the broker. The producers offer tea in the auction for sale but does not physically attend the auction. The producer appoints a broker as a selling agent who will represent him in the auction. The broker earns a commission of a percentage of the sales value for the tea they have sold.

The Mombasa Auction has more than, seventy buyers reflecting the Kenya export volume into the key markets of Pakistan, Egypt, UK, Sudan Yemen and UAE among many others.

The auction operates on forces of demand and supply. When the volume of tea offered increases against a static demand the price will decline. In 2013 the tea offered for sale in the auction was 75 million Kgs above the amount offered in 2012. This was a huge increase in volume and had a major effect in the declined auction price of tea.

Members were informed that the Mombasa auction is dollar denominated making it convenient for the international tea buyer, It is the only multi

origin auction centre handling tea from nine producer countries, access to the port allows for efficient delivery to overseas customers, It runs every week throughout the year, except during the week of Christmas.

Members were informed that In future, Kenya should strive to make Mombasa the single sourcing hub for all world teas and more so home value addition.

The upward and downward trends in tea prices are cyclical and dependent on supply and demand situation. This cannot be easily controlled. However, what is within the purview and control of the legislative is the reduction of the ad valorem levy and the multiplicity of taxes and levies. This shall reduce the suffering of the farmers that has been worsened by the declining tea prices.

MINUTE SEN/ACT/40/2018: AOB & ADJOURNMENT;

There being no other business, the meeting was adjourned at 5.15 p.m.

SIGNATURE.....



(Chairperson: SEN. Aaron Cheruiyot, M.P.)

DATE.....

9th October, 2018.

MINUTES OF THE 9th MEETING OF THE ADHOC COMMITTEE ON TEA HELD ON TUESDAY, 9th OCTOBER 2018 IN COMMITTEE ROOM 10 STARTING AT 11.00AM.

MEMBERS PRESENT

1. Sen. Aaron Cheruiyot -Chairperson
2. Sen. (Prof.) Sam Onger, EGH -Member
3. Sen. (Dr.) Christopher Lang'at -Member

ABSENT WITH APOLOGIES

1. Sen. Njeru Ndwiga, EGH -Vice-Chairperson
2. Sen. Irungu Kang'ata -Member
3. Sen. Cleophas Malala -Member
4. Sen. George Khaniri, MGH -Member
5. Sen. Samson Cherargei -Member
6. Sen. Mercy Chebeni -Member

SENATE SECRETARIAT

1. Mr. Crispus Njogu -Clerk Assistant
2. Josephine Kusinyi -Legal Counsel
3. David Geno -Research Officer

MINUTE SEN/ACT/41/2018: PRAYERS

The meeting was called to order at 11.15 AM by the followed by a word of prayer.

MINUTE SEN/ACT/42/2018: ADOPTION OF AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Prof Sam Onger and seconded by Sen. Dr. Christopher Langat, as follows;

AGENDA

1. Prayers;
2. Adoption of the Agenda;
3. Confirmation of Minutes
4. Review of Draft Report
5. Review of the Draft Tea Bill
6. Any Other Business;
7. Adjournment.

MINUTE SEN/ACT/43/2018: CONFIRMATION OF MINUTES

Minutes of the 3rd Sitting were confirmed as a true reflection of the Committee. They were proposed by Sen. (Prof) Sam Onger E.G.H and Seconded by Sen. (Dr.) Langat

Minutes of the 4th Sitting were confirmed as a true reflection of the Committee. They were proposed by Sen. Dr. Langat and Seconded by Sen. Aaron Cheruiyot

Minutes of the 5th Sitting were confirmed as a true reflection of the Committee. They were proposed by Sen. Dr. Langat and Seconded by Sen. Aaron Cheruiyot

Minutes of the 6th Sitting were confirmed as a true reflection of the Committee. They were proposed by Sen. Dr. Langat and Seconded by Sen. Aaron Cheruiyot

Minutes of the 7th Sitting were confirmed as a true reflection of the Committee. They were proposed by Sen. Dr. Langat and Seconded by Sen. Aaron Cheruiyot

Minutes of the 8th Sitting were confirmed as a true reflection of the Committee. They were proposed by Sen. Dr. Langat and Seconded by Sen. (Prof) Sam Ongeru.

