

REPUBLIC OF KENYA



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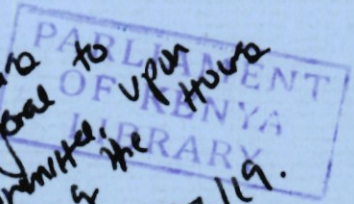
Ref. No. MOALF/CS/CRO/8

12th July, 2019

Mr. Michael Sialai, EBS

The Clerk of the National Assembly
Clerks Chambers
Parliament Buildings
NAIROBI.

*Head, take office
MS registers, carry to
tabling and refer to
relevant committee upon
receipt of the House
minutes of the House
7/6/19.*



Dear

THE CROPS (COFFEE) (GENERAL) REGULATIONS, 2019

*For Tabling
15/7/19
MF.*

Please refer to the above subject matter.

Following the enactment of the Crops Act, 2013 the Ministry of Agriculture, Livestock, and Fisheries & Irrigation has now prepared the Crops (Coffee) (General) Regulation, 2019 for the Coffee sub-sector. The said regulations have gone through the requisite statutory processes and been gazetted through the office of the Attorney General.

In line with the provisions of the Statutory Instruments Act, please find attached the said regulations together with the requisite statutory documents for consideration by the National Assembly Committee on Delegated Legislation.

- a) The Crops (Coffee) (General) Regulations, 2019.
- b) Explanatory Memorandum and a report of stakeholder comments and submissions.
- c) Regulatory Impact Statement.



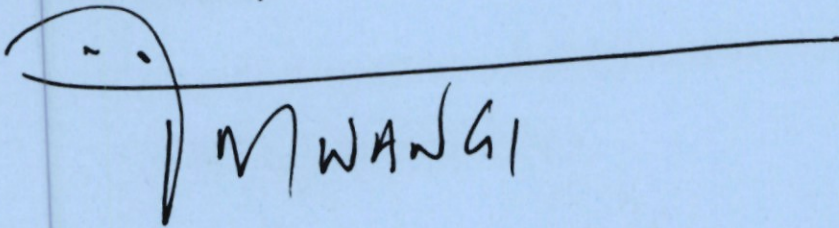
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d) A copy of the Notification of the preparation of Regulatory Impact Statement for the Crops (Coffee) (General) Regulations in the Kenya Gazette.

e) The certificate indicating compliance with provisions of the Statutory Instruments Act.

Yours Sincerely

A handwritten signature in black ink, consisting of a stylized 'M' followed by 'WANGI'. The signature is written over a horizontal line that extends across the page.

**HON. MWANGI KIUNJURI, EGH, MGH
CABINET SECRETARY**

Encls



REPUBLIC OF KENYA

THE PRESIDENCY

EXECUTIVE OFFICE OF THE PRESIDENT

COFFEE SUB-SECTOR IMPLEMENTATION COMMITTEE

EXPLANATORY MEMORANDUM ON COFFEE GENERAL REGULATIONS, 2019

AND

REPORT ON COFFEE STAKEHOLDERS CONSULTATIVE MEETINGS ON THE PROPOSED COFFEE GENERAL REGULATIONS.

July, 2019



 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 23 JUL 2019	DAY: TUESDAY
ROLL NO.	MAJORITY WHIP
TABLE:	

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ABBREVIATIONS

AFA	Agriculture Food Authority
AG	Attorney General
CAN	Calcium Ammonium Nitrate
CAP	Cherry Advance System
CDU	Central Depository Unit
CEC	County Executive Committee
CEX	Commodity Exchange
CMA	Capital Market Authority
CD	Coffee Directorate
CoG	Council of Governors
Coop Bank	Cooperative Bank of Kenya
CSIC	Coffee Sector Implementation Committee
CRI	Coffee Research Institute
ICT	Information Communication Technology
CCE	Kenya Cooperative Coffee Exporters
DSS	Direct Settlement System
KCCD	Kenya Cooperative Coffee Dealers
KCTA	Kenya Coffee Traders Association
KES	Kenya Shilling
KCPA	Kenya Coffee Producers Association
KPCU	Kenya Planters Cooperative Union
MOALF	Ministry of Agriculture Livestock Fisheries

MOU	Memorandum of Association
NCE	Nairobi Coffee Exchange
NPK	Nitrogen Phosphorous (Kalium) Potassium
NSE	Nairobi Securities Exchange
SCAE	Specialty Coffee Association of Europe
STABEX	Stabilization Fund
PS	Principal Secretary
WRS	Warehouse Receipt System

**EXPLANATORY MEMORANDUM TO THE CROPS (COFFEE) (GENERAL) REGULATIONS,
2019**

PART I

Name of the Statutory Instrument	The Crops (Coffee) (General) Regulations, 2019
Name of the Parent Act:	The Crops Act, 2013
Enacted Pursuant to	Section 40 Crops Act No 16 of 2013
Name of Ministry	Agriculture, Livestock, Fisheries and Irrigation
Department	State Department of Crops Development
Agency	Agriculture and Food Authority (Coffee Directorate)
Gazetted on 1 st July,	2019
Tabled on	2019

PART II

1.The Purpose of the Crops (Coffee) (General) Regulations, 2019

The object and purpose of the Regulations is to give effect to section 40 of the Crops Act, 2013, provide for licences to be issued by the licensing authorities, the obligations of licence holders and service providers and the protection and regulation of their interests along the coffee value chain; ,

the recognition of the grower of coffee as the owner of coffee until the coffee is sold and paid for, and the protection of growers' rights along the value chain.

The Regulations also provide for a transparent and timely clearing and settlement of coffee proceeds to the growers and service providers, the collection and maintenance of data related to coffee, the improvement of coffee standards, increased production, and the regulation of the coffee industry in Kenya.

2.Legislative Context

The Crops Act, 2013 empowers the Cabinet Secretary responsible for matters related to agriculture to make regulations necessary or convenient for carrying out or giving effect to the Act. The Crops (Coffee) (General) Regulations, 2019 are therefore issued to give effect to the provisions of the Act.

3.Policy Background

The Kenyan Government has always taken cognizance of the strategic role the coffee industry plays towards economic empowerment of the people. Currently the coffee industry contributes about KShs.20 billion to the national economy and it is grown by over 700,000 smallholder farmers and about 3,200 estates spread across 31 counties. However, in the last two decades the industry has encountered a number of challenges which have eroded its economic importance the national economy and loss of job opportunities. Some of the challenges in the subsector include; high cost of production, obsolete coffee processing technology, fluctuating coffee prices, aging coffee community, low farmer's earnings from coffee despite its premium quality, delayed coffee payments, mismanagement and inefficiencies in cooperatives, restrictive coffee laws among others. The challenges have resulted to a decline in land under coffee and production to about 40,000 tons compared the highest production of 128,926 tons in 1988/89.

In light of these challenges and given the economic, social and political importance of coffee in the national economy, His Excellency the President, Uhuru Kenyatta, appointed the National Task Force on Coffee Sub-Sector Reforms on 4th March 2016. The mandate of the Task Force was to review the entire coffee value chain and identify areas requiring interventions such as production, processing and marketing of coffee; examine the existing policy, institutional, legislative and administrative structures and systems in the coffee industry; and recommend comprehensive reforms among other key issues. The Taskforce submitted its report to the President on 10th June, 2016.

One of the key recommendations of the National Task Force Report was to undertake review of the existing coffee industry legislation and align them to the Crops Act, 2013 and the Constitution 2010. In line with this recommendation the Cabinet Secretary for Agriculture published the Coffee (General) Regulations, 2016 as Legal Notice No. 120 in Kenya Gazette Supplement No. 105 dated 27th June 2016. These Regulations were challenged in court and subsequently a High Court judgment was delivered in Nairobi dated 28th July, 2017. The Judgment, among others, declared the said rules as unlawful mainly due to lack of adequate public participation and consultations, and

further ordered the Cabinet Secretary Ministry of Agriculture to ensure that lawful regulations were promulgated speedily.

Pursuant to this judgment, the Coffee General Regulations of 2016 were revised after extensive consultations with farmers and other key stakeholders, culminating with the Coffee General Rules, 2019.

The promulgation of the Regulations will be critical to the regulation and revival of the coffee industry resulting in stability and great benefit to coffee farmers, service providers and other key stakeholders along the coffee value chain. Due to its widespread nature, the revived coffee industry will contribute higher incomes to farmers, offer employment to youth, and contribute towards agro-processing and trade. All these contributions will go a long way towards the achievement of the Jubilee Government's Big Four agenda and the agriculture sector development strategy.

Before the enactment of the Crops Act, 2013, the coffee sector was regulated by the now repealed Coffee Act. The regulations that are currently in force were formulated under the repealed Coffee Act. There is need to align these existing regulations to the Crops Act, 2013 and also the Constitution which devolved agriculture to county governments. Further, the current Regulations have exceeded the time limit set by section 21 of the Statutory Instruments Act which provides that a statutory instrument stands automatically revoked after ten years of its commencement. The regulations currently in use were enacted in 2002. Notably, section 42 (2) of the Crops Act provides that subsidiary legislation issued under the repealed law such as the Coffee Act would only continue to be in force up to 30th June 2013. There is therefore a lacuna in law in the coffee subsector.

4. Consultations Outcome

The Crops (Coffee) (General) Regulations, 2019 have taken into account the views of the key personnel at the Ministry of Agriculture, Livestock, Fisheries and Irrigation most significantly the Coffee Directorate under Agriculture and Food Authority, the Ministry of Industrialization, Trade and Co-operatives, the National Treasury and Planning, coffee co-operative societies and unions, coffee farmers, coffee millers and marketers, the Capital Markets Authority, the Attorney General and the Nairobi Coffee Exchange.

Extensive consultations were held with other key stakeholders in the coffee industry. Twenty five public meetings/workshops were held between October 2017 and November 2018 spread across the various counties. They involved the participation of farmers (both small scale and large scale), Co-operative society and Union officials, various service providers, millers and marketing agents and traders, researchers and national government officials, Governors, County Executive Members in charge of Agriculture, Cooperatives and Trade, and other county government officials. Consultations were also held with members of parliament from coffee growing areas and the Senate Committee on Agriculture, the National Assembly Committee on Delegated Legislation, the Senate Committee on Delegated Legislation, banks and other public institutions. Written memoranda were also

received from various stakeholders. A report detailing the list, venue, dates and details of the consultations is annexed to this memorandum.

The views received from the consultations were considered in preparing the final version of the Regulations. The analysis of the views and opinions expressed during the consultations indicated that about 85% of the proposals contained in these Regulations mainly in regard to coffee production, processing, quality assurance, licensing were agreeable to most stakeholders. For the remaining set of regulations which were contested, a phased approach has been adopted to ensure these regulations are implemented in a period of one year to give affected stakeholders time to adjust and to ensure there will be no disruptions in the sub-sector.

The stakeholder consultation process was spearheaded by the Coffee Sector Implementation Committee (CSIC).

5. Guidance

The Ministry of Agriculture, Livestock, Fisheries and Irrigation most significantly the Coffee Directorate, the management of the Nairobi Coffee Exchange, and county governments will sensitize their officers for adherence to the objectives of accountability and efficiency in the management of the coffee sub sector. The National government will offer capacity building and technical assistance to county governments where requested. Both levels of government shall consult and cooperate in the development, promotion and regulation of the coffee industry.

The Coffee Directorate and county governments together with other stakeholders in the industry will organize and roll out a farmer/public awareness and information campaign to educate the coffee farmers on the new regulations and the changes that will occur.

The Ministry will also engage key stakeholders such as Parliament, the National Treasury and Planning, the Capital Markets Authority and the Ministry of Industrialization, Trade and Co-operatives whose participation and cooperation remains instrumental in the successful implementation of the key aspects of these Regulations.

6. Impact Assessment

An impact assessment was undertaken by Tegemeo Institute of Agricultural Policy and Development of Egerton University and the outcome of the assessment is outlined below.

6.1 The impact on Fundamental Rights and Freedoms

The Regulations are pro-growers and in particular they emphasize the property rights and freedoms of coffee farmers to their property. The Regulations clearly state that coffee belongs to the farmers until it is sold and paid for, and the farmers as the property owners, have a right to choose whom to do business with. This is a fundamental shift to align the Regulations with Article 40 and 43 of the Constitution. These Regulations also address the fundamental rights of farmers to just and timely pay-outs for their coffee and the management of farmer institutions such as cooperatives. However, in order to enjoy economies of scale and joint processing and marketing, small scale farmers are forced to be members of coffee cooperatives in their locality. This may subject them to exploitation especially when such co-operatives are inefficient. This may lead to violations of their rights and freedoms, but the Regulations have provided an option of such farmers to consider forming and being licenced as alternative associations. The full regulatory impacts to these Regulations are elaborated in the attached regulatory impact report.

6.2 The impact on the Private Sector

Coffee production, processing and marketing are essentially private sector business. The Regulations clearly recognize and promote this principal. The implementation and enforcement of the Regulations will lead to a more vibrant coffee subsector from production to consumption. This will generate many positive benefits to the coffee farmers, service providers and other private sector players. The envisaged positive impacts such as higher incomes, business growth, value addition and employment are elaborated in the impact report attached to this memorandum.

6.3 The impact on the public sector

The Regulations will ensure that there is better regulation in the sub-sector and this will create the necessary stability which is an impetus for investments, growth, job creation, social order and security. Furthermore, the delineation of roles and functions between the National and County governments will align the sub-sector to the constitutional requirements while promoting service delivery. Growth in the sub-sector will also enhance public revenue from licences, fees and taxes thereby contributing towards the growth and development. Nevertheless, for the growth in the subsector to be fully realized, the public sector will be required to offer support to the industry in form of inputs, extension, training and capacity building. This will require allocation of more budgetary resources especially in the period immediately after the approval of these Regulations.

7. Review of the Regulations

The Ministry of Agriculture, Livestock and Fisheries shall monitor the application and compliance to the Crops (Coffee) (General) Regulations, 2019. This will be done through the reports and of returns prepared at regular intervals. In addition, the implementers of the Regulations will carry out regular

monitoring and evaluation of the specific provisions of these Regulations with the aim of initiating any legislative amendments as may be necessary on an annual basis.

8. Contact Person

The contact person at the Ministry of Agriculture, Livestock and Fisheries is the Cabinet Secretary, Mr. Kiunjuri, or Ms. Isabella Nkonge, Interim Director General of the Coffee Directorate.

REPORT ON COFFEE STAKEHOLDERS CONSULTATIVE MEETINGS ON THE PROPOSED COFFEE REGULATIONS.

EXECUTIVE SUMMARY

One of the recommendations of the National Task Force Report on Coffee Reforms was to undertake a review of the existing coffee industry Regulations and align them to the devolved agriculture sector, the Crops Act, 2013 and the Constitution 2010. The Coffee (General) Regulations, 2016 were published as Legal Notice No. 120 in Kenya Gazette Supplement No. 105 dated 27th June 2016. These Regulations were challenged in court and subsequently a High Court judgment was made in Nairobi dated 28th July, 2017. The Judgment, among others, declared the said rules as unlawful mainly due to lack of adequate public participation and consultations.

It is noted that, prior to this ruling the National Taskforce on Coffee Reforms had consulted with the following public institutions, namely; Agriculture and Food Authority, Nairobi Coffee Exchange, Commodity Fund, Export Processing Zone, Capital Markets Authority, Kenya Roads Board, Coffee Research Institute, cooperative societies and unions together with their leaders and farmer members. The Task Force had also received forty seven (47) memoranda from thirty one (31) coffee growing counties, who included the coffee cooperative societies, companies, individuals and public institutions.

After the ruling, and in line with the Statutory Instruments Act of 2013, the Coffee Subsector Implementation Committee engaged the experts and coffee stakeholders through extensive consultations to review and improve the proposed Coffee General Regulations, 2016. Expert advice on addressing issues raised in the court ruling was sought from the Attorney General Office, The National Treasury, Parliament, State

Departments of Agriculture and Cooperatives, State Corporations, County Governments, Tegemeo Institute of Agriculture Policy, Nairobi Coffee Exchange (NCE), East Africa Tea Trades Association (EATTA), Boresha Initiative, Ethiopian Coffee Authority, the International Coffee Organization(ICO) and individuals where need arose.

The committee wrote in advance to the County Governments with requests to invite and facilitate stakeholders to attend the consultative meetings at centralized venues. The stakeholders who were not able to attend were given a second charge at a venue of their choice. Additionally, the committee sent invitations through the State Departments of Cooperatives and Agriculture, websites, emails, radio announcements, media interviews, and press releases encouraging those with interest to attend meetings or submit reports and memoranda.

During the consultative meetings, the stakeholders were taken through the draft Coffee General Regulations and the Exchange Rules and were given adequate time to present their views and discuss the draft at the venues and dates indicated in this report. The stakeholders included; farmers, county and national government officials, societies, unions, traders and lobby groups. A total of twenty five (25) consultative meetings were held in which 2,157 participants from the 31 coffee growing regions attended.

Cconsultations were also held with the Senate Standing Committee on Agriculture, Livestock, Fisheries and Irrigation, members of Senate and of the National Assembly (MPs) from coffee growing regions, and the Committees on Delegated Legislation of the National Assembly and the Senate. The feedback from the consultative meetings, memoranda, review of reports on benchmarking and press releases were considered in compiling this report and the key issues requiring further interrogation were discussed during the committee meetings and incorporated while drafting the regulations. This report provides an overview of the issues discussed during the consultative meetings towards fulfilling the High Court judgment on *The Coffee (General) Regulations, 2016* in Nairobi dated 28th July, 2017.

1.0 Introduction

The Coffee Sub-sector was once a steady and reliable source of livelihood for Kenyans and enjoyed prominence due to its premium quality yet the industry is currently bedeviled by a lot of challenges. Following the unprecedented challenges, the President appointed a National Taskforce on Coffee Subsector Reforms vide Gazette Notice 1332 of 4th March 2016 to review the entire coffee value

chain and identify required interventions. The Taskforce on completion of its mandate presented a comprehensive report with detailed recommendations on interventions needed to transform the coffee subsector to a vibrant industry.

The President on 30th September 2016 appointed the Coffee Sector Implementation Committee (CSIC) through the Gazette Notice No. 7745 to coordinate the implementation of coffee the reforms recommended in the Report which were grouped under 8 key pillars namely: Coffee Legal Reforms, Coffee Subsidy Program, Establishment of Coffee Cherry Advance Payment System, Modernization of Nairobi Coffee Exchange (NCE), Youth Involvement in Coffee Sub-sector and Promotion of Local Coffee Consumption, Institutional Support, Marketing of Kenyan coffee and Coffee Audit of Debts and Debt Waivers.

2.0 The Coffee (General) Regulations, 2016

- a) Soon after the gazettment of *The Coffee (General) Regulations, 2016* published as Legal Notice No. 120 in Kenya Gazette Supplement No. 105 dated 27th June 2016, three parties of the coffee stakeholders challenged the Regulations in court. The judgment was on two consolidated judicial review applications where the applicants were, the Council of County Governors and Mr. Harrison Munyi in his capacity as the chairman of New National Farmers' Association who had moved to court seeking:
 - b)) An order of Prohibition directed against the 1st and 2nd Respondents, prohibiting them and their agents, employees and servants from implementing *The Coffee (General) Regulations, 2016* published as Legal Notice No. 120 in Kenya Gazette Supplement No. 105 dated 27th June 2016
 - c) An order of Certiorari to remove and bring to this honorable Court for purpose of quashing and to quash *The Coffee (General) Regulations, 2016* published as Legal Notice No. 120 in Kenya Gazette Supplement No. 105 dated 27th June 2016.
 - d) An order of Certiorari to quash the report of National Task Force on Coffee Sub-Sector Reforms contained in Kenya Gazette Notice supplement Notice No. 105, legislative supplement No. 49, legal notice No. 120 Gazetted on 27th April 2016.
 - d) An order of Prohibition to prohibit the 1st, 2nd and 3rd Respondents implementing a report of National Task Force on Coffee Sub-Sector Reforms, contained in Kenya Gazette Supplement Notice No. 105, Legislative Supplement No. 49, and Legal Notice No. 120. Gazetted on 27th April 2016 till the Applicant's application herein is heard and determined.

In the High Court judgment in Nairobi dated 28th July, 2017, Justice G .V. Odunga having considered the applications made the following orders:

- a) A declaration that *The Coffee (General) Regulations, 2016* published as Legal Notice No. 120 in Kenya Gazette Supplement No. 105 dated 27th June 2016 are unlawful.
- b) An order compelling the 1st Respondent to ensure that lawful regulations are promulgated within 30 days of the first sitting of the next Parliament.
- c) In default of compliance, an order of Prohibition shall be issued directed against the 1st and 2nd Respondents, prohibiting them and their agents, employees and servants from

implementing *The Coffee (General) Regulations, 2016* published as Legal Notice No. 120 in Kenya Gazette Supplement No. 105 dated 27th June 2016.

- d) In further default, an order of Certiorari shall issue removing into this Court for purpose of quashing and quashing *The Coffee (General) Regulations, 2016* published as Legal Notice No.120 in Kenya Gazette Supplement No. 105 dated 27th June 2016.
- e) Additionally, and in default an order of Certiorari shall issue to quash the report of National Task Force on Coffee Sub-Sector Reforms contained in Kenya Gazette Notice supplement Notice No. 105, legislative supplement No. 49, legal notice No. 120 Gazetted on 27th June 2016.
- f) Similarly, in default an order of Prohibition to prohibit the 1st, 2nd and 3rd Respondents implementing a report of National Task Force on Coffee Sub-Sector Reforms, contained in Kenya Gazette Supplement Notice No. 105, Legislative Supplement No. 49, and Legal Notice No. 120. Gazetted on 27th June 2016.
- g) As this was public interest litigation, there will be no order as to costs.

In pursuant of this judgment, the Coffee Subsector Implementation Committee started stakeholders' consultations who included experts and diverse groups of stakeholders and individuals in the coffee industry. The consultations took cognizance of the specific areas of concern that were raised in court by the ex-parte applicants, and in particular, the county governments, coffee growers' associations' organizations and any other issues that arose from the consultations. The consultations involved office discussions, visits, and plenary meetings.

The Committee also received written memoranda sent or delivered in hard copies, press releases and from the electronic media. The inputs from the stakeholders were incorporated in the Regulations, and the revised Regulations availed in hard copies or emailed to the respective stakeholders for further input or comments through Agriculture and Food Authority and Ministry of Agriculture and Irrigation websites.

The Committee conducted stakeholder's consultation meetings from 23rd October 2017 in twenty five (25) venues selected on the basis of centrality, population of stakeholders and area under coffee to discuss issues noted that required consensus. The issues raised were considered when making amendments to the *Coffee (General) Regulations, 2016* and to the *Nairobi Coffee Exchange Rules 2012*. Both pieces of legislation regulate the coffee sub sector and proposals for amendments of both were therefore handled together. A total of 2,157 attended the consultations who included; farmers, society committee members, coffee unions, estates, associations, traders, county and national government officials, service providers and other commodity officials and associations.

The Committee consulted the East African Tea Traders Association (EATTA) based in Mombasa twice to get clarity on how the Nairobi Coffee Exchange can be modernized using the EATTA Auction model, initiating Direct Settlement System (DSS) and incorporation of the exchange to be a body corporate. Additionally, the Committee consulted Tea Brokers East Africa, Stanbic Bank and Equity Bank who provide brokerage and DSS services to the tea industry. In its second visit to EATTA, the Committee was in the company of two stakeholders in the coffee sub sector, namely Nairobi Coffee Exchange (NCE) and the Kenya Coffee Producers Association to help them gain better understanding of the direct settlement system for the tea industry and its application in the coffee sub sector.

Additionally, the Committee consulted Members of Parliament from coffee growing areas to give their views of the Coffee General Regulations and the Nairobi Coffee Exchange Rules, Parliament Secretariat and Committee on Delegated Legislation on the requirements to legislate the Regulations and Rules. Below is a summary of issues noted, recommendations and comments.

3.0 Consultation with Government Ministries, Institutions and Private Sector

The committee sourced advice from the following sources that enriched knowledge on drafting *The Coffee (General) Regulations, 2016 and the Exchange Rules*.

NO	Name of institutions	Issue Consulted on
1.	State Department of Agriculture /Agriculture and Food Authority	Crops Act 2013 in relation to Coffee (General) Regulations.
2.	Attorney General	Legal opinion on interpretation and response to issues raised in the court cases.
3.	Parliament Secretariat for Committee on Delegated Legislation	Legislation requirements on fulfillment on court directive on stakeholders' participation.
4.	Members of Parliament from coffee growing counties	National and county governments role in promoting coffee productivity and the proposed regulations
5.	State Department of Cooperatives	Cooperatives Act, Regulations and Coffee Cooperatives Development, issues relating to coffee production, processing, marketing, value addition and corporate governance.
6.	The National Treasury	Funding of coffee subsidy and establishment of stabilization fund. Incorporation of the Coffee Exchange
7.	Council of Governors	Devolved functions of county governments and collaborations in revitalizing the coffee sector.
8.	Tegemeo Institute of Agriculture Policy	Impact assessment on Coffee General Regulations.
9.	County governments	Role of national and counties governments on devolved functions related to coffee and corroboration between the two levels of government
10.	KALRO - Coffee Research Institute	Revitalization of the industry increase coffee production and quality.
11.	Capital Markets Authority	Exchange Rules, Operations of exchange and Direct Settlement System, licensing of players
12.	Nairobi Coffee Exchange	Coffee (General) Regulations, Exchange Regulations upgrading, modernization of Coffee Exchange and coffee marketing
13.	East Africa Tea Traders Association	Experience on the Tea industry model on Direct Settlement System Operationalization of DSS and its ecosystem
14.	Kenya Tea Development Agency	Small farmers aggregation under the DSS Digitization of the data capture and management, information dissemination

15.	ICT Authority	Data management through digitization of coffee cooperative societies to enhance efficiency and transparency.
16.	Ethiopian coffee industry	Regulatory framework, cash payment system, modernization of the commodity exchange, warehousing system and the best practices in coffee trade.
17.	International Coffee Organization	International marketing, standards and regulations governing coffee trade and sustainability.
18.	Boresha Initiative	Advocacy and lobbying for farmers interests
19.	Senate Standing Committee on Agriculture	The proposed Coffee General Regulations and Exchange Rules.
20.	Parliament Committees on Delegated Legislation	Procedures to legislate coffee regulations as stipulated in Statutory Instruments Act
21	Stalwart Management Consultancy Ltd	Kenya Commodity Exchange Feasibility Study.
22	Nairobi Coffee Exchange Management Committee	Operationalization of the Exchange Regulations and the DSS, and licensing by CMA
23	Kenya Coffee Producers Association	Security of coffee, DSS operations and farmer representation
24	Council of Governors	Shared functions, licensing and corporation in implementation of the Regulations
25	Inter-Governmental Relations Technical Committee and Ministry Of Devolution	Resolution of the disputes between the two levels of government on licensing and other functions.

4.0 Stakeholders Consulted, Venues and Dates

The following stakeholders who included farmers, county and national government officials, societies, unions, traders and parliamentarians, associations and consultants in various disciplines as need arose were consulted in the venues and dates indicated below.

Venue	Date	Counties/Group	Contact	Attendance
Agriculture and Food Authority Headquarters	23.10.2017	All Coffee Stakeholders meeting at AFA head office, Nairobi.	Invitation through the Gazette and press releases.	123
Naivasha-Enashipae	29.01.2018 30.01.2018	Governors and their CECs from coffee growing counties.	Invitation by letters and press releases	52
Nairobi-Azure	21.02.2018	Chief Executive Committee Members and Chief Officers from	Invitation by letters	62

Venue	Date	Counties/Group	Contact	Attendance
		coffee growing counties,		
CRI Kenya Coffee College-Ruiru	28.02.2018	National Coffee Cooperative Union members.	Invitation by letters	43
Mabanga Agricultural Training Centre Bungoma County	02.05.2018	Bungoma, Kakamega, Busia, Trans Nzoia, West Pokot.	Invitation by letters	63
Nakuru Agricultural Training Centre	02.05.2018	Bomet, Nandi, Kericho, Nakuru, Baringo, Uasin Gishu.	Invitation by letters.	47
Chuka-Tharaka Nithi County	02.05.2018	Embu, Tharaka Nithi, Meru.	Invitation by letters.	54
Kisii Agricultural Training Centre	03.05.2018	Kisii, Nyamira, Migori, Homa Bay.	Invitation by letters.	123
CRI Kenya Coffee College-Ruiru	03.05.2018	Kiambu, Machakos, Makueni.	Invitation by letters.	98
Kerugoya-Kirinyaga County	03.05.2018	Kirinyaga, Muranga and Nyeri.	Invitation by letters.	115
CRI Kenya Coffee College-Ruiru	04.05.2018	Millers, warehousemen, marketing agents, traders, Nairobi Coffee Exchange, farmer associations.	Invitation by letters.	71
Murang'a (Union Hall)	08.05.2018	Murang'a.	Invitation by letters.	80
Nyeri (YMCA)	08.05.2018	Nyeri.	Invitation by letters.	48
Trans Nzoia	28.5.2018	Trans Nzoia and West Pokot	Invitation by letters.	87
Nandi Hills	28.5.2018	Nandi county	Invitation by letters.	136
Mombasa	28-29 th May 2018	East Africa Tea Traders Association (EATTA Benchmarking with tea industry, tea brokers, a buyer representative and the auction	Visit by Committee	15
	and 28 th May 2019		Visit by Committee, NCE and KCPA	20
Mombasa	29 th May 2018	Stanbic and Equity Banks	Visit by Committee	5
Nairobi – Intercontinental Hotel	13.6.2018	Senators and Members of Parliament in coffee growing region invitation by letters	Invitation by letters	31

Venue	Date	Counties/Group	Contact	Attendance
Kipkelion Coffee Mills, Kericho County	29 th June 2018	Senator, Members of Parliament, Members County Assembly, County Executive Committee Members, union leaders and individual coffee farmers	Invitation by letters	669
Kutus, Kirinyaga County	30 th June 2018	All coffee stakeholders in Kirinyaga County through press release	Invitation by letters and Radio announcement	140
Nairobi- Intercontinental Hotel	1 st August 2018	Committee on Delegated Legislation of National Assembly	Invitation by letters	30
Parliament Buildings	5 th July 2018	Senate Committee on Agriculture	Invitation by letters	9
Mombasa- Whitesands Hotel	26 th -29 th September 2018	Committee on Delegated Legislation of the National Assembly	Invitation by letters	10
CPA Room, Parliament Buildings	14 th November 2018	Senate Standing Committee on Delegated Legislation	Invitation by Senate	11
Naivasha Simba Lodge	29 th April to 1 st May 2019	NCE, Kenya Coffee Producers Association (KCPA), COG and IGRTC	Invitation by letters	15
TOTAL 25				2,157

5.0 Key Issues Noted from the Consultative Meetings.

	Regulation/ Rule	Issue raised	Proposed recommendations	How the issue has been addressed
1.	Regulation 2 Definition of grower	Recognition of cooperative society, coffee farmer and estate as grower is not in the Crops Act. Remove the word association in the definition of grower as this will encourage amorphous groups.	Amend the Crops Act 2013 to include definition of grower Amend the Regulation to remove reference to associations	Definition of grower as the person who cultivates coffee is appropriate and retained in the regulation Associations retained and definition made clearer as they were intended to accord growers the constitutional right of association.
2.	Regulation 5(c) County Government function to issue pulping station license	Process of licensing of pulping station by Counties will be very cumbersome. Some Counties submitted there should be no licensing. Grower as the owner of coffee should be free to deal with it as he/she deems fit	The National and County Governments can collaborate in licensing.	Issuance of pulping station licenses is a devolved function of the Counties. Capacity building of Counties is recommended. Regulation retained- County to issue the pulping station licence
3.	Second Schedule: Pulping station licensing requirement of 2 acres or 20,000kg of cherry annual production.	Licensing of farmers to operate pulping station (2 acres or 20,000kg cherry will weaken the cooperatives. Some counties submitted that classification of growers by their land size should be deleted. Cooperatives should not be given monopolies.	All the counties and traders recommended that the earlier requirement of 5 acres be maintained.	Amended the regulations to retain licensing of pulping stations at a minimum of 5 acres or 20,000kgs cherry annual production.
4.	Third Schedule: Obligation of license holder:- The 85:15 rule of capping cooperative societies' expenses at maximum 15% of the net and payment to farmers Minimum of 85%.	The capping of cooperative societies expenses at maximum of 15% of the net earnings from coffee sales and payment to farmers a minimum of 85% cannot be achieved uniformly across the societies due to differences in production and operational capacities.	Retain the 80:20 ratio until productivity increases and society data capture by State Department of Cooperatives is finalized and implemented. Currently the 20% caters for only society expenses from net sales received. The State Department of Cooperatives should	Amended the Third Schedule to incorporate 80:20 ratio as it is currently effected through a Circular from the Commissioner for Cooperatives. The 20% is to be on gross sales and include factory operations, milling, and warehousing and brokerage fees expenses.

	Regulation/ Rule	Issue raised	Proposed recommendations	How the issue has been addressed
			strive to enforce the 80:20 ratio Circular	
5.	Regulation 25 of Coffee General Regulation repeated in Coffee Exchange Regulations Rule 43 of NCE Rules Direct settlement system (DSS)	DSS was regarded as good initiative in some Counties as it will reduce the timelines for coffee payments. However the concept of DSS was received with mixed reaction from sections of farmers in Nyeri, Kirinyaga and Tharaka Nithi Counties as to its value, while the marketing agents have reservations regarding its effective implementation.	DSS will address delayed payments, bring transparency and eliminate unnecessary players in the value chain. Consider addressing the issue of 14 days within which to remit farmers proceeds currently done by the marketing agents and ability of societies to pay farmers without delays. Marketing agents, traders said issue was not delay in payments. Recommended the development of a coffee policy and strategy to increase production.	Removed Rule 25 of General Regulations and retained it under Rule 38 in the Exchange Regulations. NCE Rules substantially amended. The previous CDU terminology was rephrased to read DSS for clarity and more understanding. The DSS was found to have value and is retained with a proviso for a transition period of one year for establishment of the necessary infrastructure and capacity building of growers.

Regulation/ Rule	Issue raised	Proposed recommendations	How the issue has been addressed
	<p>Some participants were concerned that the DSS will lengthen the coffee chain as it is not clear on the timelines for payment to the farmers; currently the law stipulates 14 calendar days payment after an auction.</p> <p>Concerns that the Regulation may not provide safety of proceeds as it are not guaranteed in the DSS.</p>	<p>Pilot the DSS before rolling it out.</p>	<p>A transitional period of one year has now been provided for to enable finalization of the processes necessary for DSS and digitization of systems to be put in place.</p> <p>Provision added for the DSS provider to remit coffee proceeds to the growers and their service providers within 10 working days of an auction.</p> <p>The body and the 3rd schedule of the Exchange Regulations have obligations for the DSS provider including safety of records and deposits.</p>
	<p>Stakeholders need a clarification on the administration fee in the DSS and who will bear the cost.</p>		<p>The CSIC benchmarked with tea industry clearing and settlement system to establish its operation, security features and cost structure. The Committee noted that DSS providers in the Tea Industry make money through overnight lending hence nil transactions processing costs.</p>
	<p>Involvement of commercial banks in the lending business will weaken the rural SACCOs.</p>	<p>Considerations of the rural SACCOs who serve a majority of the members and have farmers' profiles in the disbursement of proceeds to farmers.</p>	<p>The provision is made for licensed financial institutions and SACCOs are among financial institutions.</p>
	<p>The DSS service will weaken and kill the Coffee cooperatives.</p>	<p>Considerations for the DSS to facilitate coffee cooperatives recovery of advances and inputs lend to members</p>	<p>The regulations provide that coffee cooperatives submit accurate and timely claims to the DSS provider through the exchange for settlement.</p>
	<p>Payment of individual member by DSS not possible for now.</p>	<p>Payment from DSS should be done to the cooperative society and not to the</p>	<p>Payment via DSS for members of cooperative societies will be progressively done as</p>

	Regulation/ Rule	Issue raised	Proposed recommendations	How the issue has been addressed
			<p>smallholder farmers directly.</p> <p>However, estate growers can be paid immediately DSS is activated.</p>	<p>growers' data is supplied by cooperatives to DSS. A transition period is provided for.</p>
		Who will Sign a Contract with DSS?		<p>The contract with DSS to be signed by NCE and appointed Commercial Banks.</p> <p>Millers will sign agreements with respective growers for milling and brokers will sign agreements for brokerage services and relaying of sales information to the DSS. Milling agreement and contractual obligations of licence holders and service providers are now provided for in the Schedules</p>
		The regulations have not addressed the dispute under DSS		<p>Disputes under the General Regulations shall be handled using alternative disputes resolution mechanisms with final recourse to the courts (R.40). However those that involve trading may be referred to the Capital Markets Tribunal established under the Capital Markets Act. See Rules 32 and 43 of the Exchange Regulations. The term 'contracted' added to include the DSS in dispute resolution under Rule 40 of the General Regulations.</p>
		Some section of growers do not want to be included in the DSS	Introduce participating and non-participating growers to give growers options	Transition period is provided for to enable parties to put the systems in place.
6.	Regulation10(c)	The farmers expressed mixed reaction on role	Traders and some farmers would like the	The function of grower miller expanded in the

	Regulation/ Rule	Issue raised	Proposed recommendations	How the issue has been addressed
	Grower miller to perform marketing function.	of marketing agent being shifted to miller.	marketing agent function retained in the regulations.	regulations and in the schedules to include the option to own coffee. Broker introduced as an option for sale of coffee at the exchange and agent introduced as an option to offer coffee under direct sale. The Exchange, and the DSS also have a role in marketing to protect growers' interests.
		Growers and grower millers will be too many to participate in the auction floor	Introduce a broker to perform the role of agent for the growers who opt to use an agent	Defined the word broker and agent. Introduced them in the regulations.
		The remittance by marketing agents is currently efficient without delays if the 14 days regulation is enforced.		The proposed period for remittance is reduced to five working days.
		Not all millers have sufficient volumes to access the auction noting that there may be small mills established	Introduce minimum tonnage to access the auction by millers marketing coffee.	The Regulations have provided that the Exchange will be regulated by CMA and develop rules for fair and properly supervised trading practices approved by CMA and ensure that reasonable access to the auction is given to all licence holders. The exchange is proposed to be progressively upgraded to deal with more licence holders.
		Need to competitively identify Marketing agents to enhance competition.	Millers to advertise for competition at least more than five to be evaluated.	Cooperative societies to appoint millers and other service providers competitively as provided by the Schedules and Rule 22 of the General Regulations. Criteria for society to choose a miller are given and obligations

	Regulation/ Rule	Issue raised	Proposed recommendations	How the issue has been addressed
		Change of financial regulations to pave way for commodity exchanges to be under Capital Market Authority.	Millers to publish their milling tariffs and other charges per year.	are provided under the Third Schedule. Publication of tariffs and other charges by millers is provided for in the regulations.
7.	Regulation 16 Third Schedule Obligations of licensees	Why regulate farmers- service providers contracts some of which include providing financial services.		Amended the Regulations/Schedules to emphasize that only regulated financial institutions are authorized to provide financial services. This is provided for in the 3 rd Schedule of the General Regulations.
8.	Regulation 22(4) Commercial miller to ensure that grower or representative is given reasonable notice to be present at the milling process	What constitutes reasonable notice Difficult to implement		To retain the provision. The duty of the miller is to give reasonable notice of the milling time to the grower to promote transparency when milling and marketing coffee. Grower has the option to attend or not to attend once notified.
9.	Rule 40(7) Noted bids of coffee offered in auction hall.	Noted coffee reoffered for sale at a subsequent auction might fetch lower prices.	Negotiation working well but need to involve the grower.	Rule retained for transparency under Rule 25 of the General Regulations, with provision for disclosure of reserve price on the trading floor for confirmed bids and where no competitive offers are given on the trading floor after disclosure coffee to be withdrawn and re-offered for sale at a subsequent auction.

	Regulation/ Rule	Issue raised	Proposed recommendations	How the issue has been addressed
10.	Licensing of local roaster.	The proposal of introducing the local roaster licenses to attract youth welcomed Rule 24(1) may provide loophole that can be exploited by unscrupulous persons who regulate this local roaster? Coffee theft may increase.	To address mechanism in licensing local roasters, coffee for roasting to be sold by licensed millers.	Retain roaster's license and allow sourcing of clean coffee from grower miller and the exchange. Introduced roaster obligations under the 3 rd schedule of the General Regulations to tighten control.
11.	Quality assurance	Grading of coffee to involve the farmer as there are cases of swapping coffee grades without the notice of farmers.	Farmers to be present when coffee being milled, cupped and graded to enhance transparency.	Retained regulation 22(4) that require the miller to notify the grower on the date of the milling of the coffee and added obligations of miller to include timely submission of milling and out turn statements.
		Cooperative do not have qualified liquorers The regulations do not address the quality of coffee; majority of the farmers having pulping unit licenses produce low quality coffee.	Cooperatives to have qualified liquorers. There is also a need to have a capacity building on coffee quality and grading in cooperatives.	There is provision in the regulations (22(9)) for growers to do prior independent sample analysis to curb swapping and National and County governments to collaborate in establishment of coffee cupping laboratories.
12.	Digitization of coffee cooperatives and information sharing.	The ICT status of cooperatives is very limited and the few who have ICT facilities have low capacity to manage them.	Counties to assist in procuring, installing computers and digital weigh scale as well as training of users.	Introduced a transition period of one year to accord growers and their service providers time to establish the requisite ICT infrastructure as spelled out Rule 38 of the General Regulations.
		Farmers lack real time information to make decisions.	Sharing of key coffee information like auction prices, potential market is recommended.	Digitization is provided for under Rule 38 of the General Regulations to facilitate information sharing. Upgrading of the exchange is meant to address this concern and among the functions of an exchange is dissemination of market information to growers.
		There are too many organizations collecting farmers' information/data Management system.	Establish a centralized data management platform.	

	Regulation/ Rule	Issue raised	Proposed recommendations	How the issue has been addressed
13.	Warehouse Receipt System (WHRS).	There were concerns of how warehouse receipt system is to operate and the fear of using it for multiple borrowing.	There is need to establish system to track borrowing when Warehouse Receipt System becomes operational.	Retained and developed mechanisms for operationalizing the WRS in Coffee Exchange.
14.	Nairobi Coffee Exchange (NCE) legal status.	Strengthening the NCE is long overdue	CSIC to fast track the modernization of the NCE	NCE Rules changed to Coffee Exchange Regulations to provide general guidelines for coffee exchanges. One of the requirements is incorporation and regulation by CMA.
		NCE should copy the model of East Africa Tea Trade Association which is owned by producers to control the brokers (marketing agents).	This will enhance competition.	
		Who will monitor the receipts of sales proceeds as proposed by Rule 43 and 44.	Insure that the receipts of sales proceeds process is transparent.	Rules revised. DSS provides transparency in the coffee sales transactions and payment of proceeds. Exchange and DSS provider given obligations under the general regulations (R.25(10))
		Reduce government representation in the board of NCE.	Ensure the NCE Board is farmer centric.	The Coffee Exchange Regulations provide for coffee exchanges to be corporate entities under the Capital Markets Act and other relevant laws and their basic requirements.
15.	Borrowing on behalf of coffee growers from authorized and regulated financial institutions (3 rd Schedule of General Regulations).	The borrowing from the miller/marketing agent should not be curtailed as they offer unsecured loans with relative ease. There was a feeling that marketing agent /miller understand the farmers better and there is guarantee loan recovery from the proceeds.	The financing model of miller/agent to be optional to the grower but should be transparent.	Retain regulation which requires that millers lend under regulated entities under 3rd Schedule (B11) -Miller to establish regulated subsidiary company to provide credit facilities to grower associations
16.	Coffee security Regulation 4 and 5.	Security of coffee is a concern now that the coffee is being harvested. How will the	The Agriculture Food Authority (Coffee Directorate) to increase field	This is indeed a County and National Government function. Counties to be involved in capacity

	Regulation/ Rule	Issue raised	Proposed recommendations	How the issue has been addressed
		security of coffee be dealt with.	inspection and compliance staff and the Counties to complement.	building and supported to enforce the Regulations.
17.	Assumption of risk Rule 47 of NCE Rules.	The provision states that the coffee remains with the farmer until it is paid for and this will introduce extra costs to the farmer which were initially borne by the warehouseman.		The property right of the coffee is vested in the farmer until the purchaser pays the farmer even though the warehouseman has custody of the coffee.
18.	Licensing under the General Regulations	Agriculture is a devolved function and national government should cede county functions and licensing to county governments	Share functions according to the Constitution	General Regulations amended. County functions: Registration of growers and growers' institutions, issuance of nursery certificates, pulping station, milling, warehouse and roaster's licences and movement permits for coffee until purchase. National Government functions: Licences for buyers, liquerers, cupping labs, warehouseman, permits for purchased coffee, and imports and exports.

6.0 General Issues Noted From Meetings and Memoranda

The following were the general issues, noted, suggested or expressed by stakeholders during the consultation meetings which have been considered when drafting *The Coffee (General) Regulations, 2018*.

a) Consultations.

Stakeholders thanked the government through H.E the President for recognition plight of coffee farmers, appointing the National Taskforce on Coffee Reforms and the Coffee Sector Implementation Committee. The stakeholders particularly the farmers would like the spirit of holding

consultations, farmer educating and sensitization to be sustained in future for a better understanding of the regulations and the impact after they are legislated.

b) Gender and Youth Empowerment.

The stakeholders requested that both women and youth be included in the entire coffee value chain as recommended in the Taskforce Report. They suggested that an affirmative action be put in place to effect their appointment to respective committees. The stakeholders noted that youth prefer quick payments and any intervention like the cherry advance can attract them into coffee business. They recommended the committee to explore on how other countries involve the youth in the coffee chain.

c) Miller's tariffs:

Farmers are suspicious of the tariffs set by millers as they are unrealistic and think that millers may be swapping coffee samples. They proposed that all coffee tariffs needs to be standardized and publicized for transparency.

d) Subsidized Farm Inputs:

Farmers noted that accessibility and affordability of farm inputs is necessary to increase coffee production. They further noted that the current fertilizer procurement and distribution is cumbersome and time consuming and would like a review of the process. They suggested that counties pool resources together to secure the affordable fertilizer for coffee farmers.

e) Coffee Varieties:

Stakeholders from Busia and Siaya were concerned that Robusta coffee has not been covered by the taskforce in the report but it is one of the varieties of coffee as set out in the 5th Schedule of the *The Coffee (General) Regulations, 2016*. Farmers are concerned on non-availability of Ruiru 11 coffee seedlings in most of the counties and when its available, the cost per kilogram is high. It was explained that Coffee Research Institute is not receiving funds from the National Government to produce the seedlings. The County and National Governments were requested to fund the production and subsidize price of coffee seedlings to farmers.

f) Capacity Building:

Majority of the farmers and staff in the coffee subsector lack basic skills to produce and manage coffee at processing level and expressed the urgency of training farmers staff and management committees in the cooperative societies as one of the interventions to increase production.

g) Coffee value chain competitiveness:

The Kenyan coffee value chain has lost its competitiveness to others sectors like real estate, tea, dairy, avocados, macadamia etc. In order to reverse the threats, there is need to support increased production, coffee subsidy and introduce coffee price stabilization fund.

h) Stabilization of the Cooperative Societies:

It was noted that some farmers migration from one cooperative society to another is destabilizing societies especially where farmers were given farm inputs and loans decided to abscond. The stakeholders' proposals were that an integrated data management system be put in place and

societies formulate by-laws that enhance good corporate governance and the county governments enforce the compliance.

i) Coffee working group:

Stakeholders recommended the formation of County Coffee working Groups at county level to assist in formulating county coffee policies and guidelines for implementation of any reforms in the sector. It was proposed that small and medium coffee estates be encouraged to form associations so as to benefit from economies of skills.

j) National Coffee Strategy:

There were concerns that the coffee subsector lacks a national coffee development strategy to address the coffee issues. Such a strategy would provide an enabling environment to coordinate production and marketing of coffee.

k) Coffee Revolving Fund and Minimal Price

Stakeholders request the national and county governments to initiate a coffee revolving fund to stabilize the coffee prices and for procurement of inputs. Farmers would like to have a guaranteed minimal price per kilogram of cherry set by the government more than to be cushioned through a price stabilization fund.

7.0 Annexes

Annex 1: Stakeholders Consultations Meetings Photos

The following photos were taken in some of the venues where the committee met stakeholders.

Chairman of CSIC Prof. Kieyah addressing stakeholders in Kerugoya, Kirinyaga



Coffee traders at CRI Kenya Coffee College presenting their submissions on the Regulations



Coffee stakeholders following the presentation of regulations in Nakuru



Coffee stakeholders from Kiambu, Machakos and Makueni Participating in the Meetings to review the Coffee General Regulations.



Stakeholders attending validation meetings in Kisii



Stakeholders attending a validation meeting in Bungoma



Coffee stakeholders attending a validation meeting in Chuka-Tharaka Nithi



Prof Kieyah (Above and below) addressing Coffee stakeholders attending a validation meeting in Kipkelion-Kericho



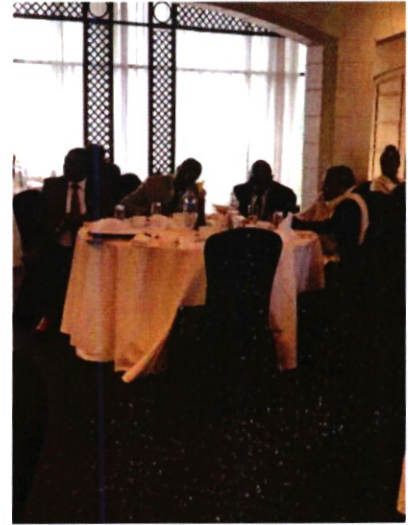
Hon. Gichimu, MP for Gichugu (below and above) and some CSIC Members and stakeholders attending a validation meeting in Kutus-Kerinyaga



CSIC members' consultative meeting with Members of Senate Standing Committee on Agriculture at Parliament Buildings



CSIC consulting with Counsel from National Assembly



Hon. Gladys Shollei and Prof. Kieyah (below) and in a consultative meeting with Delegated Committee of Parliament on Coffee General Regulations



Mrs Mary Mungai addressing the National Coffee Platform Stakeholders in Nairobi.



COG members making a presentation to CSIC and County Executive Officers




SAROVA WHITESANDS
BEACH RESORT & SPA
MOMBASA



**JOINT RETREAT FOR CSIC AND COMMITTEE ON DELEGATED LEGISLATION ON COFFEE REGULATIONS, 2018
AND COFFEE EXCHANGE RULES, 2018 AT SAROVA WHITESANDS BEACH RESORT & SPA, MOMBASA
25TH - 29TH SEPT 2018**

Annex 2: Consultative Meeting with Governors from Coffee Growing Counties on the Implementation of Coffee Sub-Sector Reforms 29-30th January 2018.

Role of County Governments in Implementing Coffee Reforms

The aim of the presentation was to highlight the key areas of interest that County Governments can support the coffee reform agenda. The reforms would heavily depend on the level of harmonization of the functions by the two levels of governments in the coffee subsector.

Coffee Legislation

The thematic area focused on legislation and the Memorandum of Understanding (MOU). The following issues were discussed—

1. The view of the county governments with regard to the sharing of licensing and licenses between the counties and AFA/National government.
2. The view of the county governments on the distribution of the functions between the county governments and AFA/National government.
3. The views of the county governments with regard to the MOU.
4. Other areas of cooperation to be included/amended in the MOU.
5. The view of the county governments on payment system of coffee proceeds directly to farmers through Direct Settlement System.
6. The view of the County Governments on the reform of the trading system at the coffee exchange and the change to Commodities Exchange.

The following proposals were agreed upon—

- (a) The funding obligations provided for under clause 4.1 of the MoU- it was resolved that the clause be deleted as it was ambiguous;
- (b) The specific functions of the signatories to the MoU were not clear- it was agreed that the MoU will act as a framework for engagement with the counties which will enter into specific contractual agreements with the signatories on coffee matters relatable to the signing county;
- (c) The members agreed that the specific governors of each of the coffee growing counties be signatories to the MoU.
- (d) Members adopted division of functions between the National government and the county government.

It was proposed that the National Government/AFA be only issuing liquoring and independent cupping licenses and the counties to issue other licenses. Another proposal was for the national government to issue trader's license, and the commercial milling and commercial warehouseman's license because the latter two usually operate across several counties.