MINUTE SEN/ACT/44/2018: REVIEW OF DRAFT REPORT

Members of the Committee were taken through the draft report. Member indicated that while the report was good the recommendations need to be strengthened. The Secretariat was informed to add the following to the recommendations:

1. That the President of the Republic of Kenya forms a Commission on Inquiry to look into the issues raised by tea farmers which include
 - a. Avenues to address their grievances after KTDA was converted from Parastatal to Managing agency
 - b. Forensic Audit on the operations of KTDA
 - c. Modernizing operations at the tea auction to enable the government of Kenya to earn maximum returns from the tea industry.
2. Removing tea from AFA and a board to be created.

MINUTES OF THE 10TH MEETING OF THE ADHOC COMMITTEE ON TEA HELD ON WEDNESDAY, 24TH OCTOBER 2018 IN COMMITTEE ROOM 10 STARTING AT 11.00AM.

MEMBERS PRESENT

- | | | |
|----|--------------------------------|-------------------|
| 1. | Sen. Aaron Cheruiyot | -Chairperson |
| 2. | Sen. Njeru Ndwiga, EGH | -Vice-Chairperson |
| 3. | Sen. (Prof.) Sam Onger, EGH | -Member |
| 4. | Sen. (Dr.) Christopher Lang'at | -Member |
| 5. | Sen. Samson Cherargei | -Member |

ABSENT WITH APOLOGIES

- | | | |
|----|--------------------------|---------|
| 1. | Sen. Irungu Kang'ata | -Member |
| 2. | Sen. Cleophas Malala | -Member |
| 3. | Sen. George Khaniri, MGH | -Member |
| 4. | Sen. Mercy Chebeni | -Member |

SENATE SECRETARIAT

- | | | |
|----|-------------------|-------------------|
| 1. | Mr. Crispus Njogu | -Clerk Assistant |
| 2. | Josephine Kusinyi | -Legal Counsel |
| 3. | David Ngeno | -Research Officer |

MINUTE SEN/ACT/47/2018: PRAYERS

The meeting was called to order at 11.07AM by the followed by a word of prayer.

MINUTE SEN/ACT/48/2018: ADOPTION OF AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Prof Sam Onger and seconded by Sen. Dr. Christopher Langat, as follows;

AGENDA

1. Prayers;
2. Adoption of the Agenda;
3. Confirmation of Previous Minutes
4. Adoption of the Adhoc Committee on Tea Report
5. Any Other Business;
6. Adjournment.

Members requested the secretariat to amend the report and call another meeting for adoption of the report.

MINUTE SEN/ACT/45/2018: REVIEW OF DRAFT TEA Bill

Members were taken through the Draft Tea Bill. Members were advised that they would not be able to incorporate the funding of an authority as that would be considered a money Bill. Members requested that an authority be placed on the bill without the mechanism of funding.

MINUTE SEN/ACT/49/2018: AOB & ADJOURNMENT;

There being no other business, the meeting was adjourned at 11.50 AM.

SIGNATURE..... 
(Chairperson: SEN. Aaron Cheruiyot, M.P.)

DATE..... 24th October, 2018

MINUTE SEN/ACT/49/2018: CONFIRMATION OF MINUTES

Minutes of the 9th Sitting were confirmed as a true reflection of the Committee. They were proposed by Sen. Dr. Langat and Seconded by Sen. Aaron Cheruiyot.

MINUTE SEN/ACT/50/2018: REVIEW OF DRAFT REPORT

Members of the Committee were taken through the report of the Adhoc Committee on tea. Members were satisfied with the report. The report was adopted by the five members present who countersigned to affirm the adoption of the report.

MINUTE SEN/ACT/51/2018: AOB & ADJOURNMENT;

There being no other business, the meeting was adjourned at 11.38 a.m.

SIGNATURE.....



(Chairperson: SEN. Aaron Cheruiyot, M.P.)

DATE.....

24th October, 2018.

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