Cross cutting Issues.

- a) Development of national coffee policy and strategy
- b) Environmental issues
- c) Youth involvement in coffee along the value chain
- d) County legislation along the coffee value chain

Grower Definition:

They challenged the recognition of the individual coffee grower as the grower of coffee. However, the provision is in line with the Constitution which recognizes and protects individual/private property rights under Article 40. Coffee belongs to the person who grows it. This protection includes Co-ops where they grow their own coffee crop. Any other person is a service provider under a contract for service.

However, the rules also recognize Co-ops as an association of coffee growers. See the definition of association where cooperatives are included.

Therefore, it is not correct to state that the Co-operative society is not recognized as a grower at all in the regulations. It has not only been correctly defined as an association of growers, it is further recognized as a grower for purposes of obtaining a grower miller's licence.

Pulping Station

There was no intention to commercialize pulping. The term "commercial" was removed

Obligations of Pulpers

1. **Digitization:** The country is moving towards digitization of services in this IT age. Gradual change is envisaged in digitization and credible, transparent record keeping, security for coffee is required.
2. **Borrowing:** The proposed cherry advance will take care of the growers' need for funds. They are not being deprived of finances, they are changing from borrowing through the Co-op to getting direct advances. The regulation of money lending financial institutions is now introduced.

Movement Permits

The purpose of the permits is to curb coffee theft and to ensure that only owners of coffee or their authorized agents move coffee. The intention of nearest miller was to cut down on heavy transport costs. However, to ensure that quality of the coffee is maintained by the miller, the rules have been amended to provide for competitive procurement of miller and other service providers by cooperatives and other entities representing growers.

Pooling of Farmers for Marketing

There was a misunderstanding. The intention was to enable two or more growers who qualify to get a licence, to be able to join together for purposes of economies of scale to apply to the licensing authority for one licence to carry any of the activities for which a licence is issued, such as pulping, milling, roasting etc. There is no affront to the right to property. Rather, the provision expands the right to property and the freedom of association to enable growers to enjoy these rights jointly.

Direct Settlement System

The role of Direct Settlement System (DSS) is to receive and separate money payable to respective payees and pay them directly. This is why it is important to agree on payments for services at the commencement of the service contracts. CDU is now renamed DSS. Time of one year from the operationalization of the Rules has now been allowed to put the DSS support systems in place.

DSS provider will not be one bank but several accredited banks, that meet the given criteria for selection and the grower can appoint his/her preferred bank for these purposes. CMA role in the operations of the exchange including the DSS are enhanced in the revised rules.

Annex 4: Traders Memorandum presented at Coffee Research Institute on 4 May 2018.

THIRD SCHEDULE

1) RULE 16

Pulping Stations Licenses

- a) No authority to handle farmers money as payments will be done by DSS (CDU)
- b) Limiting borrowing from financial institutions on actualization of DSS.

2) RULE 21

- a) Authorization of pulping stations to hull coffee parchment and buni.
- b) Digitalization of weighing machines

3) RULE 24

- c) Authorizing societies to do direct sale and selling coffee for local roasting

4) RULE 25

- a) **Concern:** Removal of Marketing Agency remove but from the above their role still remains

Their role has been transferred to Millers, brokers(optional), agents(optional) DSS, collateral manager, NCE and warehousemen.

5) RULE 25 (5) AND (6) contradicts Rule 22 (13), 25 (1-4) and Rule 7 (j) and (k)

6) Collateral manager- the General Rules and NCE trading rules are in conflict with this rule.

7) Rule 10 and Rule 32 (5) and (6) on liquorer licensing

8) Rules 22 warehousing the intention is ok but logistics required to implement may make it difficult to implement.

9) NCE Trading Rules

a) Receipt Of Sales Proceeds –Who will monitor sales proceeds Rule 44

b) What marginal money? Rule 43 (15) (b) who does it apply to? – Who absorbs the cost of the above commitments?

(These concerns have been addressed in amendments)

c) Proposed Regulations and Trading Rules are meant to address the sales proceeds and settlement of proceeds and by so doing created loopholes to be exploited for the detriment of the sector as the role are spread across institutions thus adding bureaucracies.

d) What role is the NCE envisaged to play? NCE given too much functions and in its current status cannot be expected to perform any better but creates a mega bureaucracy experienced in the past. (Obligations of an exchange have been added in the body of the Regulations)

e) Rules 54 of NCE entrenches it as a regulator.

A Bill of Lading contains proprietary/confidential information which most exporters will find difficult to share with the NCE?

(General guidelines for incorporation of a coffee exchange and its operations have been given)

10) General Comments

- a) Need to have a sound coffee policy which has been the hindrance. (National Coffee Policy being developed)
- b) Sector beset by old rules which increase cost of doing business (Regulations are important to create predictability and a level playing field)
- c) New regulations should be thought through putting into account the impact in the industry but not for knee jacking as the case is presently.
- d) The regulator is weak in enforcing the regulations

Annex 5: Commercial Coffee Millers and Marketing Agents Association

Thematic Area	Issues	Propose Forward	Way
Rule 7(3) , 2 and Rule 24(1) and 2	Obligation of pulping license has introduces a loop hole that can be exploited by unscrupulous persons. The Combination of these rules allows illegal activities to thrive	Other legal entities are allowed Constitutionally. Enforcement to prevent abuse.	
CDU	Is the CDU settlement account held by the grower or can also be held on behalf of the grower?	Initially, accounts to be on behalf of grower until the systems are fully in place.	
Obligations of License holder vis Warehouse man's Obligation:	Is it practical to expect the warehouseman to play quasi regulatory role? Are they expected to be answerable to the grower without any contractual obligations	Obligations of warehouseman in schedule 3 are introduced. They are implied in every service contract.	
Eighth Schedule:	This schedule is a direct copy of the Bollore logistics warehouse warrant, their company structure included. Other warehouse have different organizations structure	Companies are free to modify the form.	
Requirement relating to Coffee Milling	As per the current proposal the former role of the marketing agency is now seemingly split amongst millers, direct settlement provider, NCE, warehouse man, clearing house and collateral manager (most of whom) have no contractual obligations to grower. How will these new institutions be financed? Who will absorb the resulting additional cost.	Obligations introduced for service providers in the Coffee General Regulations.	
	Rule 22(5) & (6) contradicts rule 22(13), 25(1),(2),(3),(4) and 7(j) and (k)	Amendments have addressed the concerns	
	Rule 22(4) might be very difficult to implement	Notice to grower is not difficult to give.	

No	Issue Raised	Response
		secondary milling takes about a month, the marketing begins in January to about May every year. Unlike tea, coffee is paid for after an average of not less than 6 months. The National Task Force on coffee reforms has proposed a cherry advance model to help reduce the systemic delays. The Meru county government is piloting the cash model whose success will inform other County Governments. The Regulations have now proposed faster and more transparent payments through the DSS.
10.	Scramble for Kenya coffee is still alive	Kenya coffee is unique in its quality and produces a superior cup. It is used for blending coffees from other origins which may of different qualities. To protect the Kenya coffee Regulations now propose that any person who blends Kenya coffee with other coffees must declare the percentage of the Kenya coffee in that blend.
11.	Coffee thefts at growers' institutions	The Task Force Report established that coffee thefts were a problem affecting cooperative societies and made a number of recommendations - take up of insurance cover, CCTV installations, enhancing guards, alarms installation, avoidance of parchment accumulation. Security is a responsibility of growers who should liaise with the security agencies and take the said security measures.
12.	Central Depository Unit(CDU)	<p>The purpose of the proposed CDU, now renamed Direct Settlement System (DSS), is to ensure transparency and efficiency in receipt of coffee sales, settlement and disbursement of coffee proceeds. In addition, the DSS will shorten the value chain and eliminates the need for prohibitive requirement of USD 12 million bank guarantees as security for millers. The DSS will enable the grower miller to access the auction without requirements for a guarantee as they will not handle coffee funds. Growers without a milling license may access the auction through brokers or undertake direct sale. The DSS guarantees prompt payment to coffee growers including all service providers within five working days.</p> <p>The DSS, does not lock out the cooperative societies but shall ensure timely and efficient release of coffee proceeds and recovery of any financial obligations.</p>
13.	Suspension of proposed Coffee Regulations 2016 after gazettement for public participation	The High court suspended the previously proposed regulations after gazettement in 27 th June 2016 following litigations by three parties. A High court ruling made on 28 th July 2017 directed that further consultations are held and the regulations promulgation process is completed. The Coffee Sector Implementation Committee (CSIC) consulted stakeholders and have since reviewed the regulations and incorporated the stakeholders' views. The Committee further conducted stakeholder validation meetings from May 2018 to Niovenber 2018 which have informed further amendments to both the Coffee General and Exchange Regulations.

No	Issue Raised	Response
14.	Shortening of value chain and difficult in the licensing process	The Task Force report recommended the scrapping of the commercial marketing agent (CMA) licence and transfer of the CMA role to the miller, broker and the proposed DSS. The DSS will receive proceeds and recover the growers' financial obligations and convey the net to the growers' accounts on the 80:20 as proposed in the new regulations. The DSS eliminates the prohibitive bank guarantee which many growers could not raise and therefore were not able to access the auction.
15.	Farmers to receive 40% of the selling price advance for cherry deliveries.	The Task Force report acknowledged the systemic delays in coffee payments and proposed cash payments against cherry delivery at 40% of the selling price or Ksh15/kg cherry whichever is the higher. The recommendation is intended to ensure farmers carry on with their lives without financial handicap and that the systemic delays are shortened.
16.	Smallholder farmers have limited capacity to process and market their coffee -farmers with less than 1500 bushes can only access markets through a cooperative society, a miller and a marketing agent.	Small holder coffee growers are organized into cooperative societies so as to have them enjoy economies of scale. The coffee is wet processed at the primary factories and conveyed to grower owned mills or commercial mills for secondary processing in readiness for marketing. Growers collectively bargain for competitive prices at the auction or through direct sales. Growers who own 5 acres of mature coffee (2700 bushes) are free to obtain a coffee estate license to wet process and market their own coffee. Now the requirement has added 20,000 Kgs annual average coffee production for three years as an alternative qualification.
17.	Meager earnings by growers from the coffee growing business.	Amount of earnings by growers depend on their productivity, efficiency of the cooperative society, the quality of coffee and the prevailing market prices. Most of the time farmers with high productivity high quality with efficiently managed societies break even. These are the factors which ought to be addressed.
18.	Cash crop plunge over the years	The reform measures are intended to encourage growers to increase coffee production.
19.	National Task Force recommendations	H.E. the Head of State appointed a National Task Force which conducted a study and made a number of recommendations which are aimed at addressing various challenges facing the coffee industry. Some of the recommendations seek to address systemic delays in coffee payments, coffee marketing, high cost of production, and poor governance at growers' institutions.
20.	Highest coffee grades by pass the auction - 15% of coffee leaving mills for the export market, leaving lower grades for the auction	The Coffee General Rules and the Coffee Exchange Trading Rules allow growers to access the overseas markets directly or through their appointed commercial marketing agent (CMA). The CMA most of the time accesses the overseas markets on the behalf of the farmer and with the farmers approval through direct sales contracts. The direct sales prices are always higher than the auction. The Direct sales contracts are registered with the Coffee Directorate.

No	Issue Raised	Response
21.	Control of value chain from farm to warehousing and export.	The Coffee Regulations 2002 restrict companies in the business of milling from obtaining the marketing licences. Companies in the business of milling or marketing cannot be also coffee dealers (exporters). This ensures separation of roles and eliminates conflict of interest.

Annex 7: Newspaper Articles in Daily Nation of 3rd April 2018

1. Introduction

The two articles contained comments on various issues regarding the ongoing coffee sub sector reforms. Following is a response on the various issues raised on the separate dates: -

3 rd April 2018 Article		
No	Issue	Comments
1.	Coffee monthly payments rejected as proposed by the task force report	The Task Force Report has taken cognizance of the systemic delays in coffee payments and proposed advance or initial payments to shorten such delays. Such payments are again not mandatory in the regulations being proposed.
2.	Implementation of contentious reforms /issues	The Coffee Sub Sector undertook consultations on the contentious issues such as establishment of the coffee pricing committee and it was removed and appropriate amendments have been introduced to the proposed coffee regulations
3.	Implementation of cash model in Meru County.	The implementation of the cash model in Meru is an initiative of the county whose objective is address the systemic delays in coffee payments. The County Government leadership has fully consulted and walked with coffee cooperative societies and coffee estates who are in agreement. The Meru initiative is also voluntary. The Meru County leadership resonates with the Task Force report and CSIC thinking.
4.	Comparison of the envisaged coffee industry cash model with the Tea Model	The Tea model has served the Tea industry well and other sub-sector such Dairy, Macadamia, and Bananas have adopted the cash model and they are doing well. It is only in coffee where the average age of a farmer is over 65 years.
5.	Article states ' <i>The Coffee Directorate should wait for harmonization of contentious reforms before implementing them</i> ' by Harrison Munyi	The Coffee sub sector Reforms are not being undertaken by the Coffee Directorate. It is the Coffee Sub Sector Implementation Committee (CSIC) which is driving the reforms in line with the recommendations contained in Task Force Report and feedback from past consultations. The CSIC was appointed by H.E the Head of State.
6.	Agreeing on all reforms	The CSIC has carried out validation consultative meetings in West, Central Rift, Mt Kenya and all coffee growing counties in Kenya and shared the amended regulations. This has gone a long way towards ensuring that most issues are agreed upon.

Annex 8: Press Release: A Joint Statement by Chairmen of Embu County Coffee Co-Operatives; in Daily Nation of 6th April 2018

The following were the responses from Coffee Sector Implementation Committee (CSIC) on the various issues raised;

Coffee Sector Implementation Committee's Response

	Issue	Committee's Response
1.	Reference to the Coffee Rules 2016	Reference to the said Rules may imply that the same Rules are being upheld. The Rules have substantially been reviewed following further consultations and feedback from stakeholders. Now we have a revised set of Coffee General Regulations for 2018 which are subject to ongoing stakeholder consultations. The meetings took place in May 2018 in the coffee growing regions.
2.	Conservatory orders made by the Nyeri Court in 2016	There were two other related cases filed in Nairobi High Court in which a judgment was given in July 2017 which required the parties to engage in further consultations in the making of the coffee rules. This judgement was communicated to the High Court in Nyeri. Since then the committee has conducted various stakeholder consultations in compliance with the court order, a process which is now completed. The petitioners in the cases are some of the stakeholders whose responses to the proposed regulations were captured on newspaper articles and taken into account by CSIC..
3.	Appointment of the Coffee Sub Sector Implementation Committee(CSIC)	The CSIC was appointed not only to implement the Task force report but has a broader mandate which includes consideration of contentious issues raised by stakeholders. In its consultations, the committee has engaged all the stakeholders along the coffee value chain without bias.
4.	Consultations for regulations validation	The CSIC has not targeted friendly groups but sought to consult stakeholders along the entire value chain during the validation of the reviewed regulations. West, Central and Eastern coffee growing regions were targeted for the validation exercise.
5.	Publication of the Nairobi Coffee Exchange Trading Rules in February 2018	The Committee has not published the revised Nairobi Coffee Exchange Rules as construed in the advert. The rules have been reviewed and validated by stakeholders. They have also been presented to the relevant Committees of Parliament for perusal and approval before such publication can be done.
6.	Permitting alternative groups to	One of the objectives of the review was to align the regulations to the Constitution and other applicable laws and the Constitution guarantees freedom of association to all

Licensing	Rules 10(b) and Rules 32(3) and (5) amongst others, introduce a new holder "Liquourer" who are required to renew their license annually	Annual changed to three years subject to capacity
	Who will monitor the receipts of sale proceeds as proposed by rule 44. What margin monies are referred to under rule 43(15)b and who does apply to?	Exchange, DSS provider given roles to monitor under the regulation of CMA. Penalties introduced for traders and roasters who default.
	As proposed rules have placed numerous roles and responsibilities on NCE most of which they are ill suited. Placing all these functions under one body will create mega bureaucracy and based on past experience with similar institutions, stakeholders know exactly what to expect	Roles are now shared and obligations are introduced with penalties for default. The exchange will be regulated by CMA.

Annex 6 : Press: Issues Raised in Standard Newspaper Dated 23rd May 2018

An article contained in the Standard newspaper dated 23rd April 2018 raised a number of issues related to the ongoing reforms in the coffee industry among other sub sector issues.

The following clarifications are accorded-

No	Issue Raised	Response
1.	Foreigners tighten grip on coffee trade as farmers lose	Under the national trade laws Kenya is an open economy and foreign firms are free to invest in Kenya and bring in the much-needed foreign exchange. Foreign investors are subjected to equal treatment like any other local investor along the coffee value chain. There isn't any form of discrimination against local firms or foreign firms. Foreigners have do not have any undue advantage over the local firms so as to have a grip on coffee trade.
2.	Multinationals (6) tilting commodity prices leaving small holder farmers to earn peanuts.	Multinational or foreign firms to compete for coffee at an open bidding process where those who offer the highest prices buy the coffee. Provision is made in both the General and the Exchange Regulations for the exchange to give access to all persons licensed to trade.
3.	Coffee prices at auction only a fraction of the of the market prices –	The coffee prices realized at the Kenya action are among the highest prices when compared with other mild Arabica of countries such as Colombia, Guatemala which produce similar mild coffees. The % of the earnings remitted to farmers depends on the farmers' productivity and the efficiency and economies (or diseconomies) at the same growers' institutions.
4.	Coffee pricing committee	The Government recommended establishment of a coffee pricing committee which was rejected by farmers and the reviewed regulations no longer contain the committee.

No	Issue Raised	Response
		Nevertheless, its objective was to give growers indicative prices based on global price trends, local price trends and the quality of coffee on offer. It was intended to disseminate information to enable grower negotiate better when undertaking direct sales or fixing of reserve prices. Sharing of market information is now given as a responsibility of the exchange.
5.	Control of value chain from bean to the consumers' table through sub subsidiaries of multinational controlling 70% of the beans.	The licensing of players has clearly articulated that certain license categories cannot be held by one company e.g a trader cannot be a commercial miller, warehouseman, broker or agent a cannot be a coffee dealer (exporter). These provisions have been made for separation of roles. None of the licensed companies is allowed to handle the coffee at its cherry stage but they await such coffee at the milling or marketing stage at which growers voluntarily contract the service providers competitively. The performance of coffee dealers/exporters at the auction is depended on their market access abilities and financial muscle to pay for coffee purchased.
6.	Too much regulation has in the coffee sector has erected unnecessary barriers to entry which is a perfect environment for price manipulation.	The regulatory framework ensures respective players keep to their roles and comply with the coffee standards and the industry code of practice. It is because of this that Kenya coffee is of the highest quality in the world and continues to attract premium prices. Recent efforts to open up cherry buying was declined.
7.	Farmers getting the shortest end of the stick as their producer reaches the market with multiple prices	Farmers in Kenya continue to receive among the highest coffee prices globally. The millers and marketing agents' services summed up amount to not more than 3% of the gross sales - on average. The handling of the net 97% of the auction gross sales depends on the growers' institutions governance structures. Efficient societies pay up to 95% of the 97% net sales from the marketing agents.
8.	Two of every three beans produced from Kenya in 2016/2017 were bought by multinationals	The coffee produced in Kenya is sold through the NCE or direct sales. Growers are free to sell their coffee at any of the traditional, specialty or emerging markets and the Coffee Directorate should always facilitate such sales. However, there are a number of large global companies which have invested for a long time and deal in substantial volumes of coffee from all the global coffee production countries. The companies do not directly source for coffee but have established networks. Nevertheless, growers can clinch lucrative direct sales with thousands of roasters situated in coffee consuming countries (Germany, USA) provided they organize themselves into large units which can sustain the supply.
9.	Delay of coffee payments for a whole year.	The delays in the release of coffee payments is systemic as coffee takes almost 9 months from flowering to cherry ripening, then the primary processing takes 3 months, the

	operate cherry processing activities	Kenyans including growers. In order to preserve the public order and promote collective arrangement for farmers, the central role of farmer's cooperatives is acknowledged. Additionally, the regulator has been empowered by the amended regulations to curb coffee theft and other malpractices.
7.	Central Depository Unit (CDU).	The purpose of the proposed CDU, now renamed Direct Settlement System (DSS), is to ensure transparency and efficiency in receipt of coffee sales, settlement and disbursement of coffee proceeds. In addition, the DSS will shorten the value chain and it eliminates the need for prohibitive requirement of USD 12 million bank guarantee as security for grower millers. The DSS will enable grower miller to access the auction without requirements for a guarantee. The DSS guarantees prompt payment to coffee growers including all service providers once the relevant information is furnished to the DSS provider through the exchange.
8.	Coffee Pricing Committee(CPC)	In the revised regulations, the Committee has removed the proposed coffee pricing committee in response to submission by stakeholders.
9.	Unique role played by Cooperative societies	The Committee acknowledges that cooperative societies play a key role beyond primary coffee processing. The reforms are not in any way diminishing these roles of cooperative societies such as advancing school fees and medical expenses against anticipated sales. The societies shall therefore continue with these roles and through the DSS such moneys will be recovered and remitted to the societies accounts. In this regard the societies will continue to prepare the Payment Calculation requests (PCR) to enable processing of payments to the coffee growers and their service providers.
10	County Governments to mobilize Growers for Coffee Marketing	This was one of the contentious issues and the rule 24(2) was amended by removing it. However the committee recognizes the Constitutional mandate vested in the Counties in regard to Agriculture and Cooperative Management and have provided for the functions of each level of government in the General Regulations.

General Observation

The committee notes that the issues raised by the Embu Union chairpersons as concerns have been addressed since 2016 and much is being implemented as recommended in eight pillars of the Task Force Report. The committee encouraged Embu Cooperatives societies' continued participation in the consultations and validation of the regulations.

Annex 9: Consultative Meetings County Executive Committee Members, Chief Officers and County Directors of Agriculture, County Directors of Cooperatives from Coffee Growing Counties on 21st February 2018

An Overview of:

- a) The Draft Coffee (General) Regulations, 2018
- b) The Draft Nairobi Coffee Exchange Rules, 2018

Purpose of the Review

The purpose of the review of the Regulations is to:

- (a) to give effect to section 40 of the Crops Act, 2013;
- (b) to provide for licences to be issued by the licensing authorities;
- (c) to provide for the obligations of licence holders and service providers, and the protection and regulation of their interests along the value chain;
- (d) recognize the grower of coffee as the owner of coffee until the coffee is sold and paid for;
- (e) provide for protection of growers' rights along the value chain;
- (f) provide for a transparent and timely clearing and settlement of coffee sales proceeds to the growers and service providers;
- (g) provide for the collection and maintenance of data related to coffee;
- (h) ensure improvement of coffee standards, increased production and support; and
- (i) regulate the coffee industry in Kenya

Key Highlights of the Coffee General Regulations

Part 1 – Preliminary

This part contains the preliminary provisions of the Regulations including the citation and commencement, interpretation and purpose of the Regulations.

Part II – Functions of the Authority and the County Governments

Regulations 4 and 5 clearly spell out the roles of the Agriculture and Food Authority vis-à-vis the County governments. The Authority shall issue licenses for coffee buyers, cupping, liquoring and warehouseman, develop and promote strategies for the coffee industry and develop the coffee industry standards and code of practice. The county governments shall issue licenses for coffee nurseries, pulping stations, millers, warehouses and local roasters, issue movement permits, offer extension services and register coffee growers for data collection among others. Both levels of government shall consult and cooperate in the development, promotion and regulation of the coffee industry.

Part III – Registration and Licensing

This Part contains provisions on registration of growers, registration of dealers, types of licenses to be issued by the County Government and the Authority, licensing procedures, duration of licenses, and obligations of licensees as well as provisions relating to movement permits and dispute resolution on licensing.

Licenses/Certificates proposed to be issued by County Governments include:

- a) Registration of growers
- b) Coffee nursery certificate
- c) Pulping station license
- d) Miller's licenses
- e) Warehouse licence

- f) Coffee roaster's license
- g) Movement permit for coffee before purchase

Licenses/Certificates proposed to be issued by AFA

- a) Warehouseman's license
- b) Coffee liquoring license
- c) Independent cupping laboratory license
- d) Coffee buyer's license
- e) Coffee import permit
- f) Movement permits for purchased clean coffee
- g) Registration of direct sales contracts,
- h) Certificate of Origin and certificate of quality

Part IV – Production and Processing

This part relates to notification of planting or uprooting coffee; development and enforcement of a coffee industry code of practice and standards on coffee production, processing and marketing; certification of Kenyan coffee; guidelines on seedlings and requirements on milling to ensure maximum production of high quality coffee in Kenya. KARLO or its authorized agents are to issue certified coffee seeds or seedlings. Others to obtain certification from relevant statutory bodies. The role of NACOSTI is acknowledged.

Part V - Coffee Trading and Marketing

- a) This part contains provisions relating to coffee trading, direct sales, management of the Coffee Auction, preparation of sales catalogues, coffee warehousing, export and import of coffee.
- b) Coffee shall be traded through auction at the Exchange and direct sales. Persons with access to the auction are coffee buyers, local roasters and grower millers. Brokers who may be appointed by the grower for sale of coffee at the exchange. Agents may also be appointed for direct sale. This will reduce the number of players in the value chain and also allow the farmer to participate in the process. Marketing agent's license is abolished. The appointment of the broker and the agent is optional.
- c) Proceeds of the sale of coffee by auction shall be deposited in the Direct Settlement System managed by the Exchange and this will eliminate delays in payment to the farmers and also create transparency in the auction process.

Part VI - Quality Assurance

Provision of inspections by the Authority and the County Government on coffee farms, mills, warehouses among others, prohibition against removal of labels or seals from packets of coffee and surveillance within coffee growing counties. The Authority and county governments shall collaborate in the enforcement of coffee industry standards along the value chain, for purposes of quality assurance. The Authority may develop training curriculums, conduct examinations and jointly issue certificates for coffee liquorers, in consultation with accredited universities of higher learning, and industry stakeholders. The Authority is given liberty to inspect and to sample coffee at any stage of the value chain for analysis to ascertain the pesticides residue levels and ascertain quality.

Part VII – General Provisions

This part contains provisions on dispute resolution between persons licensed or registered under these regulations, prohibition of alteration of licenses and certificates, information sharing, a general penalty for contravention with the Regulations and transitional provisions.

4.0 Certificate and License Fees

Category	Amount (KES.) USD	Payment
Application Forms	Nil	Licensing Authority
Growers Registration	Nil	County Government
Nursery Certificate	KES 1,000	County Government
Pulping Station licence	KES 1,000	County Government
Grower's miller licence	KES 10,000	County Government
Commercial Coffee Millers licence Over 10,000MT CC	USD ,2,000	County Governments
5000-9,999MT CC	USD 1,000	
3,000-4,999	USD750	
Less than 3000MT CC/NEW	USD500	
Roaster's Licence		County Government
Over 1000 Bags	KES10,000	
500- 999 bags	KES 7,500	
100 - 499 bags	KES 5,000	
Less than 100 Bags /New	KES 2,500	
Coffee Commercial Warehouse Licence Over 200,000 bags 50,000- 99,000 bags Less than 50,000bags /New	USD 1,000 USD 750 USD 500	County Government
Buyer Over 10,000 bags annual purchases 5,000 – 9,999 bags annual purchases 1,000 – 4,999 bags annual purchases Less than 1000 bags purchases/New licence	USD 500 USD 350 USD 250 USD 100	Authority

Parchment/Buni coffee movement permit (per leaf)	Free	County Government
Clean coffee movement permit from County of origin (per leaf)	KES100	County Government
Clean coffee movement permit for coffee exports (per leaf)	USD 1	Authority
Late application fee	10% of the license fees	Licensing authority
Independent Cupping Center	KES 20,000	Authority
Liquorer's practicing licence fees	KES 2,000	Authority
Processed coffee import permit	Ksh10,000	Authority
Warehouse man's licence	Ksh 2,000	Authority

Issues Arising on:

Licensing

- a) County representatives indicated that they wanted all the licenses/certificates to be issued by the Counties except import and export permits, and trading, liquoring and cupping licences.
- b) Some county representatives felt that the licenses were too many and could be combined into one business permit/license allowing the licensee to pulp, mill, roast coffee and establish restaurants

Other Subsequent Proposals

- a) Issuance of warehouseman and milling licenses by AFA but subject to clearance by counties and sharing of license fees.
- b) Remove the express prohibition against sale of cherry and parchment trading (amend rules 22 (4) and (5)).
- c) Central Depository Unit to be renamed Centralized Settlement System (CSS) as it is not a depository by a settlement system for coffee proceeds of sale. Changed to Direct Settlement System.
- d) Registration of dealers by the Authority (Rule 7(5)) and submission of returns by dealers to Authority was proposed by AFA, but was not agreed by the County Governments. However, registration of dealers by AFA is provided for under the Crops Act and the provision for filing of returns to both levels of government for millers was retained for purposes of standardization and data.

Annex 10: Consultative Meeting with National Coffee Cooperative Union Ltd on 28th February, 2018 at Coffee Research Institute (Ruiru)

The NACCU presentation emphasized on:

- a) Ensuring that there are small scale coffee farmer focused laws and regulations are governing the coffee sub sector.
- b) The need for the government to address coffee subsidy program to jumpstart increased production of coffee and requested for support for at least 2 years.
- c) The current coffee processing facilities require rehabilitation, staff capacity building and security to stop frequent coffee thefts.
- d) Farmers requested the Government to support the establishment cherry advance payment system and allocation of adequate funds.
- e) The farmers support the modernization of Nairobi Coffee Exchange (NCE) and networking it to the counties on real time and having a representation in the NCE upon its transformation into a body corporate.
- f) The industry should start appreciating the involvement of youth and women in implementation of reforms recognize them in decision making along coffee value chain and having a succession plan for takeover from the aging coffee farmers. Women requested for automatic membership to Unions based on family coffee farms. So as to reap benefits of training, subsidy, and cherry advances leadership roles directly.
- g) Farmers requested the national and county government to allocate adequate funds in their annual budgets to facilitate production, processing, marketing, value addition and promotion of local coffee consumption.
- h) The Unions would like the national and county governments to support institutions involved in coffee research, service delivery to farmers, enforcing regulations and infrastructure development.
- i) The farmers would like to have a coffee minimum guarantee price which should be above the documented cost of production to address the fluctuation of prices.
- j) The unions appeal for removal of the one billion shilling security guarantee to grower marketers so that they can actively participate in coffee marketing.
- k) The unions appeal to Ministry of Agriculture, Livestock Development and Fisheries through AFA to included union representatives in sector working groups, marketing of coffee and for benchmarking with successful models coffee actors in and outside Kenya.
- l) The national and county governments to address the governance concerns in coffee cooperative societies where non-performing entities can be de-registered or merged.

Recommendations:

- 1) CSIC to embark on capacity building farmers and unions along the value chain through training and sensitization on various issues of their concern.
- 2) The stimulus for farmers to support coffee reforms is prompt payment to farmers which can be through cherry advance payment, provision of stabilization funds and input subsidy programs.
- 3) Coffee cooperative societies and unions should be empowered to trade locally and externally by ensuring that the General Coffee Regulations are farmer centric.
- 4) The unions advocate the establishment of coffee cupping units in the counties/region for quality assessment and stakeholder training to appreciate quality of products offered to the markets. They requested CSIC and county governments to fund the initiative.
- 5) The CSIC to establish a farmers empowerment financing model to facilitate access credit, NHIF and payment to farmers

- 6) The national and county governments to address leadership and governance issues in coffee cooperative societies and unions which are contributing squabbles that affect coffee production and marketing.
- 7) The participants requested the county and national government to fund coffee extension services and ensure that the regulation on cherry hawking/trading is enforced to avoid coffee thefts.

Annex 11: Consultative Meeting with Alliance of Women in Coffee (AWIC) Kenya Chapter and Youth on 28th February, 2018 at Coffee Research Institute (Ruiru)

a) Alliance of Women in Coffee

AWIC is an affiliate of International Women in Coffee Alliance and has membership from women across the coffee value chain in Kenya. AWIC supports establishment of farmers' forum free of participation by marketers, traders and have a gender perspective and youth succession angle in coffee. AWIC focuses on empowering women to produce premium coffee for specialty markets. AWIC requested amendments of the regulations to have one stop shop for all coffee licenses to enable women participate in coffee business as well as reducing current cost of licenses. It also requests for automatic membership of women into the Unions based on family ownership of Coffee.

b) Youth in Coffee

The youth would like to be involved in the coffee subsector implementation in the areas of technology adoptions in doing business and value addition. There is need to capacity build the youth and give them exposure inside and outside the country on various aspects as well as having youth mentorship programs. The youth request to be allocated at least 20% of position in the societies, unions and coffee subsector institutions so as to articulate their ideas on coffee and policy formulation favorable to them. They would also like to be supported to engage in the area of Carbon trading through the coffee bushes

A youth Mr. Peter Ndua from Ngewa of Komothai in Kiambu who resides in the United States of America reported that some youth groups have formed a group which is exploring the marketing of coffee in the U.S. He informed that there is a high demand of traceable coffees which is fetching premium coffee in the AGOA market as branded coffee. He emphasized the need to venture into the digital world of Facebook, twitter, instagram, whats up, SMS in promoting coffee agenda. The youth can be involved in actualizing the coffee reforms initiative.

c) Resolutions

- a) Farmers through NACCU agreed to support the implementation coffee reforms.
- b) National and county government to provide adequate funds to support coffee subsidy programs in their annual budgets.
- c) AFA to remove the Bank Guarantee of one billion shilling paid by the grower marketers which has been a dis-incentive for them to participate in the Auction.
- d) The General Coffee Regulations should address the issues on conflict of interest where marketing agents retain farmer's coffee for unspecified durations.
- e) CSIC to assist in promoting and strengthening NACCU as it is a lobby group for farmers on coffee matters.

- f) In order to create sanity in the coffee cooperative sector, the participants support the establishment of a central coffee database at the national and county level.

Annex 12: Lessons Learnt Study Visits, Conferences and Exhibitions

The committee visited Ethiopia, Mexico, USA, and Netherlands and interacted with coffee farmers, exporters, dealers and consumers and Kenyans in the Diaspora and exchanged views. The views arising from these interactions informed the committee during the deliberations when implementing the reforms and drafting the regulations. Some of the issues captured during the interactions include:

1) Ethiopia Coffee Industry

The overall objective of the study was to evaluate and compare the Kenya Coffee industry practices with those of Ethiopia. This comparative evaluation is expected to trigger innovative approaches of reforming Kenya's coffee production and marketing situation.

- a) The effect of climate change in some producing countries such as Brazil has resulted in decreased coffee production. The world should prepare to mitigate on a major impact of climate change expected from 2020 to 2040.
- b) The parameters considered for coffee to qualify for specialty coffee include soils, husbandry and processing practices.
- c) The demand and sale of certified coffee is on the increase. However, traders are willing to pay more for the coffee and people they know hence the need to create and sustain trading relationships.
- d) It was reported that coffee producers have not been offering quality coffees to consumers.
- e) The market forecast indicates a surplus in coffee supplies in 2017/18.
- f) The specialty coffee chapters are currently in 33 countries and demand for the coffee is growing at 15 % annually.
- g) The secret to sustaining the specialty market is to create scarcity by supplying little coffee of high quality.

2) Africa Fine Coffee Association meeting in Ethiopia

Observations and Lessons from the Conference

- a) The International Coffee Organization compiles market outlook reports for counties to customize and utilize in projecting coffee pricing in the coffee trade.
- b) Large cooperatives in Ethiopia are allowed by the government to export coffee directly.

- c) A global coffee platforms are Colombia, Ethiopia, Uganda and Tanzania where stakeholders along the coffee chain converge to deliberate of coffee issues of concern and beneficial to all.
- d) The Kenya delegation in the conference agreed to initiate the Kenya Coffee Platform.

3) Recommendations

- a) The Coffee Directorate and Coffee Research Institute should customize the International Coffee Organization market outlook reports and advice farmers and the trade regularly.
- b) Kenya should collaborate with the Ethiopian government through an MOU when modernizing the NCE and where possible engage the expertize not available in Kenya.
- c) There is need to regularly review coffee regulations.
- d) The AFCA Kenya Chapter chairman and AFA Coffee Directorate as a matter of priority should initiate the formation of Kenya Coffee Platform.
- e) The committee plan of action to implement the issues noted during the visit and conference proceedings is summarized below;

	Activity	Action	Responsibility
1	Production of planting materials	Research to work closely with farmer organizations and farmers to enhance seed productions and top working	KALRO Coffee Research Institute
2	Promote Sustainable coffee production	Undertake research geared towards sustainable coffee production	KALRO Coffee Research Institute
3	Planting shade coffee	Repackage information on shading to inform the farmers on the types of shade trees, spacing and pruning	KALRO Coffee Research Institute
4	Branding of Kenya coffee	Characterization of Kenya coffee flavours based geographical /indications locations market branded coffee.	KALRO Coffee Research Institute, trade and Coffee Directorate(AFA)

5	Cherry Advance payment	Introduce cherry advance payment to cooperative societies	State Department of Cooperatives, State Department of Crop Development, (commodities Fund) & Cooperative societies
6	Promoting local coffee consumption	-Legislate buying of coffee by retail traders -Liberalize Buni marketing to encourage local coffee roasting and consumption.	-AFA Coffee Directorate -State department of cooperatives and cooperative societies
7	Coffee certification	Analyze certification programs in place, the market outlets and advice the farmers regularly.	AFA Coffee Directorate
8	Develop a concept notes for inclusion in the MOU	Develop a concept note on: -Exchange of germ plasma materials for breeding drought and disease resistant varieties, -Mass propagation of elite varieties through tissue culture -Effect of shade trees on coffee physiology -Mapping of geographical indications to facilitate branding of coffee.	The KALRO Coffee Research Institute
9	Technology transfer	Package and disseminate new and existing technologies for immediate use by farmers and extension staff.	The KALRO Coffee Research Institute, State department of cooperatives and cooperative societies
10	Memorandum of Understanding (MOU)	Develop an MOU for cooperation with Ethiopia	-State department of Agriculture -Ministry of Foreign Affairs
11	Market outlook information	Provide market outlook reports and advice farmers and the trade regularly.	The KALRO Coffee Research Institute and AFA Coffee Directorate
12	Collaboration with Ethiopia Commodity Exchange.	Collaborate with the Ethiopian government when modernizing the NCE.	State Department of Agriculture
13	Direct Sale of Coffee	Review coffee regulation on coffee marketing to facilitate grower	AFA Coffee Directorate

		marketing agents access direct sale markets.	
14	Kenya Coffee Platform	Initiate the formation of Kenya Coffee Platform.	AFCA Kenya Chapter Chairman State Department of Agriculture
15	Alternative methods of processing coffee	Research on the benefits of dry verses washed coffee in collaboration with the trade.	KALRO Coffee Research Institute
16	Upgrade processing technology	Relook at the coffee harvesting , processing and drying procedures and equipment	The KALRO Coffee Research Institute
16	Modernizing NCE	Modernize the operations of the NCE and improve the trading environment	AFA Coffee Directorate
17	Enhance flow of market information	Initiate the dissemination of market information in real-time	AFA Coffee Directorate and CE
18	Review trading rules at NCE	Introduce and enforce rules to prohibits collusion at NCE	AFA Coffee Directorate
19	Warehousing of coffee	Coordinated and regulated the Warehousing of coffee.	AFA Coffee Directorate
20	Coding samples	Adapt a coding system where the identity of the sample, sellers and buyers are known after sale.	AFA Coffee Directorate and CE
21	Improve sample room operations	Expand the sample room and regulate the maximum time for their disposal to avoid congestion.	AFA Coffee Directorate and CE
22	Liberalize Coffee Auction	-Increase number of auction days. -Introduce an auction day for local roaster.	AFA Coffee Directorate and CE
23	Farmer capacity building	Embark on farmer capacity building so to enable them operate under free market situation	The national and county governments
24	Licensing	Review the licensing in coffee chain to reduce them to a minimal	State Department of Agriculture, AFA, Coffee Directorate

The key issues for fast tracking include:

a) Risk transfer

Farmers in Kenya bore all the risks in the coffee business unlike in Ethiopia. There is an urgent need to address mismanagement in Cooperatives Societies introduce cherry advance payment, embrace prompt payment, and facilitate data management to ensure traceability.

b) Promote sustainable coffee production

This involves regular supply of certified planting materials, introduction and management of shade trees, timely and appropriate use of inputs, availing cost effective processing technologies and involvement of the youth in coffee business.

c) Establishment of an effective data and information management system:

- (i) Establish an ICT network to facilitate easy access to information for planning and business management.
- (ii) Develop a data management platform to enhance efficiency and transparency in coffee trade
- (iii) Operationalize the warehouse receipting system

d) Upgrading of NCE

- (i) Upgrade the NCE soft and hardware
- (ii) Initiate the transition of NCE to a commodity exchange
- (iii) Provide timely information on market outlook

e) Operationalize the Coffee Rules and Regulations

- (i) Finalize and operationalize coffee regulations for ease of doing business
- (ii) Formulation of regulations to actualize the establishment of central depository unit.
- (iii) Hold consultative meetings with stakeholders when reviewing coffee regulations.

f) Financing the coffee sub-sector

- (i) Identify and engage financiers to provide affordable credit to the coffee sub-sector.
- (ii) Develop instruments required to initiate cherry advance payment.

3. Trade Exhibition at Amsterdam - Netherlands

The overall objective of participating at the **Specialty Coffee Association (SCA) of Europe** event was to promote Kenya coffee to the coffee roasters and green coffee traders so as to retain and grow Kenya's market share.

a) Lessons Learned

- (i) Need for common funding or pooling of resources will ensure consistency in the approach in the approach used for the marketing of Kenya coffee.
- (ii) Disjointed and inconsistency in the marketing of Kenya coffee not effective for the common good of the country.
- (iii) Demand for Kenya coffee mainly the specialty grades – although demand for lower grades and naturals emerging in the Middle East.

- (iv) Markets emerging for honey coffee, semi washed coffee and alternative methods for processed ripe cherries.
- (v) Diversification in the use of coffee by products including – moderately dried coffee pulps and leaves for making coffee drinks.
- (vi) Kenya has not changed its coffee marketing strategy in line with the changing trends in the International market. This includes direct relationships between the coffee producers and consumers and publicity of Kenya coffee as a unique brand.

b) Recommendations

- (i) Develop the Kenya marketing strategy to ensure the story about Kenya coffee is told to bring out its uniqueness and cultural diversity.
- (ii) Explore and conduct research on the alternative uses of coffee by products for energy drinks souvenirs.
- (iii) Explore the emerging alternatives in the primary processing of Kenya coffee – semi washed, honey coffee and fully ripe cherry sun drying.
- (iv) Ensure the Kenya booth represents the face of Kenya by ensuring that all exhibitors convey a common message for marketing of Kenya as a brand.
- (v) It is recommended that, Kenya book for World of Coffee 2019 space early enough to facilitate securing of strategic location and allow adequate time for preparations
- (vi) There is need to strengthen the cupping activity during exhibitions since consumers/buyers always make conclusive purchase decision after looking at the available alternatives depending on quality. Well profiled coffee samples are therefore required in any exhibition.
- (vii) Kenya coffee is still highly regarded round the world and it is important for Kenya to market it as that.

Annex 13: Issues Raised by COG on the Coffee General and Coffee Exchange Regulations, 2019 and Response by AFA

1. Introduction

Following a memorandum by the CoG and an advisory letter by the Attorney General on Sugar, the Authority proposed amendments to the Coffee General Regulations, 2019 as follows

NO	ISSUE RAISED BY THE COG	MINISTRY/ AFA POSITION	Remarks
1.	4(2)(a) is amended to enable Counties issue coffee commercial milling and warehousing licences	Under part II dealing with FUNCTIONS OF THE AUTHORITY AND COUNTY GOVERNMENTS the new clause 5(2)(a) is amended and has ceded the issuance of both grower and commercial milling to county governments ,	Complied with the AG advisory
2.	5(a), (b) and (c) County functions are amended to include the issuance commercial milling, coffee roasting and warehousing.	The new clause above addresses this concern as well by ceding the issuance of milling, roaster, warehousing licences to county governments	Complied with the AG advisory.

NO	ISSUE RAISED BY THE COG	MINISTRY/ AFA POSITION	Remarks
3.	Clause 8(1) provides for application of licences to the County Governments or Authority. Should be amended to remove the authority making licences a sole mandate of the county governments	The clause is amended to provide for application of licences to the licensing authority which in this case also includes the county governments receiving applications from commercial and grower millers, roasters, warehouse owners,	Complied with the AG advisory.
4.	Clause 10(1) on licensing be amended to introduce commercial milling and commercial warehousing licences by the County Governments and remove the Authority(AFA) from issuance of the same under 10(2).	The clause is amended to cede the milling, warehouses, roasting licences issuance to county governments	Complied with the AG advisory. Warehouseman licence introduced as a professional licence issued by AFA
5.	Clause 11(3) be amended to Empower counties to revoke milling and warehousing licences and the Authority to revoke traders' licences	The clause 10(3) is amended to provide for revocation of licences by the licensing authority which includes the county governments	To ensure counties revoke licences which they issue
6.	Clause 15(1) amended to mandate county governments to be the sole licensees and to issue all movement permits except the import and export permits.	The clause amended to enable county governments to move parchment, buni coffee to mills and to move clean from the county to warehouses	Complied with AG advisory
7.	Clause 28 be amended to transfer the licensing of warehouses to County Governments	The clause 28 is amended to cede the issuance of warehouse licences to county governments	To comply with the AG advisory Warehouseman's licence to be issued by AFA

CONCLUSION

The devolution of agriculture under the Constitution of Kenya and the Crops Act takes cognizance of functions exclusively for counties, functions exclusively for the national government and functions which are shared by the two levels. The national government takes cognizance of the requirement for collaboration, consultation and coordination between the two levels of government. Provision has been made in the regulations for information sharing between the two levels of government under Rule 39.

The licensing authority definition in the Crops Act is explicit as it refers to either the County governments or the Authority as the case may be.

23^d May 2019

Annex 14: Report of Engagement with State Agencies, NCE and KCPA on 29th April to 1st May 2019 on the Coffee General Regulations and Coffee Exchange Regulations, 2019

Introduction

The retreat was called to address the issues and concerns raised by some stakeholders on the Coffee General Regulations, 2019 and the Coffee Exchange Regulations, 2019.

The retreat was attended by representatives from the Nairobi Coffee Exchange, and the Kenya coffee Producers Association, both of whom had written to the Cabinet Secretary in charge of Agriculture and raised some issues regarding the draft regulations. Others who attended the retreat were representatives from the Ministry of Devolution, Ministry of Agriculture, the Council of Governors (COG), Agriculture and Food Authority (AFA), State Department for Co-operative Development, Intergovernmental Relations Technical Committee, Boresha Maisha, and the members of CSIC.

A. Issues Raised on the Coffee Exchange Regulations, 2019

NO	CLAUSE	ISSUE	RESOLUTION/RESPONSE BY CSIC
1.	Licensing of NCE and brokers by CMA.	What is the value of placing NCE and brokers under regulation of CMA rather than AFA?	Move informed by policy direction and is done with wide consultation. Value is market supervision, better governance, transparency and price discovery mechanisms, etc.
2.	Multiple licensing authorities for NCE, brokers, grower millers and roasters	What is the value? Can it all be done by AFA for close monitoring?	Licensing authorities are in accordance with the law (Constitution, devolution, CMA, Crops). Exchange given mandate to develop its own rules to help monitor trading
3.	NCE incorporation through share holding	Guarantee preferred	Amended Rule 4(3) to give discretion to CMA to give exemption in writing
4.	Coffee sample	Limited to 9 kgs. Allow Exchange to determine sample size.	Limitation removed
5.	Definition of Grower miller	The definition of grower to be harmonized with the contents in the Coffee	Definition is aligned

		General Regulations, 2019	
		Licensed Grower miller to access the auction and offer the coffee to the market.	Licensed grower miller has access to the exchange and direct sale.
		Introduce a threshold for grower miller to qualify for licence.	Exchange will determine the volume and lot sizes in consultation with millers or the appointed brokers.
6.	Coffee Miller	Is commercial miller allowed to sell growers' coffee?	No. Broker (auction) or agent (direct sale) performs that function for growers who are not millers.
7.	Sample fee	Clarify whether sample fee is revenue for the exchange or remitted to growers.	Rule 24(2) deleted. Sample fees not to be part of the revenue of the exchange.
		Coffee sample money should not be revenue for the exchange as it belongs to growers. Should be paid to growers through the DSS.	Amended. Sale proceeds shall be remitted to growers by DSS
8.	Sales catalogue	Include broker in preparation.	Appointed broker included in Rule 35(1).
9.	Licensing of coffee brokers	There is no licensing schedule	A licensing fee schedule for brokers is provided for in the Exchange Regulations
10.	Dispute resolution relating to coffee trade	Introduce mechanism of dispute resolutions for infringed party to the trading floor Option of having committee appointed by the minister to settle the dispute/tribunal	Any aggrieved party over licensing is given right to appeal to the Capital Markets Tribunal. The same is now extended to parties aggrieved on the trading floor or on reference samples when the party is dissatisfied with the decision of the exchange or the licensing authority. (Rules 32 and 43).
<u>B. Issues Raised on the Coffee General Regulations, 2019</u>			

1.	Broker	Introduce a schedule on broker	To be done by AFA
2.	Agent	Not licensed. Regulation required.	Agent has contractual obligations in 3 RD schedule. Introduced registration by AFA.
3.	Definition of agents, brokers and grower miller	Harmonize the definition in the two regulations	Already done.
		Provide the agents and grower millers to present the coffee in the auction.	Appointed brokers and grower millers present coffee at the auction.
		Let commercial millers access the auction.	Commercial millers do not access the auction.
4.	Definition of licensing authority	Remove the CMA and substitute with the Authority and the county government	Removed CMA in the definition section as it is not mentioned in the Crops Act.
5.	Inspector	The definition does not include a county inspector	A county inspector is appointed and gazette by the county public service board and hence no need to provide for it.
6.	Definition of dealer	Include the activity of roasting	Included
7.	Management of the auction	Should be left to the trading rules of the exchange.	The DSS is a new concept and provisions on its functionality in the regulations are necessary.
8.	Sale catalogue 26(1)	Include the broker ...in Consultation with Commercial Miller	Done
9.	Coffee sample definition	Not provided for.	Now provided for.
10.	Registration of coffee growers	Function of the county but address the applicability role of National government on standardization.	Provided for registration of dealers by AFA according to the Crops Act for standardization, and registration of growers as a county government function.
11.	Movement permit for clean coffee	To originate from the county –this is function of the National government. How will it be actualized?	Movement permits to be issued by county governments except for purchased clean coffee which will be issued by AFA

12.	Limitation of coffee licence sec 11(1),(4)	Include roaster licence holders	Roaster now included
13.	Monthly returns by millers	Returns on milling losses undefined. Should be provided to form a basis for comparison of average milling losses between commercial and grower millers	Both the commercial and the grower miller are under obligation to provide statements on milling losses and to share all milling statements with the Authority and county government.
14.	Issue of security of the coffee	Specifically provide the functions of the national government and the county government especially in prevention of coffee theft	Rules 4 and 5 amended to reinstate the specific functions of the two levels of governments as per earlier drafts.
15.	DSS	Who appoints the DSS provider- the grower or the exchange?	The Exchange appoints the DSS provider. The grower or the grower's representative provide all relevant information on the grower to the DSS provider through the exchange. Also see 3 rd schedule.
16.	DSS	The growers to be sensitized on the DSS -remarks by KCPA	Noted
17.	Representation of farmers in apex bodies	NACCU,KCP ,SEPA	Noted

(Legislative Supplement No. 31)

LEGAL NOTICE NO. 102

THE CROPS ACT

(No. 16 of 2013)

THE CROPS (COFFEE) (GENERAL) REGULATIONS, 2019

ARRANGEMENT OF REGULATIONS

Regulation

PART I-PRELIMINARY

- 1- Citation.
- 2- Interpretation.
- 3- Object and purpose.

PART II- FUNCTIONS OF THE AUTHORITY AND COUNTY GOVERNMENTS

- 4- Functions of the Authority.
- 5- County Governments functions.
- 6- Collaboration between County Government and the Authority.

PART III— REGISTRATION AND LICENSING

- 7- Registration.
- 8- Application for a licence, certificate or permit.
- 9- Prohibition against operating without a certificate, permit or licence.

- 10- Licensing.
- 11- Limitation of a coffee licence.

- 12- Conditions of licence.
- 13- Licensing procedure.
- 14- Duration of licences.
- 15- Movement permits.

- 16- Obligations of licence holders.

PART IV— PRODUCTION AND PROCESSING

- 17- Notification after planting, uprooting coffee or change of details of farm or estate.
- 18- Coffee Industry Standards and Code of Practice.

 THE NATIONAL ASSEMBLY PAPERS LAID			
DATE: 23 JUL 2019	<table border="1"> <tr><td style="text-align: center;">DAY.</td></tr> <tr><td style="text-align: center;">TUESDAY</td></tr> </table>	DAY.	TUESDAY
DAY.			
TUESDAY			
TABLED BY:	MAJORITY WHIP		
CLERK-AT THE TABLE:			

- 19- Certification of Kenya Coffee.
- 20- Research and Prohibition of issuance of coffee seeds or seedlings.
- 21- Requirements relating to coffee pulping.
- 22- Requirements relating to coffee milling.

PART V—COFFEE TRADING AND MARKETING

- 23- Coffee trading.
- 24- Direct sales.
- 25- Management of the auction
- 26- Sales catalogue.
- 27- Coffee promotions.
- 28- Coffee warehousing in designated warehouses.
- 29- Export and import of coffee.
- 30- Prohibition against blending.
- 31- Exemption.

PART VI—QUALITY ASSURANCE

- 32- Quality Assurance for Coffee Industry.
- 33- Inspections.
- 34- Conformity certificates and compliance reports.
- 35- Prohibition against removal of labels, seals, etc.
- 36- Coffee Imports to conform to standards.
- 37- Surveillance.

PART VII—GENERAL PROVISIONS

- 38- Digitization.
- 39- Sharing of information.
- 40- Dispute Resolution.
- 41- Alteration of documents.
- 42- Inspections for specialty coffee.
- 43- Inaccurate, misleading or false information.
- 44- General penalty.
- 45- Revocation L.N No 79 of 2012.
- 46- Transitional provision.

SCHEDULES

FIRST SCHEDULE: FORMS

EIGHTH SCHEDULE

COFFEE WARRANT

(r 25(2))

NAME OF WAREHOUSEMAN

Entered by on the account of the lot of coffee DULY Deliverable to..... or assigns by endorsement hereon.

Coffee season and out-turn no.	Mark and code	Grade	Number of bags	Nett weight of pockets (kgs)	Total nett weight (kgs)

This Coffee is lying at warehouse awaiting instruction and collection.

This warrant is valid only if signed by any two of category A or any one of category A and one of category B signing jointly

Category A

Chief Finance Officer

Head of supply Chain Secretary

Head of Middle Office

Category B

Finance Manager

Legal Manager-Regional Co

Sea Exports Manager

NAME OF WAREHOUSE.....

-SIGNATURES-

Rent Commences:

Rates:

Warehouse handling:

Storage:.....

Warrant fee:

CONDITIONS

1. A warrant is issued in respect of each consignment.
2. All deficiencies or losses on or damage to goods must whenever possible be notified in writing to..... ("the Company") prior to removal of the goods from the Company premises so as to afford an opportunity for checking by the Company, and in all cases where such notification is not possible, such deficiencies, losses or damage must be notified to the Company in writing within two days of the removal from the premises of the Company of the goods concerned if this condition be not complied with, the

HEAD COFFEE DIRECTORATE

SEVENTH SCHEDULE

SALES CATALOGUE

(r.26(2))

1. The sales catalogue shall be prepared by the miller or an appointed broker in consultation with the Exchange and growers.

2. The details to be included in the sales catalogue shall include-

- (a) The name of the grower;
- (b) The name of the miller;
- (c) Name of broker, if any;
- (d) Sale number;
- (e) Day, date and time of the auction;
- (f) The place of the auction shall be at the exchange;
- (g) Total number of bags of coffee to be offered for sale;
- (h) Name of the warehouse where the coffee is stored;
- (i) The prompt date being the date on or before which proceeds are payable to the central depository unit of the exchange;
- (j) Terms and conditions of sale;
- (k) The date on which rent charges in respect of purchased coffee shall be due from the buyers to warehousemen at which the coffee is stored;
- (l) The net weights as per warehouse weights (and unless otherwise stated coffee shall be packed in bags of 60 kg net, tare weight 1.1 Kgs but bids shall be on the basis of 50 Kgs), the bags used shall conform to the international coffee packaging standards;
- (m) Lot numbers arranged serially per miller for all coffee offered for sale;
- (n) The out-turn Number shown against each lot number and the registered distinguishing mark of the grower miller (whether Bulk, E/Bulk, P/Bulk, T/Bulk; Spillage, or sweepings) and out-turn Number arising from operations of grower/miller;
- (o) Grade of the coffee;
- (p) Number of bags in the lot (a saleable lot shall not have be less than ten bags);
- (q) Net weight of coffee in kilograms respectively;
- (r) Adequate space for inserting big prices by traders.

3. The sales catalogue shall be prepared weekly or as frequently as the Authority may determine in consultation with a grower or his agent.

4. The saleable lots in the special auction dedicated to local roasters may comprise less than ten bags.

SIXTH SCHEDULE

r24(5)

CERTIFICATE OF QUALITY INSPECTION

Name of Grower mill/Buyer/Roaster/Other.....

Registration Number

Physical Address: County Street

Email.....

Town/City.....

Mobile Number

Total weight (Kgs).....

Coffee Type (tick)	E	AA	AB	PB	C	T	TT	MH	ML	OTHER (Specify)
Volume in bags										
Quantity in Kgs										
Buni										

Coffee quality analysis Report

Recommendation:

Warehouseman/Contact person during inspection

Name:

Mobile Number:

Position:

Signature:

Date.....

It is hereby confirmed that the coffee export/Direct sales is approved/not approved (tick as appropriate).

Report by:

Name.....

Signature..... Date.....

Stamp

Designation

Country.....
 Port of Entry.....
 E-Mail..... Tel.....
 Website.....
 Type of Coffee
 business.....

PART III- CONTRACT DETAILS

Contract ref. no.....
 Grades of coffee.....

Grade	Number of bags	Total Net weight Kgs	Price per bag	Total value(USD)

PART IV – TERMS AND CONDITIONS

Shipment.....
 Payment.....
 Insurance.....
 Sample.....
 Shipper.....
 Destination.....
 Arbitration/Terms.....
 Special Condition (if any)

We certify that the information given above is true to the best of our knowledge and information

Grower nameDate.....Signature.....

Overseas Importer r/Agent of importer

.....Date.....Signature.....

	process	
SB	Sorted beans	
HE	Hulled ears	
UG	Clean coffee not graded occasionally referred to as estate cured coffee or sweepings	
RH	Robusta heavy	
RL	Robusta light	

FIFTH SCHEDULE

B. Specialty Coffee Grading Standards

As issued by the Specialty Coffee Association of America (SCAA) or other such organization as per the protocol deposited with the authority.

FIFTH SCHEDULE

C. Certifications

As issued by the certifying organization as per the protocol deposited with the authority

SIXTH SCHEDULE

A. Direct Sales Guidelines

r 24(4)

A Grower or a grower miller who has secured an overseas Buyer for the coffee, shall:

1. Store coffee for direct sales at designated warehouses.
2. Enter into a direct sales contract in the format prescribed under these guidelines and shall lodge the contract with the Authority for registration and approval.
3. Submit to the Authority a sample of 250gm of the said coffee for quality analysis and for arbitration purposes.
4. Have the coffee inspected by the Authority, in order to ascertain the quality, quantity and the value and for approval of the contract.
5. Be issued with an inspection certificate for every coffee consignment declared to the Authority for direct sales to ascertain the coffee quality. The inspection certificate shall be one of the requirements for clearance of direct sales exports.
6. The Authority liquorer shall conduct quality analysis and assess the price offered, undertake price comparisons with the prices prevailing at the exchange for coffees of the same quality and grade and keep the growers accordingly informed.
7. The direct sales price offered shall not be in any case lower than the exchange prevailing prices
8. Ensure the overseas buyer remits full payment before shipment is undertaken.
9. Apply to the Authority for;
 - (a) export clearance;
 - (b) ICO certificate;

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and date first hereinbefore mentioned.

SIGNED for or on behalf of the miller:

.....

in the presence of:

.....
.....

SIGNED for or on behalf of the grower:

.....
.....

in the presence of:

.....

FIFTH SCHEDULE

A. Kenya Standards

STANDARD COFFEE GRADES

(r.22(12))

Grade	General Description	Screen number on which beans are retained. (Size as per KSOS-174 or 150415-1980)
E	Elephant – two beans joined together, a genetic defect and includes very large (bold) AA	Retained on 21 (size diameter 8.3 mm)
PB	Pea berries – one ovule develops in Coffee of the usual two	Through 17 retained on 12 (4. mm)
AA	Flat beans	Through 21 retained on 18 (7.2 mm)
AB	Flat beans	Through 18 retained on 16 (6.35 mm)
C	Small flat beans	Through 16 retained on 16 (3.96mm)
TT	Light density beans, from AA, AB and E grades by air extraction	Separated through density by blowing
T	Smallest, consists of broken and small C	Through screen No. (2.9 mm)

Where a coffee grade is specified a minimum 95% of beans shall fall in that grade category.

Other Miscellaneous Kenyan Grades

Grade	Description	Remarks
MH	Heavy buni from the natural washing process	Separated by density
ML	Light buni from the natural washing	

NOW IT IS HEREBY AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. The grower shall deliver the parchment coffee and *buni* under the conditions herein stipulated in respect of moisture content, properly labeled bags, well sorted out to distinguish different grades and without foreign matter and the miller shall reserve the right to refuse to accept delivery or provide services if the grower fails to comply with the said conditions.
2. Transport services from the factories of the grower to the mills may be provided by the miller at such rate of charge per bag as may be agreed between the parties. The transport of milled coffee and *buni* to the warehouseman shall also be charged at such rate of charge per bag as may be agreed between the parties, all milled coffee and *buni* being securely transported as per the grower's delivery note and confirmation slips, the grower ensuring that all movements of coffee are covered by the respective licensing authorities' movement permits before transportation or as directed by the licensing authorities.
3. The grower shall ensure that all coffee in transit to mills is properly insured while the miller shall take out insurance against fire and burglary and any other risk for the coffee delivered for milling until the coffee is handed over for sale.
4. The grower agrees to pay, where applicable;:
 - (a) milling charges at the rate of.....US\$/Ton;
 - (b) transport charges at the rate of..... US\$/bag;
 - (c) storage charges at the rate of..... US\$/60kg Bag;
 - (d) drying charges at the rate ofUS\$/Ton.
 - (e) colour sorting charges at the rate of..... US\$/Ton; and
 - (f) hand sorting charges at the rate of..... US\$/60kg bag of cc
 - (g) handling charges at the rate..... USD/60kg bag cc.
5. Drying of coffee received at the mills will be charged according to the moisture content after consent to dry the coffee has been sought and obtained from the grower before the drying process starts.
6. Milling shall be done on a first-in first-out basis and empty bags shall remain the property of the grower and shall be returned to him without charge.
7. The miller shall ensure that the coffee in his possession is properly stored and secured to protect it from any damage, pilferage or loss of quality.
8. The miller shall submit the milling and out-turn statements to the grower as set out in these Regulations.
9. The milling charges payable by a co-operative society or an estate shall be in accordance to the published charges contained in the milling agreement binding the parties..

8 Comply with any legal requirements or guidelines issued by the Exchange, the Authority or the licensing authority

9 Register with the Authority

G Agent

A coffee agent appointed by the grower shall operate under the following obligations -

- 1 Appointment shall be for purposes of facilitating for the grower the overseas direct sale with regard to logistics
- 2 Offer the service of processing requirements related to coffee exports
- 3 Offer clean coffee for direct sale on behalf of the grower
- 4 Maintain records of sales transactions between the overseas buyers and the growers
- 5 Disseminate information on the direct sale transactions to the growers and the growers' licensing authorities
- 6. Report to the growers' licensing authorities and the Authority any misconduct or anti-trade activities that may obstruct coffee trade.
- 7. Conduct his affairs in a professional and transparent manner.
- 8. Act in the best interest of the growers
- 9. Comply with any legal requirements or guidelines issued by the Authority
- 10. Register with the Authority

FOURTH SCHEDULE

r 22(16)

COMMERCIAL MILLING AGREEMENT

AGREEMENT made this day of two thousand and

BETWEEN of a licensed miller (License No)

(hereinafter called the "miller", which expression shall where the context so admits include his or its successors and assignees) of the First Part,

AND

. of a registered grower of coffee [Registration No. (hereinafter called the "grower", which expression shall where the context so admits include his or its successors and assignees) of the Second Part

WHEREAS.

- (a) the miller is duly licensed under the Crops Act, 2013 and the rules made there under; and
- (b) the grower has requested the miller to provide milling services and the miller has agreed to provide such services to the grower upon the terms and conditions appearing, hereinafter

3. Package roasted coffee in standard packaging materials, where applicable.
4. Comply with the respective County Public Hygiene standards.
5. Maintain records of clean coffee purchases, sources of clean coffee and roasted coffee sales.
6. Remit to the Authority a sample of 200 grams of clean coffee representing the consignment destined for shipment overseas
7. Comply with the Kenya coffee standards and other statutory requirements.
8. Submit returns to the Authority.
9. Allow access for inspection of premises and facilities by the Authority for enforcement of national coffee standards.
10. Pay deposit fee at the exchange as security for collection of coffee samples.
11. Pay to the exchange the applicable auction levy.
12. Remit coffee sales proceeds to the direct settlement system electronically or by a bankers cheque within five working days from the date of the sale of the coffee.
13. Pay for coffee bought at the auction within the prompt period upon receipt of the invoice.
14. Be automatically liable for suspension from trading in case of default of payment of coffee proceeds through the direct settlement system within the prompt date.
15. Be liable to pay penalty and interest for the default in payment within the prompt date at the average bank interest rates pegged on Central Bank.
16. Pay any bank transaction charges it has incurred.
17. The licence holder shall register with the Authority.

F:Broker

A coffee broker appointed by the grower shall operate under the following obligations: -

1. Seek clearance from the exchange and licence from the Capital Markets Authority
2. Offer clean coffee for sale at the exchange on behalf of the grower upon appointment.
3. Maintain records of sales transactions between the buyers and the growers which shall include details of the grade, quantity and price of coffee sold, date of sale, the buyer, the grower and the sale number .
4. Disseminate information on the transactions at the auction floor to the growers in form of sales statements and remit sales outcomes to the exchange and the Direct Settlement System operator.
5. Report to the Exchange any misconduct or anti-trade activities that may obstruct trade at the auction floor.
6. Conduct his affairs in a professional and transparent manner.
7. Act in the best interest of the growers.

- 8 The licence holder shall, if it has not done so, digitize its weighing scales and its other equipment, and it shall weigh and count all the bags of coffee delivered to ensure precision and protect against loss of coffee volume
- 9 The licence holder shall insure the coffee against loss and damage while at the station and in transit and in the event of non-payment by the insurer owing to breach of the insurance contract or other cause by the licence holder, the licence holder shall be liable to pay for the loss or damage
- 10 The licence holder shall register with the Authority

D Coffee Roaster

A coffee roaster shall operate under the following obligations -

1. Register with the exchange for the purchase of clean coffee at the Exchange
2. Declare the source of clean coffee to the Authority and the County Government.
3. Establish or outsource standard coffee roasting facilities subject to all requirements set by the licensing authorities
4. Pay deposit fee as security for collection of coffee samples
5. Pay to the exchange the applicable auction levy, if any
6. Pay for coffee bought at the auction within the prompt period
7. Remit the proceeds for coffee bought at the auction through the direct settlement system.
8. Be automatically liable for suspension from trading in case of default of payment of coffee sales proceeds within the prompt date
9. Be liable to pay penalty and interest for the default in payment within the prompt date.
10. Pay any bank transaction charges they have incurred.
11. Package roasted coffee in standard packaging materials
12. Comply with the Kenya coffee standards and other statutory requirements
13. Comply with the respective County Public Hygiene standards
14. Maintain records of clean coffee purchases, sources of clean coffee and roasted coffee sales
15. Submit returns to the county government and the Authority
16. Allow access for inspection of premises and facilities by the Authority and respective county government for enforcement of national coffee standards.
17. The licence holder shall register with the Authority

E Coffee Buyer

A Coffee Buyer shall operate under the following obligations.—

1. Register with the exchange for the purchase of clean coffee at the Exchange
2. Establish or outsource standard coffee roasting facilities subject to all licensing authorities, where applicable

agreement between a grower and a miller for milling of coffee shall be reduced into writing provided that the agreement shall expressly incorporate the obligations set out in this Schedule and Termination of milling agreements between growers and millers shall be subject to prior written notice of not less than two months.

15. Every commercial miller shall mill coffee on a First- In - first -Out basis provided the miller shall take into consideration any instructions from the grower on the milling and marketing of such coffee or bulking instructions where they apply to realize malleable quantities.
16. The licence holder shall act in accordance with these Regulations and in the best interest of the grower.
17. The licence holder shall make timely submission of milling out turn statements.
18. Payment of all auction coffee sales proceeds shall be through the Direct Settlement system
19. The licence holder shall remit 200 grams samples of each grade of an out-turn to the Authority.
21. The licence holder shall register with the Authority.

C: Warehouseman

1. There shall be a service contract between the licence holder and the grower miller or appointed agent or broker acting on behalf of the grower, for the coffee deposited in the warehouse in the custody of the licence holder.
2. The cost of the service shall be agreed in terms Kenya Shillings per 60kg Bag of the coffee stored at the warehouse at the beginning of each year and the same shall be paid through the direct settlement system by the grower upon sale of the coffee in accordance with the service agreement.
3. The licence holder shall upon delivery of the coffee, be accountable to the grower or his authorized representative, for the coffee received and shall acknowledge receipt of the same from the grower or his authorized representative through an endorsement confirming whether the volume, the grading and the owner of the coffee are as indicated in the permit and by confirming the out-turn number for the coffee so delivered.
4. The licence holder shall issue coffee warrant or warehouse receipt, as the case may be, for the coffee so received in the name of the grower or his authorized representative.
5. The licence holder shall issue a goods received note (GRN) and transmit data of the same to a central database operated and maintained by the licence holder and shared with the direct settlement system and the exchange.
6. The licence holder shall publish tariffs that will be filed with the Authority and the county government.
7. The licence holder shall not allow the grower's coffee to be sold without the knowledge and consent of the grower and will not allow the grower's representatives to borrow funds against the growers' coffee.

2. The licence holder and the Authority shall publish annual milling tariffs and any other charges that are registered with the Authority and county governments and the licence holder shall not charge the grower more than the published charges.
3. The licence holder shall be accountable to the grower for the coffee received and shall acknowledge receipt of the same from the grower by endorsing the movement permit and issuing a weigh bridge receipt, confirming whether the volume, the grading and the owner of the coffee is as indicated in the permit and by issuing an identifying out-turn number for the coffee so delivered.
4. The licence holder shall issue a delivery note to the grower and transmit data of the same to a central database operated and maintained by the licence holder and shared with the direct settlement system and the exchange.
5. The licence holder shall, if it has not done so, digitize its weighing scales and its grading equipment to ensure precision and protect against loss of coffee volume.
6. In the event of bulking, the licence holder shall indicate the minimum millable lot in the contract, inform the grower and receive the grower's consent to bulk his coffee with the coffee of others, file a log and share with the owners of the coffees being bulked, stating their names, volume, and quantities of the batches being bulked for purposes of enabling each person in the bulk to get an indication of the distribution of the value of the same upon sale.
7. The licence holder shall provide a statement on milling, to include milling losses and sweepings, stating the range of expected milling loss for every parchment type and *buni* as approved by the Authority, provide a target milling loss per delivery on analysis of the sample and grant the grower the right of advance adequate notification of the time and date of the milling of the grower's coffee to enable the grower to be present at the milling.
8. The licence holder shall share all milling statements with the Authority and county government.
9. The licence holder shall insure the coffee against loss and damage while at the station and in transit and in the event of non-payment by the insurer owing to breach of the insurance contract or other cause by the licence holder, the licence holder shall be liable to pay for the loss or damage.
10. A licence holder who wishes to lend or advance any credit to growers' associations on behalf of growers shall establish a regulated subsidiary company to provide such financial services.
11. The licence holder's liquorers shall take out and maintain professional indemnity insurance covers.
12. The licence holder shall file copies of the movement permit returns duly endorsed by the licensed warehouseman, upon delivery of the milled coffee to the warehouse.
13. The licence holder shall provide copies of coffee warrants, or warehouse receipts as the case may be, issued by the warehouseman, to the grower and ensure that the relevant authorities have verified that movement permits were endorsed by the licensed warehouseman.
14. The licence holder in consultation with the exchange and growers, shall prepare a catalogue for the coffee to be offered for sale at the exchange. The terms of

5. In parchment handling, the licence holder shall do quality analysis of the dry parchment prior to storage and will mix only parchment that is of similar quality.
6. The licence holder shall digitize stock cards.
7. The licence holder shall insure the coffee against loss and damage while at the station and in transit and in the event of non-payment by the insurer owing to breach of the insurance contract or other cause by the licence holder, the licence holder shall be liable to pay for the loss or damage.
8. The licence holder shall reinforce the security of the station to guard against theft of coffee by its servants or other persons and where security of the parchment cannot reasonably be guaranteed, it shall transport the same to a safer location.
9. Before moving the parchment and *Buni* coffee, the licence holder shall apply for a movement permit for the coffee from the County government.
10. The licence holder shall ensure that the vehicle ferrying coffee is installed with a tracking device.
11. The licence holder shall have the permits for the movement of coffee duly endorsed by the miller to acknowledge receipt of the parchment clearly indicating quantity and quality and shall file proper returns for the same which shall periodically be availed to the relevant authorities for verification. Each vehicle shall bear an original movement permit with specific driver details and vehicle registration number.
12. The licence holder shall deliver a sample to an independent cupping laboratory for quality analysis before the actual delivery of the coffee to the commercial miller where one is contracted.
13. The licence holder shall supply the particulars of its coffee grower members to the Direct Settlement System provider through the exchange, after the commencement of these regulations for purposes of initiating settlement through the system
14. In any event, there shall be no mixing of the licence holder own monies with the monies that belong to the growers and the licence holder shall maintain two separate accounts
15. In the event that there is need for borrowing by licensed Growers' societies and associations, they shall only seek credit from regulated financial institutions upon approval by the growers.
16. The licence holder shall register with the respective county government.

B: Miller

There shall be an annual service contract between the parties provided longer term contracts shall be subject to the approval of the county government but no service contract shall exceed three years.

1. The cost of service by a commercial miller shall be agreed in terms of US Dollars per tonne of processed parchment or *buni* at the beginning of each year and the same shall be paid through the direct settlement system in accordance with the service agreement with the grower.

Category	Amount (KES.) USD	Payment
5,000 – 9,999 bags annual purchases	USD 350	
1,000 – 4,999 bags annual purchases	USD 250	
Less than 1000 bags purchases/New licence	USD 100	
Parchment/Buni coffee movement permit (per leaf)	Free	County Government
Clean coffee movement permit from County of origin (per leaf)	KES100	County Government
Clean coffee movement permit for coffee exports (per leaf)	USD 1	Authority
Late application fee	10% of the license fees	Licensing authority
Independent Cupping Center	KES 20,000	Authority
Liquorer's practicing licence fees	KES 2,000	Authority
Processed coffee import permit	Ksh10,000	Authority
Warehouse man's licence	Ksh 2,000	Authority

THIRD SCHEDULE

(r.16(1)(2))

OBLIGATIONS OF LICENCE HOLDERS AND SERVICE PROVIDERS

The following are the operating standards and obligations which shall be binding the licence holders, certificate holders and service providers: -

The cost charged by cooperative societies to growers for pulping, administrative factory expenses, transportation, milling, warehousing, brokerage, any exchange levy, and any other expenses shall be as per the societies' budget but shall not exceed 20% of the gross earnings, from the coffee sales.

The maximum chargeable cost by cooperative societies shall be retained or reviewed downwards as published periodically by the Commissioner for Cooperatives in consultation with county governments.

A: Pulping Station

1. The licence holder shall perform sorting and density grading of cherry within a maximum of eight hours upon receipt from smallholder growers or from own estate.
2. The cooperative society licence holder shall weigh the grower's cherry using a calibrated weighing system, maintain an accurate record of the same and give an original receipt thereof to the smallholder grower immediately.
3. The licence holder shall carry out the process of removal of coffee pulp from the cherry, fermentation, washing and drying to the desired moisture content in accordance with the coffee standards.
4. The licence holder shall digitize its coffee weighing scales and post the information of quantity and quality to a central database made accessible to the grower, provided that licence holders without digitalized cherry weighing systems shall establish the same within a period of twelve months from the date of commencement of these Regulations.

7. Any other requirements that may be prescribed by the Authority from time to time

(L) Coffee import permit requirements

1. Names of company officials, individual National ID/Passport No.
2. A certified copy of certificate of incorporation.
3. Compliance with statutory requirements, including but not limited to—
 - a. NEMA certificate where applicable;
 - b. Occupational Health and Safety Certificate, (OHSA) where applicable;
 - c. Public Health certificate;
 - d. Tax Compliance certificate by KRA.
4. Proof of engaging the services of a coffee liquorer licensed by the Authority and leasing or establishing of cupping facilities, where applicable.
5. Any other requirements that may be prescribed by the Authority from time to time

SECOND SCHEDULE

B. CERTIFICATE AND LICENCE FEES

The following license fees shall apply for the respective certificates and licences—

<i>Category</i>	<i>Amount (KES.) USD</i>	<i>Payment</i>
Application Forms	Nil	Licensing Authority
Growers Registration	Nil	County Government
Nursery Certificate	KES 1,000	County Government
Pulping Station licence	KES 1,000	County Government
Grower's miller licence	KES 10,000	County Government
Commercial Coffee Millers licence		County Governments
Over 10,000MT CC	USD 2,000	
5000-9,999MT CC	USD 1,000	
3,000-4,999	USD750	
Less than 3000MT CC/NEW	USD500	
Roaster's Licence		County Government
Over 1000 Bags	KES10,000	
500- 999 bags	KES 7,500	
100 - 499 bags	KES 5,000	
Less than 100 Bags /New	KES 2,500	
Coffee Commercial Warehouse Licence		County Government
Over 200,000 bags	USD 1,000	
50,000- 99,000 bags	USD 750	
Less than 50,000bags /New	USD 500	
Buyer		
Over 10,000 bags annual purchases	USD 500	Authority

2. Have a minimum technical experience of three years in collateral management and in handling agricultural commodities.
3. Have clear and demonstrable capacity and experience in risk management.
4. Meet any other qualification that may be prescribed by a relevant authority.

(j) Coffee liquorer's licensing requirements

1. Been awarded a coffee liquoring certificate by the Authority.
2. Obtain a public hygiene certificate from the nearest local authority to the area of operation.
3. Submit application to the Authority.
4. Meet any other qualification that may be prescribed by the Authority;

(J) Coffee import permit requirements

1. Names of company officials, individual National ID/Passport No.
2. A certified copy of certificate of incorporation.
3. Compliance with statutory requirements, including but not limited to—
 - (a) NEMA certificate where applicable;
 - (b) Occupational Health and Safety Certificate, (OHSA) where applicable;
 - (c) Public Health certificate;
 - (d) Tax Compliance certificate by KRA;
4. Proof of engaging the services of a coffee liquorer licensed by the Authority and/or leasing or establishing of cupping facilities, where applicable.
5. Self-declaration of any indebtedness, conflicts and litigations within the coffee industry.
6. Any other requirements that may be prescribed by the Authority from time to time.

(K) Coffee liquoring /cupping facility requirements

1. Names of company officials, individual National ID/Passport No.
2. A certified copy of certificate of incorporation/business name.
3. Establishment of standard facilities as specified by the Authority.
4. Proof of engaging the services of a coffee liquorer licensed by the Authority.
5. Compliance with statutory requirements, including but not limited to—
 - (a) NEMA certificate where applicable;
 - (b) Occupational Health and Safety Certificate, (OHSA) where applicable
 - (c) Public Health certificate;
 - (d) Tax Compliance certificate by KRA.
6. Self-declaration of any indebtedness, conflicts and litigations within the coffee industry.

5. Establishment or outsourcing/leasing of coffee roasting and packaging facilities subject to prior approval by the county government..

6. Self-declaration of any indebtedness, conflicts and litigations within the coffee industry.

7. Any other requirements that may be prescribed by the county government from time to time.

(f) Coffee Buyers 's Licence

1. Names of company officials, individual National ID/Passport No.

2. A certified copy of certificate of incorporation.

3. Clearance letter from the exchange in the case of renewals.

4. Compliance with statutory requirements, including but not limited to—

(a) NEMA certificate where applicable;

(b) Occupational Health and Safety Certificate, (OHSA) where applicable;

(c) Public Health certificate, where applicable;

(d) Tax Compliance certificate by KRA.

5. A valid performance bond of Kshs 1,000,000/= in favour of the Authority or such amount as the Authority may determine in consultation with the exchange.

6. Proof of engaging the services of a coffee liquorer licensed by the Authority

7. leasing or establishing of cupping facilities.

8. Self-declaration of any indebtedness, conflicts and litigations within the coffee industry.

9. Any other requirements that may be prescribed by the Authority from time to time.

(g) Warehouseman's Licence

1. Must be registered in Kenya or a Kenyan resident.

2. Copy of a certificate of incorporation/Registration, where applicable.

3. Names of company officials, individual National ID/ Passport No, as the case may be.

4. Have a minimum technical experience of three years in warehouse management and in handling agricultural commodities.

5. Tax Compliance certificate by KRA.

6. Indemnity against professional misconduct leading to loss in coffee quality or any other damage;

7. . Any other requirements that may be prescribed by the Authority from time to time.

(h) Qualifications of a Collateral Manager

1. Must be registered in Kenya or a Kenyan resident.

10. Any other requirements that may be prescribed by the Authority from time to time.
- d) A commercial coffee miller's licence
 1. Registered company.
 2. Certificate of incorporation.
 3. Name(s) of officials, ID numbers/ Passport numbers.
 4. Compliance with statutory requirements, including but not limited to—
 - a) NEMA certificate;
 - b) Occupational Health and Safety Certificate, (OHSA);
 - c) Public Health certificate;
 - d) Tax Compliance certificate by KRA;
 5. A certified copy of a comprehensive insurance cover from a reputable firm proportionate to volume of coffee handled as per insurance valuation.
 6. Proof of engaging services of a coffee liquorer licensed by the Authority.
 7. Establishment of coffee milling facilities including cupping laboratory subject to an initial written approval and issuance of Authority to Erect the coffee mill OR lease of a complete coffee mill.
 8. Self-declaration of any indebtedness, conflicts and litigations within the coffee industry.
 9. Any other requirements that may be prescribed by the Authority from time to time.
- e) Roaster's License
 1. Applicant's personal details and contacts (provide copies of National identity/Passport).
 2. If applicant is a company—
 - (a) A certified copy of certificate of incorporation;
 - (b) Names of company directors, individual National ID/Passport No.
 3. If applicant is a registered business or company-
 - (a) Certificate of Registration/incorporation;
 - (b) Particulars of the proprietors - individual National Identity/Passport No, Pin Numbers.
 4. Compliance with statutory requirements, including but not limited to,
 - a) NEMA certificate where applicable;
 - b) Occupational Health and Safety Certificate, (OHSA) where applicable;
 - c) Public Health certificate;
 - d) Tax Compliance certificate by KRA;

6. Any other requirements that may be prescribed by the licensing authority from time to time.

In addition, where the applicant is a company/society

7. A certified copy of certificate of incorporation/registration (in the case of companies or societies).
 8. A certified copy of memorandum and articles of association.
 9. Names of directors/officials.
- b) Pulping station licence
1. Applicants personal details and contacts.
 2. Individual National ID/Passport.
 3. Copy of title deed or certificate of leasehold of a duration of lease of not less than six years as proof of ownership *or* proprietorship and a current certificate of search or other supporting documents.
 4. Letter of No Objection issued by the mother society, if applicable.
 5. Reliable source of water.

[Attach Clearance letter or certificate by water department, where applicable]

6. Certificate by National Environmental Management Authority, where applicable.
 7. A standard pulping station established upon issuance of Authority to Erect such station by the Authority.
 8. Any other requirements that may be prescribed by the licensing authority from time to time.
- c) Grower Miller's Licence
1. Applicant's personal details and contacts.
 2. A complete and licensed pulping station for primary coffee processing.
 3. A certified copy of certificate of registration, if applicable
 4. Names of officials, individual National ID/ Passport No.
 5. Compliance with statutory requirements, including but not limited to; Tax Compliance, NEMA certificate, Safety and Occupational Health Certificate, and Public Health certificate.
 6. A certified copy of a comprehensive insurance cover from a reputable firm proportionate to volume of coffee handled as per insurance valuation.
 7. Proof of engaging services of a coffee liquorer registered by the Authority or establishment of a certified cupping lab.
 8. Complete coffee milling facilities subject to an initial written approval and issuance of Authority to Erect the coffee mill OR lease of a complete coffee mill.
 9. Self-declaration of any indebtedness, conflicts and litigations within the coffee industry.

FIRST SCHEDULE

(r----)

AGRICULTURE AND FOOD AUTHORITY

FORM O:

COFFEE IMPORT PERMIT REGISTRATION CERTIFICATE

Name of Importer

Location of Importer : City/Town..... L/R No-----

Street.....

The Importer is here registered for conducting the business of processed coffee imports

-----at (location)----- on -----

(Date)

The registration is made under an application by -----

-----being the Director of the company.

Signed

Interim Head Coffee Directorate

Stamp

Terms and conditions

1. The registration is not transferable
2. Annual returns shall be submitted to the Authority
3. Continuous updates of the directorship and other registration details shall be submitted to the Authority
4. The importer shall comply with all national and international coffee standards and other regulatory requirements in the crops Act, the coffee regulations, the trading regulations and other statutory requirements such as NEMA, where applicable.
5. Any other terms introduced by the Authority

SECOND SCHEDULE

(r.8(1), 12(1), 14(1), 20(4) and 32(7))

REQUIREMENTS AND FEES

A—Licensing Requirements

a) Nursery Certificate

1. Individual National Identity /Passport.
2. Suitable land site for establishment of a nursery.
3. Reliable source of clean water.
4. Accessibility of nursery site for inspection and materials transportation.
5. Applicant to hire or possess nursery management skills /know how.

FIRST SCHEDULE

(r-----)

**AGRICULTURE AND FOOD AUTHORITY
COFFEE IMPORT PERMIT APPLICATION**

Form N

1. Name of Importer (Company)-----
2. Principal Office -----
 Postal Address.....Postal Code.....
 Building..... Street.....Town/
 City.....L.R. No.....
 Email.....Mobile
 Number.....
3. Directors of Importer

NO	NAME	ID NO/PASSPORT NUMBER
5.		
6.		
7.		
8.		

4. Declare professional skills of persons engaged (attach profiles)
5. Brief Company profile
6. Application for Registration by
 Name
 Signature
 Stamp
7. Comments by Head of Coffee Directorate

Name -----
 Signature -----
 Stamp-----

- 4. The Authority may vary, suspend or revoke a liquorer’s licence issued if the holder fails to abide with the terms and conditions of the licence.
- 5. A liquorer’s licence shall not be transferable.

FIRST SCHEDULE (r)
 AGRICULTURE AND FOOD AUTHORITY
 SELF-DECLARATION FORM

Form M

- 1. Name -----
- 2. Postal Address-----
- 3. Mobile number-----
- 4. Location-----
- 5. Licence application for: -----
- 6. I/We declare that i/we have pending /no pending (delete as appropriate);
 - a) Outstanding payments to farmers or other coffee traders.
 - b) Litigations, disputes, arbitrations, cases of coffee thefts, denials of licences, revocations, penalties,
 - c) Status with registering bodies

Declared at

This day of -----

Before a Magistrate/Commission for Oaths

4. State Year of certification by the Coffee Directorate .
.....

(Attach Liquoring licence issued by the Coffee Directorate or an agency authorized by the Authority)

5. State Current Occupation
.....

6. I certify that that the information hereby given in this application is true and I commit to comply with the terms and conditions of the licence.

Date.....Signature

FIRST SCHEDULE

(r. 10(2)(c))

AGRICULTURE AND FOOD AUTHORITY

FORM L

COFFEE LIQUORING LICENCE

Name of Applicant

Licence No. Valid from.....to.....

Postal Address: Postal Code.....

Email Mobile number.....

County..... Sub County.....

Ward..... Street/road

Principal Office.....

L.R.No./Plot No.....

Mr/Dr/Prof/Mrs/Sir/Esq/other.....
.....

Is hereby authorized to offer coffee liquoring services for quality control, coffee milling, roasting, or any other authorized trade in Kenya.

Issued by:

Signature..... Date

Head Coffee Directorate

Agriculture and Food Authority

Subject to Terms and Conditions:

1. Liquorer shall undergo a certification process by the Authority.
2. A licensed liquorer shall comply with the Coffee Industry Code of Practice and Standards.
3. A licensed liquorer shall allow free access to the premises by the inspectors authorized by the Authority and the county government.

Parchment Lights	3/		
Buni			

10. Average payments for husks in the last three years (KES)

Year	KES PER TONNE	REMARKS
1		
2		
3		

11. Average payments for sweepings in the last three years (KES)

Year	KES PER TONNE	REMARKS
1		
2		
3		

12. Other support services offered (state with cost)

NO	Services	Unit Cost of service (Ksh/Unit of measurement)	Comments
1.			
2.			
3.			
4.			

FIRST SCHEDULE

(r.8(1))

AGRICULTURE AND FOOD AUTHORITY

FORM K

APPLICATION FOR COFFEE LIQUORING LICENCE

1. Name of Applicant.....
2. Postal Address
3. Registered address Building.....
 - a. Street.....
 - b. Town/City..... L.R. No.
 - c. Mobile No.
 - d. E-mail.....

FIRST SCHEDULE

(r22(14))

AGRICULTURE AND FOOD AUTHORITY

Form J

CRITERIA FOR COMPETITIVE SOURCING OF A COFFEE MILLER BY
COOPERATIVE SOCIETIES

(To be forwarded to minimum of three millers. The miller(s) to complete and return the form to the society within the agreed time)

1. Name of miller-----
2. Location of mill (estimated kilometers from grower)
.....
County.....
Town/City.....
Postal address..... postal code.....
Mobile number..... Email.....
3. Valid Licence by Authority (*attach certified copy*)
4. NEMA certification (*attach certified copy*)
5. Coffee exchange clearance (*attach certified copy*)
6. Other certification held (*attach certified copy*)
7. Relevant association membership (*attach copy of evidence*)
.....
8. Core Services offered:

NO	Services	Cost of service	Comments
1.	Coffee milling per ton	---USD/Ton	
2.	Coffee handling at mill per 60 kg bag (<i>Where applicable</i>)	----KES/Bag	
3.	Sorting per ton (<i>Where applicable</i>)	---USD/Ton	
4.	Transport (<i>Where applicable</i>)	---KES/Bag	State if credit is available
5.	Export bags (<i>specify type</i>)	---USD/Bag	
6.	Warehousing charges beyond the grace period agreed	---KES/Bag per day	

9. Estimated milling losses.....

TYPE	3 YEARS AVERAGE MILLING LOSS	REMARKS
Parchment 1		
Parchment 2		

Email-----Mobile Number.....

11. Name of Certification scheme (s).....

12. Components of certification Scheme (include the core components and other services)

- a)
- b)
- c)

13. Cost of Certification scheme(s) services and other related costs, specify below: -

NO	Type of Service	Cost(Ksh/USD), if any
1		
2		
3		

14. Certification Body Technical and management staff skills

(Please specify the technical staff and their technical competencies, attach CVs and copies of certificates)

NO	Name	Qualifications attained
1.		
2.		
3.		

15. Certification scheme benefits (Specify)

.....

Prepared by:

Authorized officer's nameDesignation.....

Signature.....Date.....

Stamp

FIRST SCHEDULE
AGRICULTURE AND FOOD AUTHORITY

FORM H2:

DEALER REGISTRATION CERTIFICATE

Name of Dealer.....

Type of Dealership.....

Location of Dealership: City/Town..... L/R No-----

Street.....

The dealer is here registered for conducting the business of-----at
(location)----- on -----(Date)

The registration is made under an application by -----
-----being the Director of the company.

Signed

Interim Head Coffee Directorate Stamp

THIS IS NOT A LICENCE FOR CONDUCTING BUSINESS

Terms and conditions

1. The registration is not transferable
2. Annual returns shall be submitted to the Authority and the respective county government
3. Continuous updates of the directorship and other registration details shall be submitted
4. The Dealer shall comply with all national and international coffee standards and other regulatory requirements in the crops Act, the coffee regulations, the trading regulations and other statutory requirements such as NEMA.
5. Any other terms introduced by the Authority

FIRST SCHEDULE

(r19(2))

AGRICULTURE AND FOOD AUTHORITY

Form I

CERTIFICATION BODY NOTIFICATION

9. Name of Certification Body-----

10. Principal Office -----

Postal Address.....Postal Code..... Building.....

Street.....Town/ City.....L.R. No.....

FIRST SCHEDULE
AGRICULTURE AND FOOD AUTHORITY
APPLICATION FOR REGISTRATION OF DEALERS

FORM H1:

1. Name of Dealer (company)-----
2. Principal Office -----
 Postal Address.....Postal Code..... Building.....
 Street.....Town/ City.....L.R. No.....
 Email.....Mobile
 Number.....
3. Specify type of dealership/Service

Category	Tick as appropriate
Warehousemen	
Miller	
Roaster	
Import Permit	
Buyer	
Independent Cupping services	

4. Directors of dealership

NO	NAME	ID NO/PASSPORT NUMBER
1.		
2.		
3.		
4.		

5. Declare professional skills of persons engaged (attach profiles) (warehouseman, liquorer, agronomist, engineer, if other professional specify)
6. Brief Company profile
7. Application for Registration by
 Name
 Signature
 Stamp
8. Head of Coffee Directorate

Name -----

Signature -----

Stamp-----

FIRST SCHEDULE

(r17(3))

COUNTY GOVERNMENT OF -----

Form H

COFFEE GROWERS NOTIFICATION TO COUNTY GOVERNMENT AND DIRECT SETTLEMENT SYSTEM PROVIDER

Planted or uprooted coffee

1. Name of the grower.....
2. Grower Code.....
3. Category of grower (Tick as appropriate)
 Cooperative [] Association[] Estate[] Other[] specify
4. Location of Grower
 County.....Sub-County.....Ward.....
 Village/Road.....
 Contact: Postal Address.....E-mail.....
 Mobile Number:
5. Change of Acreage

NO	Name of Farmer	ID/NO	Membership Number	Acreage Planted	Number of trees	Acreage Uprooted	Number of trees	variety	Remarks
1.									
2.									
3.									
4.									

6. The following contracts of service provided to the grower are attached for purposes of the Direct Settlement System record:

- (i).....
- (ii).....
- (iii).....

7. The following are the outstanding liabilities payable by the grower to service providers through the Direct Settlement System and the supporting documents:

- (i).....
- (ii).....
- (iii).....

Prepared by:

Name of authorized person.....

Designation.....

Signature.....Stamp.....

FORM

Validity periodOriginal for movement

Date of issue.....Time issued.....

a m./pm. Expires (Time)On (Date)

Booking slip No.....Bearer

Mark

Three empty boxes for marking

Is hereby authorized to move the undermentioned goods from..... to (specify)destination)

Lorry/Wagon Reg No (s)..... by rail/road a distance of..... kilometres.

Description of goods (Clean, Parchment/buni).....

Name(s) of driver(s)

This permit is not valid between 6.30 p m and 6.30 a.m.

*(Delete as necessary)

Collected by.....ID No..... Mobile No. sued by.

Signature

Designation.

Official stamp

AUTHORITY /COUNTY GOVERNMENT

Designation.....

Signature.....

Date.....

Stamp.....

8. Licensing requirements shall be as per the Second Schedule of these Regulations.

AGRICULTURE AND FOOD AUTHORITY

FORM G1(B)

r 10(2)(e)

WAREHOUSEMAN'S LICENCE

THIS LICENCE is granted to..... of P.O. Box..... and authorizes the said.....to offer professional services to Coffee warehouse owners /operators in the Republic of Kenya for a period of one (1) year from theday of day of (both days inclusive).

THIS LICENCE is issued subject to compliance with the requirements for approval and the provisions of the Coffee (General) Regulations 2019 currently in force and the Rules made thereunder and to such conditions as are stipulated herein.

The warehouseman shall maintain professionalism at all times.

THIS LICENCE is not transferable.

ISSUED at Nairobi thisday of20.....

Signed.....

The Chief Executive Office

Agriculture and Food Authority

Subject to terms and conditions:

1. A warehouseman shall not engage in any business that is contrary to the provisions of the Coffee Regulations.
2. The warehouseman shall comply with the Coffee Industry Code of Practice and Standards.
3. The warehouseman shall allow free access to the premises by the inspectors authorized by the Authority or county government.
4. The Authority may vary, suspend or revoke the warehouseman's licence issued if the holder fails to abide with the terms and conditions of the licence.
5. The warehouseman's licence shall not be transferable.

FIRST SCHEDULE

(r.15(8))

COFFEE MOVEMENT PERMIT

Serial No.

Town/ City..... L.R. No.....

Mobile number.....

E-mail.....

5. Date of Incorporation.....

6. Registration No.....

7. Full Names, Address and Occupations of the Directors:

<i>Name</i>	<i>Address</i>	<i>Occupation</i>
a)
b)
c)

8. I certify that the information hereby given in this application is true and I commit to comply with the terms and conditions of the licence.

Name of authorized officer.....

Designation.....

Signature.....

Date.....

Stamp.....

9. Licensing requirements shall be as per the Second Schedule of these Regulations.

FIRST SCHEDULE (r.10(2)(b))

COUNTY GOVERNMENT OF

FORM G2

WAREHOUSE LICENCE

THIS LICENCE is granted to..... of P.O. Box..... and authorizes the said.....to conduct the business of a Coffee warehouse in the Republic of Kenya for a period of one (1) year from theday ofto day of (both days inclusive).

THIS LICENCE is issued subject to compliance with the requirements for approval and the provisions of the Coffee (General) Regulations 2019 currently in force and the Rules made thereunder and to such conditions as are stipulated herein.

Warehouses, whether owned or rented, used for storage of clean coffee or hulled *buni* shall comply with international standards for clean coffee warehousing.

THIS LICENCE is not transferable.

ISSUED at Nairobi thisday of20.....

FIRST SCHEDULE

(r.21(5))

COUNTY GOVERNMENT OF

COFFEE ROASTER'S MONTHLY RETURNS

FORM F3

1. Name of Coffee roaster.....
2. Address: Postal..... Email.....
3. Coffee Year Month
4. Source of coffee:

Source of coffee	Grade (AA, AB, E, PB, C, T, TT, MH, ML, UG, SB)	Quantity (kg)
Auction		
Others (specify trader)		
Total		

5. Balance brought forward: Clean..... Kg.....
Roasted..... Kg.....
6. Total Roasted..... Kg.....
Sales..... Kg.....
7. Balance carried forward: Clean..... Kgs.....
Roasted..... Kgs.....

Report prepared by:

Authorized officer's name.....
Signature.....
Date.....

FIRST SCHEDULE

(r8(1))

COUNTY GOVERNMENT OF

FORM G1

APPLICATION FOR A WAREHOUSE

LICENCE

1. Name of applicant.....
2. Nature of application:
New [] Renewal []
3. Postal Address..... Postal Code.....
4. Registered Office..... Building..... Street.....

FIRST SCHEDULE

(r 10 (1)(d))

COUNTY GOVERNMENT OF

FORM F2

COFFEE ROASTER'S LICENCE

Name

Licence No. Roaster's Code

Valid fromto.....

Postal Address.....Postal Code.....

E-mailMobile number.....

County.....Sub County.....

ard..... village/road/street

L.R.No. /Plot No.....

Is/are hereby authorized to buy clean coffee locally, roast/grind and package for sale

Issued by:

The CEC responsible for agriculture

(or authorized County Officer's)

Name. Designation.....

Signature..... Date.....

Stamp:

Subject to Terms and Conditions:

- 1 A licence holder shall submit their trading returns to the respective county government and the Authority on a monthly basis.
2. The licence holder shall comply with the Coffee Industry Code of Practice and Standards.
The licence holders shall allow free access to the premises by the inspectors authorized by the respective county governments and the Authority
4. The county government may vary, suspend or revoke the coffee roaster's licence issued if the holder fails to abide with the terms and conditions of the licence.
5. The coffee roaster's licence shall not be transferable.

FIRST SCHEDULE

(r8(1))

COUNTY GOVERNMENT OF

FORM F1

APPLICATION FOR A COFFEE ROASTER'S LICENCE

1. Name of Applicant.....
2. Postal AddressPostal Code.....
3. Registered address Building.....
 - a. Street.....
 - b. Town/City..... L.R. No.
 - c. Mobile No.
 - d. E-mail.....
4. Where the applicant is a company
 - a) Name of company
 - b) Date of Incorporation
 - c) Registration No.....
5. Full names, addresses and occupations of the directors:

	Name:	Address:	Occupation:
1.	-----	-----	-----
2.	-----	-----	-----
3.	-----	-----	-----
6. Branch Office(s) if any
 - a. Postal Address.....Postal code.....
 - b. Building Street
 - c. Town/City..... L.R. No.
 - d. Mobile No.....e. E-mail
7. I/We certify that that the information hereby given in this application is true and I/We commit to comply with the terms and conditions of the licence.
Date.....
Name of Director..... Signature
- Name of Director..... Signature
- Name of Director..... Signature
8. Licensing requirements shall be as per the Second Schedule of these Regulations.
9. Name, Address and mobile number of the owner/authorized officer:
 - a. Name:
 - b. Physical Address
 - c. Mobile number:

FIRST SCHEDULE

(r.21(5))

**AGRICULTURE AND FOOD AUTHORITY
COFFEE BUYER'S MONTHLY RETURNS**

FORM D3

BUYER'S MONTHLY RETURNS

Name of Buyer

Physical Address.....

Postal Address.....

Licence No. Buyer's Code..... Email

Mobile number.....

Coffee Year Month

	Type of coffee	No of bags/ Others (specify)	Pockets(Kgs)	Total Weight (Kg.)	ICO No/ Licence No
Opening (b/f) Stock	Clean				
	Roasted				
Auction Purchases	Clean				
Post-Auction Purchases (Specify Buyer)	Clean				
Imports	Clean				
	Roasted				
Exports	Clean				
	Roasted				
Local Sales	Clean				
	Roasted				
Closing Stock	Clean				
	Roasted				

Prepared by:

Name of authorized officer:..... Signature.....

Designation..... Date

Stamp

FIRST SCHEDULE

(r.10(2)(e))

AGRICULTURE AND FOOD AUTHORITY
COFFEE BUYER'S LICENCE

FORM D2

Name of Buyer.....

Licence No. Buyer's Code.....

Valid from.....to.....

Postal Address:Postal Code.....

EmailMobile number.....

County.....Sub County.....

Ward.....Street/road.....

L.R.No./Plot No.....

Is hereby authorized to buy clean coffee only at the exchange for export or local sale or value addition or to import clean coffee for secondary processing in Kenya (tick as appropriate).

Issued by:

Signature.....Date.....

*Head Coffee Directorate**Agriculture and Food Authority*

Subject to Terms and Conditions:

1. A licensed buyer shall submit their trading returns to the Authority on a monthly basis.
2. The licensed buyer shall comply with the Coffee Industry Code of Practice and Standards.
3. The licensed buyer shall allow free access to the premises by the inspectors authorized by the Authority.
4. The Authority may vary, suspend or revoke the coffee buyer's licence issued if the holder fails to abide with the terms and conditions of the licence.
5. The coffee buyer's licence shall not include authority to engage in direct sale.
6. The coffee buyer's licence shall not be transferable.

(c) local value addition, or

(ii) import clean coffee for secondary processing in Kenya

12. (tick as appropriate) I/We certify that the information hereby given in this application is true and I/We commit to comply with the terms and conditions of the licence.

Date.....

Name of Director..... Signature

Name of Director..... Signature

Name of Director..... Signature

13. Licensing requirements shall be as per the Second Schedule of the Regulations

14. Authorized Officer:

Name.....

Mobile number:

Signature.....

Stamp.....

(Where appropriate)

Endorsed by

The Head of Coffee Directorate

Signature..... Date.....

Stamp:

FIRST SCHEDULE

(r8(1))

AGRICULTURE AND FOOD AUTHORITY

FORM D1

APPLICATION FOR A COFFEE BUYER'S LICENCE

1. Name of applicant.....
2. Nature of application:
New [] Renewal []
3. Postal Address Postal
Code.....
4. Registered address Building.....
Street.....
Town/City..... L.R. No.
5. Date of Incorporation.....
6. Registration No.....
7. Physical Address
8. Location of the principal office.....
Address.....
Mobile number
- E-mail.....
9. Full names, addresses and occupations of the directors:

	<i>Name:</i>	<i>Address:</i>	<i>Occupation:</i>
1.	-----	-----	-----
2.	-----	-----	-----
3.	-----	-----	-----
10. Branch Office(s) if any
Address.....
Building Street
Town/City..... L.R. No.
Mobile number
- E-mail.....
11. I/We are seeking a licence to
 - (i) buy clean coffee at the exchange for
 - (a) export;
 - (b) local sale,

FIRST SCHEDULE

(r.10(2)(a))

AGRICULTURE AND FOOD AUTHORITY

FORM C4

COMMERCIAL MILLING LICENCE

Name

License No. Authority's Code

Valid from.....to.....

Postal Address.....Postal Code.....

EmailMobile number.....

County.....Sub-county.....

Ward.....Village/Road.....

L.R.No./Plot.....

Is/are hereby authorized to operate a milling plant as a commercial miller at.....to mill coffee and prepare such coffee for sale.

Issued by:

CEC or Authorized Officer

Designation

Signature.....Date

For: County Government

Subject to Terms and Conditions:

1. A milling licence holder shall submit their milling returns to the Authority and County government on a monthly basis.
2. The milling licence holder shall comply with the Coffee Industry Code of Practice and Standards.
3. The milling licence holder shall allow free access to the premises by the inspectors authorized by the Authority and county government .
4. The county government may vary, suspend or revoke the milling licence issued if the holder fails to abide with the terms and conditions of the license.
5. The milling licence holder shall provide to the Authority and county government the milling tariffs for the purpose of publication a month before the commencement of the coffee year.
6. The milling licence shall not be transferable.

FIRST SCHEDULE

(r 10(1)(c))

COUNTY GOVERNMENT OF.....

FORM C3

GROWER MILLER LICENCE

Name

License No. Authority's Code.....

Valid from.....to.....

Postal Address.....Postal Code.....

EmailMobile number.....

County.....Sub-county

Ward.....Village/Road.....

L.R.No./Plot.....

Is/are hereby authorized to operate a milling plant as a grower miller at.....to

(tick as appropriate)

[] pulp own coffee

[] mill own coffee

[] market own coffee

[] roast/grind and package own coffee.

Issued by:

Issued by:

The CEC or authorized County Officer's name.....
Designation.....

Signature.....Date.....

Stamp:

Subject to Terms and Conditions:

1. A licence holder shall submit their milling returns to the Authority and the respective county government on a monthly basis.
2. The licence holder shall comply with the Coffee Industry Code of Practice and Standards.
3. The licence holder shall allow free access to the premises by the inspectors authorized by the respective licensing authority.
4. The county government may vary, suspend or revoke the license issued if the holder fails to abide with the terms and conditions of the licence.
5. The licence shall not be transferable.

FIRST SCHEDULE

(r8(1))

FORM C2

COUNTY GOVERNMENT OF

APPLICATION FOR A COMMERCIAL COFFEE MILLING LICENCE

1. Name of applicant.....
2. Nature of application:
 - New [] Renewal []
3. Postal Address: Postal Code
4. Email..... Mobile number.....
5. County..... Sub-County
6. Ward..... Village/road.....
7. L.R. No. / Plot No.....
8. Where the applicant is a company, co-operative society, association or society, supply the Authority with:
 - (a) A certified copy of certificate of incorporation/registration;
 - (b) A certified copy of the list of directors/officials.
 - (c) A comprehensive insurance policy

9. Application is made for a coffee milling licence in accordance with the particulars given above, which are hereby certified to be correct by the applicant(s): -

Name..... Signed..... Date.....

Name..... Signed..... Date.....

Name..... Signed..... Date.....

10. Milling capacity:-

c) Parchment.....tonnes per hour

d) Buni.....tonnes per hour

11. Mill certification (if any):

12. Application is hereby made for a commercial coffee milling licence. The particulars given are hereby certified to be correct.

Applicant Signature.....

Date

Stamp.....

- (a) A certified copy of certificate of incorporation/registration;
- (b) A certified copy of the list of directors/officials.

9. Application is made for a coffee grower miller licence in accordance with the particulars given above, which are hereby certified to be correct by the applicant(s): -

Name.....Signed.....Date.....
 Name.....Signed.....Date.....
 Name.....Signed.....Date.....

10. Milling capacity:-

- a) Parchment.....tonnes per hour
- b) Buni.....tonnes per hour

11. Mill certification (if any):

12 Application is made for:-

(tick as appropriate)

- a) Milling own coffee
- b) Marketing own coffee
- c) Roasting, grinding/packaging own coffee

12. Application is hereby made for a coffee grower miller licence.

The particulars given are hereby certified to be correct.

Applicant Signature.....
 Date

Stamp.....

FIRST SCHEDULE

(r.21(5))

FORM B4

COUNTY GOVERNMENT-----

PULPING STATION LICENCE

ANNUAL RETURNS ON PRODUCTION AND SALES

Cooperative Society.....Grower's Code

Crop Year.....FACTORY NAME

COFFEE SALES

Factory Name	Coffee Type	Production (Kgs)	Clean Coffee (Kgs)	Gross Sales (Kshs)	Net From miller or broker(Kshs.)	Factory Expenses	Rate Per Kilo Cherry (Kshs)	% Pay On Net
	CHERRY							
	MBUNI							
	CHERRY							
	MBUNI							
	CHERRY							
	MBUNI							
	CHERRY							
	MBUNI							
	CHERRY							
	MBUNI							

FIRST SCHEDULE

(r8(1))

COUNTY GOVERNMENT OF.....

FORM C1

APPLICATION FOR GROWER MILLER LICENCE

- Name of applicant.....
- Nature of application:
New [] Renewal []
- Postal Address: Postal Code
- Email..... Mobile number.....
- County..... Sub-County
- Ward..... Village/road.....
- L.R. No. / Plot No.....

8. Where the applicant is a company, co-operative society, association or society, supply the respective County government with:

3. The pulping licence holder shall allow free access to the premises by the inspectors authorized by the respective licensing authority.
4. The pulping stations shall submit their pulping returns to the respective county government on an annual basis.
5. The county government may vary, suspend or revoke the license issued to any person if such person fails to comply with terms and conditions of the licence.
6. The pulping station licence shall not be transferable.

FIRST SCHEDULE

(r8(4))

FORM B3

COUNTY GOVERNMENT
PULPING STATION LICENCE

ANNUAL RETURNS ON MEMBERS

Society Name----- Factory name----- Member No.	Name of Farmer	I/D.No	Sex (M/F)	Area (acres) under coffee				mature trees (over 3 years)				New planting (under 3 years)				Production (Kg.)		Status (Active/Dormant)
				Ru u II	Tradit ional	Ba tia n	Othe rs	Ru ru ll	Tradit ional	Bati an	Oth ers	Ru ru II	Trad ition al	Bati an	Othe rs	Cherr y	Mbu ni	
Total																		

OFFICIAL USE
Issued by
TheCEC or authorized County Agriculture Officer's Name..... Designation.....
Signature.....Date.....
Stamp:

FIRST SCHEDULE

(r .10(1)(b))

Form B2 COUNTY GOVERNMENT OF.....
PULPING STATION LICENCE

Valid fromTo.....

1. Name.....Grower's Code

2. Contacts:

Postal Address.....

E-mail.....

Telephone:

3. Location:

County Sub County.

Ward..... Village/Road.....

Name of farm (where applicable):

Is/are hereby authorized to operate a factory for the pulping of cherry and may undertake hulling of own parchment or *buni*.

Issued by:

The CEC or authorized County Officer's name..... Designation.....

Signature..... Date.....

Stamp:

Subject to the terms and conditions:

1. This licence shall be only for pulping own coffee.
2. The pulping licence holder shall comply with the Coffee Industry Code of Practice and Standards.

FIRST SCHEDULE

(r8(1(1)))

Form B1 COUNTY GOVERNMENT OF.....

APPLICATION FOR PULPING STATION LICENCE

1. Name of Applicant: (Individual/organization)
 2. Postal Address.....Postal Code.....
E-mail.....Telephone.....
 3. County.....Sub-County.....
Ward.....Village/Road.....Nearest Public Institution
 4. Proposed Name of farm (where applicable):
 5. L.R. No
- (Attach copy Title Deed, lease agreement, official search or other supporting document).
6. Where the applicant is a company, co-operative society, association or society, supply the respective County government with:
 - (a) A certified copy of certificate of incorporation/registration;
 - (b) A certified copy of the list of directors/officials.
 7. Application is made for a pulping station licence in accordance with the particulars given above, which are hereby certified to be correct by the applicant(s): -

Name.....Signed.....Date.....

Name.....Signed.....Date.....

Name.....Signed.....Date.....
 8. Land under mature coffee (acreage).....No of Trees.....variety.....
 9. Production for immediate past three years, where applicable.

Year	Production (kg)

10. Authorized County Agriculture officer's recommendations:
-

No.	Date	Name of Buyer	ID/Passport /Registration Number	Mobile No.	Receipt No. Issued	Variety (specify)	Total	Remarks
2								
3								
4								
5								
		Total						

Prepared by:

Name:.....Designation:.....

Signature:..... Date:.....

Stamp:.....

FIRST SCHEDULE

(r .10(1)(a))

COUNTY GOVERNMENT OF

Form A2

COFFEE NURSERY CERTIFICATE

Valid fromto.....

Name of certificate holder:

Postal Address

Email.....

Telephone:

County.....Sub-county.....

Ward

Village/Road.....

L.R. No. or Plot No:

Nursery Code:

Nursery Category (tick as appropriate)

(a) Commercial

(b) Private

Is hereby certified to operate a coffee nursery on the specified L.R. No/Plot no.....

Issued by

The CEC responsible for Agriculture.....

(Or authorized Officer)

Designation.....

Signature.....Date.....

Stamp:

Terms and conditions:

1. The Nursery certificate holder shall maintain records of source of seed, amount of allocated seed, seedlings raised and seedlings sold, as the case may be.
2. The Nursery certificate holder shall remit returns to the respective County government on an annual basis.
3. The source of seed/seedlings shall be the Kenya Agricultural and Livestock Research Organization or its authorized agents provided that any imported seed shall undergo phytosanitary certification by Kenya Plant Health Inspectorate Service.
4. A coffee nursery certificate may be suspended where the certificate holder, without any good reason acceptable to the County government, fails to submit returns.

.....
.....
.....
.....

5. Nursery certificate Approval

FOR OFFICIAL USE	
Approved/Not Approved.....	
County Officer's name.....	Designation.....
Signature.....	Date.....
Stamp:	

FIRST SCHEDULE

(r 8(1))

COUNTY GOVERNMENT OF

Form A1

APPLICATION FOR A COFFEE NURSERY CERTIFICATE

(1) Personal Information

Name of Applicant:

(Attach National ID/Passport)

Nature of application

New [] Renewal []

County: sub- county

Ward. Village/Road

Nearest public institution

Land Registration No/Plot No.

(Attach copy of Title deed, lease agreement, official search, or other supporting document)

Contact Details.

Postal Address

Email

Telephone

Where the applicant is a company, co-operative society, association or society, supply the respective County Government with.

- (a) A certified copy of certificate of incorporation/registration,
- (b) A certified copy of the official list of directors/ constitution/by laws,

(2) Nursery Category (tick as appropriate)

(a) Commercial

(b) Private

Application is hereby made for a certificate to operate a coffee nursery The particulars given are hereby certified to be correct.

REQUIREMENTS

The coffee nursery certificate requirements shall be as provided in these Regulations

Date Signed

(3) County officer recommendations

41. (1) A person shall not alter any document issued by a licensing authority or any other competent authority.

Alteration of documents.

(2) A person who contravenes this provision commits an offence.

42. Any person contracted to produce and market specialty coffee shall give access to persons authorized by the Authority to inspect the farms, processing facilities, warehouses and vessels transporting coffee and shall, when required to do so, produce for the purpose of inspection, any document or information related to production, processing and export of the coffee.

Inspections for specialty coffee.

43. A person who fails to give information or gives inaccurate or misleading information or falsifies information or misrepresents information required under these Regulations commits an offence.

Inaccurate, misleading or false information.

44. (1) A person who commits an offence under these Regulations, for where no penalty is provided, shall be liable upon conviction, to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding one year or to both in accordance with section 37 of the Act.

General penalty.

(2) Notwithstanding the provision of sub regulation (1), the licensing authority may suspend or revoke a license issued under these Regulations.

45. The Coffee (General) Rules 2002 are revoked.

Revocation L.N No 79 of 2012.

46. Without prejudice to the generality of regulation 45—

Transitional provision.

- (a) all licenses existing before the coming into operation of these Regulations shall remain valid until their expiry, and subsequent licenses shall be issued under these Regulations;
- (b) any contract entered into and any requirement as to the particulars to be entered in any contract used for the purposes of the Coffee (General) Rules, 2002 and insurance policy, performance bond or any bank guarantee issued which was in force immediately before the date of commencement of these Regulations shall remain in force and have effect as though prescribed under these Regulations, until their next date of expiry.

37. (1) The Authority and county governments shall jointly or separately conduct periodic surveillance among growers, pulping stations, millers, roasters, processing plants, warehousing facilities, transporters, retail outlets, border points, and buyers' premises to assess the degree of compliance with the coffee industry policy, standards, code of practice, laws and the general well-being of the coffee industry.

Surveillance.

(2) Surveillance reports will be shared with county governments for purposes of standards and the regulatory framework enforcement.

PART VII—GENERAL PROVISIONS

38. (1) The Authority, county governments, every licence holder, certificate holder and service provider shall digitize and automate their operations for efficient service delivery and information dissemination.

Digitization.

(2) The digitization process shall ensure—

- (a) multiple parties can access a common system;
- (b) flow of data takes place seamlessly across the value-chain without corruption;
- (c) the system is safe and secured and protected against unauthorized entry or access;
- (d) access to the system is properly regulated and monitored with adequate mechanisms for continued integrity; and
- (e) the records are not lost, destroyed or tampered with, and in the event of any loss or destruction, sufficient back-up is available in a secure place.

(3) The digitization referred to in sub-regulation (1) shall require the conversion of the entire value chain into a digital platform based on automation, computerization, integration across the value-chain and digital instrument usage including weigh scales, digital scanners, storage and inventory management.

(4) The digitization and automation referred to in this regulation shall be put in place within a period of twelve months from the date of commencement of these Regulations.

39. (1) The county governments shall share the information on registered and licensed growers and dealers with the Authority on a monthly basis or other agreed timelines.

Sharing of information.

(2) The Authority shall share the information with the respective county governments on registered and licensed dealers and other service providers within their county on a monthly basis or other agreed timelines.

40. Where any dispute arises between any two or more persons contracted, licensed or registered under these Regulations, the dispute may be resolved through alternative dispute resolution mechanism in the first instance with judicial proceedings as the last resort.

Dispute Resolution.

potential contamination and samples of such coffee bags shall be subjected to relevant tests for possible contaminants.

33. (1) The Authority and the county governments, shall separately or jointly conduct inspection of coffee farms, coffee nurseries, pulping stations, coffee mills, warehouses, cupping centres, roasters or coffee buyers' vessels transporting coffee to ascertain compliance with the requirements of the Act and these Regulations.

Inspections.

(2) A smallholder, a grower, a pulping station operator, a transporter, a miller, a warehouseman or a buyer shall accord an inspector full and free access and all necessary assistance during the inspection.

(3) An inspector shall have the following minimum qualifications—

- (a) a degree from an accredited university in agriculture, agricultural engineering, or a related course;
- (b) three years' minimum experience in agriculture or related field;
- (c) satisfies chapter six of the Constitution;
- (d) has English and Kiswahili languages proficiency;
- (e) computer literacy; and
- (f) any other additional requirement by the licensing authority.

(4) The Authority shall gazette inspectors upon their appointment.

34. (1) The Authority shall issue annual standards conformity certificates to coffee millers, warehousemen, buyers and roasters in a format prescribed by the Authority and such certificates may inform county governments in the renewal of licences .

Conformity certificates and compliance reports.

(2) The Authority shall issue to county governments reports on the compliance with standards and the regulatory framework by nursery operators and pulping station licence holders and such reports may inform renewal of licences.

35. A person shall not, except with express written authority of a grower, remove labels or seals or open technically sewn or closed packets of coffee unless for the purpose of inspection to determine their validity and genuineness or for other lawful cause.

Prohibition against removal of labels, seals, etc.

36. (1) All coffee imported to Kenya shall conform to the Kenya coffee standards.

Coffee Imports to conform to standards.

(2) Clean coffee imported shall be accompanied by a certificate of origin from the country of origin.

(3) Coffee, which does not conform to the Kenya coffee standards shall be destroyed upon an order of a court of competent jurisdiction obtained in proceedings instituted by the Authority with due notice to the importer, and the import and permit of the owner may be suspended and subsequently cancelled.

30. (1) A person who blends any or various grades of coffee produced in Kenya with any other coffees produced outside Kenya shall declare the percentage of Kenyan coffee in the blend.

Prohibition against blending.

(2) A person who contravenes this regulation commits an offence.

31. Clean coffee which consists only of a sample or a parcel not exceeding twenty kilograms in weight shall not require a buyer's license from the Authority provided that it fulfils other relevant licensing and certification requirements.

Exemption.

PART VI—QUALITY ASSURANCE

32. (1) The Authority and county governments shall collaborate in the enforcement of coffee industry standards along the value chain, for purposes of quality assurance.

Quality Assurance for Coffee Industry.

(2) The Authority, in consultation with an accredited university of higher learning, and industry stakeholders, may develop a training curriculum, conduct examinations and jointly issue certificates for coffee liquorers.

(3) The Authority may enter into a memorandum of understanding with an accredited university in the training and administration of liquorers' examinations.

(4) A person certified as a liquorer shall apply for a practicing licence to the Authority to offer liquoring services.

(5) The Authority shall, in collaboration with county governments, establish cupping centers in the counties for the purpose of coffee quality analysis and capacity building.

(6) Coffee quality analysis at the cupping centers shall be carried out by certified liquorers.

(7) Quality Assurance officers from the Authority shall carry out assessments on coffee quality maintenance at any premises that handles coffee along the value chain.

(8) The Authority shall upon application, licence a cupping centre subject to conditions set out under the Second Schedule.

(9) The Authority shall be at liberty to sample coffee at any stage of the value chain from the primary factories to mills, warehouses, roasting facilities, export consignments and coffee exchanges for analysis to ascertain the pesticides residue levels and ensure compliance with the maximum permissible residue levels at Kenya's coffee market destinations locally and internationally.

(10) The Authority in consultation with county governments shall monitor maintenance of pesticide spraying records by coffee growers to enforce compliance with the permissible pesticides residue levels in coffee beans.

(11) The Authority shall inspect coffee storage bags, wholesalers, suppliers, manufacturers and importers to check against

26. (1) A grower miller or an appointed broker, in consultation with the commercial miller shall prepare a sales catalogue in consultation with the exchange and growers, for all the coffee in a licensed warehouse in accordance to the exchange regulations and these Regulations.

Sales catalogue.

(2) A sales catalogue shall contain the particulars set out in the Seventh Schedule.

27. The Authority may co-ordinate coffee stakeholders, including County Governments, growers and buyers at national and international events for the purpose of promoting Kenya coffee.

Coffee promotions.

28. (1) All coffee shall be stored in warehouses duly licensed by the respective county governments. .

Coffee warehousing in designated warehouses.

(2) Premises shall not be designated as a coffee warehouse by the county government unless the premises are inspected, approved, and licensed by the county government .

(3) A licensed warehouse shall conform to the standards issued by the Kenya Bureau of Standards and shall be duly certified by a public health officer.

(4) The Authority and county governments shall inspect warehouses and warehousing activities on a regular basis.

(5) A warehouseman shall not have a lien of any nature over coffee whether the coffee is in his possession or not.

(6) A warehouseman shall insure all coffee in his warehouse or under his custody against fire, theft and other insurable risk.

(7) Coffee shall not be removed from a warehouse without an endorsed coffee warrant or warehouse receipt as the case may be.

(8) A warehouseman shall account for any weight or quality loss to the growers, agents, buyers or roasters.

(9) A person who operates a warehouse contrary to this regulation commits an offence.

29. (1) A person shall not export coffee or cause any coffee to be exported unless a phytosanitary certificate issued by the competent authorities is presented to the Commissioner of Customs and Excise.

Export and import of coffee.

(2) The Authority shall authorize all coffee exports through issuance of the coffee buyer's licence, notification and registration of direct sales contracts, Certificate of Origin, certificate of quality and movement permits.

(3) The Authority shall authorize coffee imports through issuance of import permits or a buyer's licence:

Provided clean coffee imports shall be accompanied by the Certificate of origin and a Phytosanitary certificate issued by country of origin.

order of the sales catalogues for every sale and ensure that reasonable access to the auction is given to all persons licensed to trade;

- (i) the grower shall, either directly or in consultation with the broker, set the reserve price for the coffee for every sale taking into account the quality of the coffee, the prevailing exchange prices and the international production and market trends;
- (j) where a bid for coffee at the auction has not been confirmed, the grower miller or broker shall disclose the reserve price at the trading floor and where the disclosure of the reserve price does not attract any competitive offers, the coffee shall be withdrawn and re-offered for sale at a subsequent auction.
- (k) all trading in coffee at the exchange shall be concluded at the trading floor of the exchange;
- (l) once auction is complete, successful bidders shall be invoiced by the grower miller or broker and payments of the proceeds shall be effected to the grower through direct settlement system net of contract and statutory charges;
- (m) upon confirmation of payment by the direct settlement system and endorsement by the exchange, title to coffee shall be transferred to the overseas buyer or roaster by changing ownership details in the coffee warrant or warehouse receipt, as the case may be, at the central registry;
- (n) the new owners will thereafter be at liberty to take delivery of the coffee; and
- (o) a coffee warrant or warehouse receipt as the case may be, issued by the warehouseman to a depositor of coffee shall be transferable to a new holder who has purchased the coffee and is entitled to take its delivery upon presentation of the coffee warrant or warehouse receipt endorsed by the exchange to the warehouseman.

(9) The exchange shall disseminate market information for every auction and an analysis of performance on, weekly and monthly basis.

(10) The obligations of the exchange and the direct settlement system provider shall be as set out in the Coffee Exchange Regulations and these Regulations.

(11) A person who contravenes this regulation commits an offence.

the direct settlement system, any relevant contracts of service for which payment will be due from the grower, and any other document showing outstanding liabilities payable by the grower, for purposes of settlement through the system.

(5) The particulars supplied shall take the format prescribed by Form H set out in the First Schedule.

(6) The grower or the grower's authorized representatives and the exchange shall ensure that the information provided under sub-regulations (3) and (4) herein above is correct and relevant and they shall be liable for any loss or other consequences resulting from any incorrect information given to appointed commercial banks providing the settlement system.

(7) The Direct Settlement System provider shall remit coffee sales proceeds to the coffee growers and settle service provider's fees and other liabilities within five working days from the receipt of the proceeds of sale of coffee.

(8) The trading of coffee at the exchange shall be in accordance with these Regulations and any other laws that may govern the exchange and shall comprise the following—

- (a) a miller shall deposit clean and graded coffee at a designated licensed warehouse, and where the clean coffee is a bulk, the miller shall provide details of the bulk and the proportions of the respective growers' coffee;
- (b) coffee shall meet the Kenya coffee quality standards for commodity trading at the exchange;
- (c) the warehouseman shall issue a coffee warrant in the form set out in the Eighth Schedule or transferable warehouse receipts as the case may be, stating the quantity and quality of the coffee deposited and ensure traceability of the coffee;
- (d) for purposes of sale, the grower miller or appointed broker shall input the details of the coffee warrant or warehouse receipt as the case may be, into the central registry of the exchange;
- (e) the warehouseman shall guarantee delivery of the coffee described in the coffee warrant or warehouse receipt as the case may be, and in the event of loss or failure of delivery, the warehouseman shall be liable;
- (f) The warehouseman or an appointed collateral manager shall confirm that the warehouse receipt or coffee warrant as the case may be, is valid by inspecting and auditing coffee in the warehouse;
- (g) upon verification, details in the information registry shall be confirmed into the central order book ready for trading;
- (h) the exchange in consultation with grower millers or appointed brokers shall set the volumes, lot sizes, dates and times for holding of coffee auctions and determine the

the overseas buyer for purposes of arbitration in case of disputes and for quality control.

24. (1) A licensed grower, other legal entity representing growers may undertake direct sales.

Direct sales.

(2) A licensed grower or other legal entity representing growers may sell own clean coffee to licensed roasters for local value addition and sale, provided that the roasters shall comply with requirements set by the licensing authority and meet the obligations under the Third Schedule.

(3) A licensed grower, or other legal entity representing growers shall notify the Authority and the respective county government of the direct sales and the notification shall include the following—

- (a) a copy of the contract;
- (b) the coffee grade;
- (c) the coffee quantity;
- (d) the coffee price;
- (e) details of a certification scheme, where applicable;
- (f) quality report;
- (g) mode of payment; and
- (h) a dispute resolution clause.

(4) Direct sales shall be conducted according to the guidelines issued by the Authority in consultation with the county governments under the Sixth Schedule.

(5) The notification shall be deposited at the Authority for registration and facilitation with exportation documentation.

(6) A certificate of inspection shall be issued by the Authority on coffee to be sold under direct sales in the format prescribed under the Sixth Schedule.

25. (1) The exchange shall manage the auction floor, central sample room, information registry and the direct settlement system, maintain records relating to coffee sales, coffee samples and sweepings, and avail sales catalogues to interested parties.

Management of the auction.

(2) The proceeds of the sale of coffee by the auction shall, be deposited in a direct settlement system established in accordance with the laws that govern the exchange.

(3) The grower or the grower's authorized representatives, shall after the commencement of these Regulations, supply through the exchange all the necessary particulars of the grower to the commercial banks providing the direct settlement system to the grower, for purposes of initiating the settlement system

(4) The grower or the grower's authorized representatives shall through the exchange also lodge with the commercial banks providing

(9) A coffee grower may deliver coffee samples not exceeding 500 grams of parchment or *buni* for independent quality analysis prior to the actual delivery to a commercial coffee miller and such laboratories shall issue the grower with a quality report.

(10) A coffee miller shall remit 200 gram samples for each grade of an out-turn to the Authority for quality analysis and assessment of conformity with coffee standards.

(11) A miller shall submit returns on coffee received and milled to the Authority and the respective county government in Form C5 set out in the First Schedule.

(12) A coffee miller shall comply with the Kenya Standard coffee grades set out in the Fifth Schedule and the, regional and international coffee standards.

(13) A coffee miller may bulk parchment or *buni* coffee to attain millable quantities and shall ensure only coffees of similar qualities are bulked for purposes of preservation of the quality and general characteristics:

Provided that the coffee miller shall avail such information to the Exchange and the direct settlement system provider on proportions of the bulked coffees for purposes of processing payments.

(14) For purposes of marketing under direct sales, a miller may categorize and bulk coffee as per the instructions of the grower to meet specific market requirements as instructed by the overseas buyer..

(15) A co-operative society or other legal entities representing smallholder growers shall competitively procure services of the miller or other service providers to whom the coffee is intended to be delivered before entering into such contracts in the Form J as set out in the First Schedule.

(16) The terms of agreement between a licensed grower and a commercial miller for the milling of coffee shall be reduced into writing and shall be in the form set out in the Fourth Schedule.

PART V—COFFEE TRADING AND MARKETING

23. (1) Kenya Coffee shall be traded through—

- (a) the exchange; and
- (b) direct sales.

(2) The prices offered at the direct sales shall be competitive and bear a favorable comparison to those discovered at the exchange.

(3) A buyer, roaster, or a grower miller licensed by the relevant licensing authority, or a broker appointed by the grower, may trade at the auction in accordance with these Regulations and any other laws that may govern the exchange.

(4) A buyer shall remit to the Authority a sample of 200 grams of clean coffee representing the consignment destined for shipment to

Coffee trading.

- (c) in handling parchment, do quality analysis of the dry parchment prior to storage and shall only mix parchment that is of similar quality; and
- (d) insure the coffee against loss and damage while at the station and in transit and reinforce the security of the station to guard against theft of coffee.

(4) The licence holder shall allow free access to the premises by the inspectors authorized by the respective licensing authorities for inspection to ensure compliance of the licence holder with these Regulations.

(5) The licence holder shall submit returns on the coffee received and processed to the respective county governments in the format set out in the First Schedule.

(6) The licence holder shall comply with the requirements set out in the Schedules to these Regulations.

22. The milling of coffee may be carried out by—

- (a) an estate, a grower's co-operative society or other entity representing the grower, under a coffee grower's milling licence; or
- (b) a commercial miller under a commercial miller's licence.

Requirements relating to coffee milling.

(2) Coffee milling shall only be conducted at premises that are specified under the license issued by the respective county government as such in the register maintained by the Authority.

(3) A coffee miller shall allocate an out-turn number for every coffee delivered and received for purposes of traceability.

(4) A commercial miller shall ensure that the grower or grower's representative is given reasonable notice to be present during the milling process.

(5) A coffee miller shall take out comprehensive insurance cover against fire, theft, and other risks for all coffee in its possession and custody.

(6) Every miller shall account for mill spillage or sweepings and all other coffee by-products to the growers and the Authority.

(7) Every miller shall digitize its operations to ensure weight precision, timely dissemination of information and protection of growers' data:

Provided that a miller who does not have digitized weighing and information systems shall put the same in place within a period not exceeding twelve months upon the commencement of these Regulations.

(8) The county governments and the Authority shall, separately or jointly undertake regular inspections to ensure compliance with these Regulations by the coffee mills.

(2) The Kenya Agricultural and Livestock Research Organization or its authorized agents operating coffee seed production units under their supervision, shall issue certified coffee seeds or seedlings for multiplication in any coffee nursery for distribution to any other grower or for export.

(3) Notwithstanding the provisions of sub-regulation (2) any person who issues coffee planting materials for multiplication or distribution other than the Kenya Agricultural and Livestock Research Organization shall obtain certification from institutions legally mandated by statute to issue certification.

(4) A person shall not establish or operate a coffee nursery unless the person is licensed by the respective county government.

(5) The Authority may upon application, licence a person to import coffee planting material for nursery establishment subject to conditions set out under the Second Schedule.

(6) A person shall not be issued with a coffee nursery licence, unless an inspector—

- (a) visits and inspects the site and is satisfied that the site is suitable for establishment of a nursery; and
- (b) is satisfied that the nursery licence holder or their agents have adequate knowledge of nursery management and production techniques.

21. (1) The primary processing of coffee shall be carried out by an estate or a grower's co-operative society or other association comprising growers under a pulping station licence.

Requirements relating to coffee pulping.

(2) The pulping station licence shall include authority to undertake hulling of own parchment or *buni*, provided the hulling activity is registered with the County Government and shared with the Authority

(3) Where the licence holder is a co-operative society or other association comprising growers, it shall—

- (a) appropriately weigh each grower's cherry using digitalized coffee weighing scales and post the information on quantity and quality to the grower and to a central database made accessible to the grower, for traceability:

Provided that the cooperative society or such other association which does not have digitized weighing and information systems shall put the same in place within a period not exceeding twelve months upon the commencement of these Regulations;

- (b) coffee weighing scales shall be annually calibrated by the government agency responsible for weights and measures and such calibration evidence shall be appended to the weighing scales in form of seals;

16. (1) Licence holders and other service providers under these Regulations shall observe the obligations set out in the Third Schedule.

Obligations of licence holders.

(2) The obligations set out in the Third Schedule shall form part of every contract between a grower and a grower's respective service provider or agent whether expressly provided for in the contract or not.

(3) All service agreements entered under these Regulations shall be registered with the Authority and the respective county governments.

PART IV—PRODUCTION AND PROCESSING

17. (1) Data on area of coffee planted or uprooted within a county shall be maintained by the respective county government.

Notification after planting, uprooting coffee or change of details of farm or estate.

(2) A co-operative society or other legal entity shall maintain growers' records of number of trees planted or uprooted.

(3) The co-operative society or other legal entity shall notify the county government of the details maintained under sub regulation (2) and as specified in Form H set out in the First Schedule.

(4) The county government shall file the growers' registers with the Authority annually.

18. The Authority and the county governments shall enforce the coffee industry code of practice and standards on the coffee production, processing, marketing and quality control.

Coffee Industry Standards and Code of Practice.

19. (1) The Authority shall promote coffee certification schemes for Kenyan coffee and geographical indications.

Certification of Kenya Coffee.

(2) The certification schemes operating within the coffee industry shall register with the Authority prior to the commencement of their operations in Form I set out in the First Schedule.

(3) Certified coffee shall be identified and labelled according to the respective certification schemes for traceability and marketing.

(4) A coffee grower, miller or any other player in the coffee value chain may seek certification to ensure the quality of coffee, the quality of service and secure market confidence.

(5) A miller shall declare certified coffees in the sales catalogue.

(6) Certified coffee shall be traded in accordance with these Regulations and any other laws that may govern the exchange.

(7) A coffee miller shall provide documentary proof of certification to the exchange before such coffees are offered for sale.

20. (1) Coffee research shall be undertaken by the Kenya Agricultural and Livestock Research Organization, higher institutions of learning or private entities accredited by the National Commission for Science, Technology and Innovation:

Research and Prohibition of issuance of coffee seeds or seedlings.

Provided that such research findings shall be validated by the Kenya Agriculture and Livestock Organization before rollout and application by coffee growers.

14. (1) Licences issued by the licensing authority shall expire on the 30th June of every year and license holders wishing to renew the licences may apply by 1st June preceding the expiry of the licence.

Duration of licences.

(2) Notwithstanding the provisions of sub-regulation (1), a late application may be made upon payment of a late application fee as set out in the Second Schedule.

15. (1) The movement of coffee shall be managed through the issuance of movement permits by the licensing authority provided that no movement permit shall be issued under these Regulations to any person other than a licence holder, and the licence holder shall not alter the particulars entered therein.

Movement permits.

(2) A person shall not move coffee or cause any coffee to be moved without an original movement permit issued by the licensing authority in accordance with sub regulation (1).

(3) Duplicate copies or photocopies of the original movement permit shall not be used for coffee movement.

(4) Any vessel used for coffee transportation shall conform to the Kenya Coffee Standards.

(5) The respective county governments shall monitor the movement of parchment coffee between stores and the movement of clean coffee and hulled *buni* to the market in order to ensure that the coffee is safe and to avoid any illegal coffee dealings.

(6) A person shall not transport or be in possession of any coffee unless he is licensed to carry out any of the activities specified in these Regulations and holds a valid original movement permit issued –

- (a) in the case of buni and parchment, by the respective county of origin; or
- (b) in the case of clean coffee from the coffee mills to the warehouses, by the respective county governments;
- (c) in the case of movement of clean coffee by buyers upon purchase, or movement of purchased clean coffee to warehouses by millers, or movement of clean coffee for export or import, permits shall be issued by the Authority.

(7) Sub regulation (2) (a) shall not apply to a smallholder moving own coffee between the farm and the pulping station where he is registered.

(8) A coffee movement permit shall take the format prescribed under the First Schedule to these Regulations.

(9) A person who moves coffee contrary to this regulation commits an offence.

(4) Every licence holder shall submit monthly returns as required, to the licensing authority.

13. (1) A licensing authority may, after inspection and evaluation of an application received under these Regulations, grant the licence applied for or reject the application.

Licensing procedure.

(2) Where a licensing authority rejects an application, the licensing authority shall notify the applicant accordingly, giving reasons for the rejection within fourteen days from the date of the decision of the licensing authority.

(3) The applicant may resubmit an application following such rejection after addressing the issues raised in the notification from the licensing authority.

(4) Where the licensing authority rejects an application after resubmission under sub-regulation (3), the applicant may appeal to the Cabinet Secretary or in the case of a county government, appeal to the County Executive Committee through the County Secretary within thirty days of notification of the rejection by the licensing authority.

(5) Where an applicant is dissatisfied with the decision of the Cabinet Secretary or the County Executive Committee in sub regulation (4), the applicant may seek judicial recourse within thirty days of the decision.

(6) The licensing authority shall, at least thirty days before granting a new licence under these Regulations, give notice of the proposed grant in the *Gazette* and in such other manner as the authority may determine.

(7) The notice referred to in sub-regulation (6) shall—

- (a) specify the name or other particulars of the person or class of persons to whom the licence is to be granted;
- (b) state the purpose for the proposed licence and indicate the date such licence is proposed to be issued to the successful applicant; and
- (c) invite objections to the proposed grant of licence and direct that such objections be lodged with the licensing authority within fourteen days from the date of the notice.

(8) The licensing authority may after considering the objections, if any, made under this regulation, grant the licence applied for, subject to such terms and conditions as may be specified therein.

(9) The issuance of a licence to an applicant under these Regulations shall not be withheld without reasonable cause.

(10) A licence issued under these Regulations shall not be transferable.

(11) The gazetting of licences under this regulation excludes licences and certificates issued to coffee growers.

- (f) a warehouse licence in Form G2 set out in the First Schedule authorizing the holder to warehouse coffee;
- (2) The following licences shall be issued by the Authority—
 - (a) a coffee liquoreur's licence in Form L set out in the First Schedule authorizing qualified persons to offer liquoring services;
 - (b) an independent cupping laboratory licence authorizing the holder to offer coffee liquoring services and training on coffee quality at a fee;
 - (c) a coffee buyer's licence in Form D2 set out in the First Schedule authorizing the holder to buy clean coffee from the exchange for export, local sale or value addition;
 - (d) a coffee import permit issued to the holder to authorize importation of processed coffee and shall take the format specified under Form O under First schedule; and
 - (e) 'warehouseman's licence' in Form G1(A) authorizing qualified persons to offer warehouse management services .

(3) The county governments shall share the information on licence holders with the Authority for the purposes of monitoring the compliance with coffee standards and national regulatory framework.

(4) The Authority shall share the information on licences and permits issued with the county governments

11. (1) A holder of a coffee buyer's licence or any other entity associated with such holder shall not be licensed as a commercial miller, broker, roaster, agent or warehouseman.

Limitation of a coffee licence.

(2) A buyer's licence shall not authorize the buyer to engage in direct sales.

(3) The respective licensing authority may revoke any licence, which is found to be held in contravention of sub-regulations (1) and (2).

(4) A holder of a commercial miller's licence or any other entity associated with such holder either in shareholding or directorship or in any other way, shall not be licensed as a broker, roaster or agent.

12. (1) The issuance of the licences specified under these Regulations shall be subject to the applicants meeting the respective requirements for such issuance set out in Part A of the Second Schedule and payment of the applicable fees as specified in Part B of the same Schedule.

Conditions of licence.

(2) A licence holder shall specify the premises upon which the business specified in the license shall be conducted.

(3) Every licensed person shall comply with the Kenya Coffee Industry Standards, Industry Code of Practice and the Industry regulatory framework.

(6) Neither the Authority nor the county governments shall charge any registration fee.

(7) Registration shall take the format prescribed by Form H for growers and Form H1 for dealers in the First Schedule in these Regulations.

8. (1) A person who intends to engage in coffee business shall apply to the Authority or the county government, as the case may be, using the respective application forms and execute a self-declaration form as set out in the First Schedule, and shall be issued with a licence, certificate or permit in the corresponding form set out in the same Schedule, upon fulfillment of all requirements and payment of the prescribed fee set out in the Second Schedule.

Application for a licence, certificate or permit.

(2) The provisions of sub-regulation (1) shall not apply to a person engaged in coffee farming.

(3) A person who deals in coffee shall produce the certificate, permit or license respectively issued under sub-regulation (1) upon request by an inspector or such other authorized persons at all times.

(4) A person who deals in coffee shall submit returns to the licensing authority in the format set out in the First Schedule.

(5) A person who contravenes this regulation commits an offence.

9. (1) A person shall not pulp, mill, warehouse, export, import, trade, transport, possess or otherwise deal in or transact any business in coffee unless the person holds a valid certificate, permit or licence issued by the Authority or the county government for that purpose.

Prohibition against operating without a certificate, permit or licence.

(2) A person who contravenes this regulation commits an offence.

10. (1) The following certificates and licences shall be issued by the respective county government—

Licensing.

- (a) a coffee nursery certificate in Form A2 set out in the First Schedule authorizing the holder to operate a coffee nursery;
- (b) pulping station licence in Form B2 set out in the First Schedule authorizing the holder to operate a pulping station and may undertake hulling;
- (c) a coffee grower's milling licence in Form C3 set out in the First Schedule authorizing the holder to pulp, mill, market or roast own coffee, and
- (d) a commercial miller's licence in Form C4 set out in the First Schedule authorizing the holder to conduct the business of milling coffee at a fee;
- (e) a coffee roaster licence in Form F2 set out in the First Schedule authorizing the holder to buy, roast or grind and package clean coffee for local sale.

5. (1) The county governments functions shall be as specified under the Crops Act.

County
Governments
functions.

(2) The functions of county governments shall include—

- (a) registration of nursery operators, coffee growers and pulping station licence holders;
- (b) issuance of coffee nursery certificates and permits for movement of coffee;
- (c) issuance of pulping station, milling, warehousing and coffee roasting licences;
- (d) offering and coordination of extension services on coffee production and primary processing;
- (e) inspection of nurseries, pulping stations, millers roasters and warehouses located within their respective counties;
- (f) enforcement of county and national legislation on coffee, industry code of practice and other industry standards;
- (g) in collaboration with law enforcement agencies, enforcement of regulations and enhancement of security of coffee in the county;
- (h) enforcement of policies and guidelines on corporate governance in coffee growers' institutions; and
- (i) monitoring and report of incidences of pests and disease outbreaks and taking appropriate action in collaboration with the Authority and other relevant government agencies.

6. In accordance with Article 6(2) of the Constitution, the county governments and the Authority shall consult and cooperate in the development, promotion and regulation of the coffee industry.

Collaboration
between County
Government and the
Authority.

PART III— REGISTRATION AND LICENSING

7. (1) Every grower shall be registered by the county government where his coffee is grown.

Registration.

(2) Every coffee nursery operator, co-operative society, coffee association and coffee estate shall register with the county government where they operate.

(3) A small holder may register with a co-operative society or any other legal entity of which he is a member.

(4) The county governments shall maintain up-to-date registers of all nursery operators, coffee co-operative societies, coffee associations, coffee estates and share the information with the Authority.

(5) The Authority shall register all warehousemen, warehouses, coffee millers, coffee buyers, roasters, brokers, agents, importers, coffee bags suppliers and certification companies, maintain an up-to-date register on them and share the register with respective county governments.

- (f) provide for a transparent and timely clearing and settlement of coffee sales proceeds to the growers and service providers;
- (g) provide for the collection and maintenance of data related to coffee;
- (h) ensure improvement of coffee standards, increased production and support; and
- (i) regulate the coffee industry in Kenya.

PART II—FUNCTIONS OF THE AUTHORITY AND COUNTY GOVERNMENTS

4. (1) The Authority shall, in the performance of its functions, act through the directorate responsible for coffee, to carry out such activities as are necessary to promote, develop and regulate the coffee industry as specified under the Crops Act.

Functions of the Authority.

(2) The Authority shall —

- (a) issue certificates or licences for independent coffee cupping laboratories, liquoreurs, and buyers, movement permits for purchased clean coffee, and regulate imports and exports of coffee;
- (b) register coffee dealers;
- (c) co-ordinate capacity building activities for players in the coffee value chain;
- (d) develop, oversee and enforce as the case may be, the national regulations, industry code of practice and other quality standards in the coffee industry;
- (e) collect, collate and maintain a data base and disseminate information on the coffee industry;
- (f) conduct local and international coffee market intelligence and promotional activities including the application of the Kenya Coffee Mark of Origin;
- (g) establish linkages with various government agencies and research institutions;
- (h) develop and promote policies and strategies for the coffee industry;
- (i) recommend general guidelines for interaction between various players in the coffee industry;
- (j) promote the development of regional appellations for Kenyan coffee; and
- (k) develop, oversee and enforce as the case may be the coffee industry standards and industry code of practice in collaboration with the Kenya Bureau of Standards.

“roaster” means a person licensed by the respective county government to buy clean coffee under these Regulations for value addition for local sale;

“sales catalogue” means a standard document prepared by a miller or an appointed broker in consultation with the exchange and growers for sale of clean coffee at the exchange;

“secondary processing” means parchment de-husking, polishing, grading and may include roasting, grinding and packaging of clean coffee beans;

“small holder” means a grower cultivating coffee in a small parcel of land or in small parcels of land who does not possess his own pulping station;

“sweepings” means the balance of coffee samples in the exchange sample room and spillages collected from millers’ milling activities for sale at the exchange and the proceeds paid to growers on pro-rata basis;

“trading floor” means the physical space or electronic platform managed by the exchange where the persons licensed to trade in coffee converge for purposes of coffee trading;

“warrant” means an instrument prepared by the warehouseman of which the person named therein, or the last endorsee thereof, shall for all purposes be deemed to be the owner of the coffee to which it relates;

“warehouse” means a facility registered by the Authority and licensed by the county government for the storage of coffee, and which is specifically designed to guarantee the quality and safety of the coffee;

“warehouseman” means a person who possesses skills for the management of a licensed warehouse and is licensed by the Authority; and

“warehousing receipt” means a certificate issued by a licensed coffee warehouseman in respect of coffee stored in a licensed warehouse for purposes of collateral.

3. The object and purpose of these Regulations is to —

Object and purpose.

- (a) to give effect to section 40 of the Crops Act, 2013;
- (b) to provide for licences to be issued by the licensing authorities;
- (c) to provide for the obligations of licence holders and service providers, and the protection and regulation of their interests along the value chain;
- (d) recognize the grower of coffee as the owner of coffee until the coffee is sold and paid for;
- (e) provide for protection of growers’ rights along the value chain;

coffee which has an average annual production of not less than twenty thousand kilograms of cherry over a period of three years;

“exchange” means a company incorporated under the Companies Act and licensed by the Capital Markets Authority as an exchange for trading in clean coffee;

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“grower” means any person who cultivates coffee in Kenya and may for purposes of licensing, include; co-operative societies, unions, associations and estates;

“grower miller” means a grower who mills own parchment or *buni* or its members’ coffee and includes a co-operative society, unions, association, estate or any other legal entity;

“hulling” means removal of the outer skin of dry parchment or *buni* coffee;

“inspector” means an inspector appointed under the Act and where applicable includes a county inspector;

“Kenya Agricultural and Livestock Research Organization” means the organization established under section 3 of the Kenya Agricultural and Livestock Research Act, 2013 or the national institution mandated by an Act of Parliament to carry out research;

“licensing authority” means the Authority, or the County Government as the case may be;

“liquorer” means a person certified and licensed by the Authority to offer the services of coffee quality analysis;

“liquoring” means analysis of clean coffee to determine the attributes and quality of coffee for purposes of trade;

“miller” means a person licensed by the respective county government to conduct the business of coffee milling ;

“milling” means mechanical hulling or de-husking of parchment or *buni* coffee and includes the polishing and grading of the clean coffee;

“milling statement” means a statement prepared by a miller after the completion of the milling process;

“out-turn number” means an identifying number issued by a miller in respect of coffee delivered to a mill for purposes of traceability;

“primary processing” means the process of removal of coffee pulp from cherry, fermentation, washing and drying to the coffee standard moisture content to obtain parchment;

“prompt date” means a date specified in the sales catalogue, not being more than five working days from the date of the sale, for the payment of coffee sales proceeds by a buyer or a roaster;

“pulping station” means a specified place where primary coffee processing is undertaken;

“coffee business” includes operating a nursery, growing, pulping, milling, warehousing, marketing, trading, roasting and packaging of coffee;

“coffee certification” means a system that distinguishes a coffee product as being sustainably grown on the basis of economic viability, environmental conservation, social responsibility and ensures traceability;

“coffee directorate” means the directorate for the time being responsible for coffee established pursuant to section 11(4) of the Agriculture and Food Authority Act, 2013;

“coffee sales proceeds” means monetary consideration received in exchange for coffee purchased at the auction or through direct sales;

“coffee sample” means a small quantity of coffee, drawn out of coffee lot to be a representative of that lot of coffee for purposes of display, testing, quality analysis, archiving, marketing or other legal purpose;

“coffee standards” means the Kenya Coffee Standards issued by the Kenya Bureau of Standards;

“coffee year” means a period of twelve months beginning on the 1st October of one year and ending on the 30th September of the following year;

“collateral manager” means a person qualified under these Regulations and appointed by the warehouseman or any other person who has an interest in coffee stored in a warehouse with the intention of monitoring or taking custody of the coffee;

Cap 490.

“co-operative society” means a co-operative society registered under the Co-operative Societies Act and licensed for purposes of these Regulations;

“county government” shall have the meaning assigned to it under Article 176 of the Constitution of Kenya 2010;

“cupping centre” means a coffee quality analysis laboratory;

“digitization” means the conversion of current manual processes into automated and computerized processes; or paper documents into digital formats;

“dealer” means a person registered by the county governments or the Authority to deal with coffee as provided under these Regulations;

“direct sale” means a contractual arrangement between a grower, a co-operative society, society, union, grower-miller, estate or an association of coffee growers and an overseas buyer or local roaster for the sale of own clean coffee based on mutually accepted terms and conditions enforceable in law;

“direct settlement system” means a banking facility provided by commercial banks regulated by the Central Bank of Kenya for clearing and settlement of coffee sales proceeds;

“estate” means an area of land or group of parcels of land under coffee not being less than five acres in size in aggregate or land under

No. 17 of 2015.

THE CROPS ACT, 2013

(No. 16 of 2013)

IN EXERCISE of the powers conferred by section 40 of the Crops Act, 2013, the Cabinet Secretary for Agriculture, Livestock, Fisheries and Irrigation, in consultation with the Authority and the County Governments, makes the following Regulations—

THE CROPS (COFFEE) (GENERAL) REGULATIONS, 2019

PART I-PRELIMINARY

1. These Regulations may be cited as the Crops (Coffee) (General) Regulations, 2019. Citation.

2. In these, Regulations, unless the context otherwise requires— Interpretation.

“Act” means the Crops Act, 2013;

“agent” means a registered person who may be appointed by a grower for purposes of facilitation of overseas direct sales with regard to logistics.

“association” means a registered group comprised of smallholder growers, co-operative societies, societies, estates, unions, millers, traders or roasters, which has been licensed by a licensing authority;

“auction” means the system under which clean coffee is offered for sale at a coffee exchange;

“Authority” means the Agriculture and Food Authority established under section 3 of the Agriculture and Food Authority Act, 2013; No. 13 of 2013.

“broker” means a person cleared by the exchange and licensed by the Capital Markets Authority, who may be appointed by a grower or an association of growers in accordance with these Regulations, to sell their coffee on their behalf through the Exchange;

“buyer” means an incorporated company licensed by the Authority to buy clean coffee at the exchange for export, local sale or value addition or to import clean coffee for secondary processing in Kenya;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters related to agriculture;

“certified coffees” means coffees produced under tenets of a recognized certification scheme bearing a certification mark;

“clean coffee” means coffee bean or dried seed of the coffee plant separated from non-food tissues of the coffee fruit where the silver skin is reduced to the maximum possible extent; +

“coffee” means the plant botanically known as *coffea* species (L.) and includes the fruit, whether on the plant or detached therefrom, the seed in form of either *buni*, parchment coffee, clean coffee, roasted beans or ground coffee;

SECOND SCHEDULE: FEES

THIRD SCHEDULE: OBLIGATIONS OF LICENCE
HOLDERS AND SERVICE
PROVIDERS

FOURTH SCHEDULE: COMMERCIAL MILLING
AGREEMENT

FIFTH SCHEDULE: STANDARD COFFEE STANDARDS

SIXTH SCHEDULE: DIRECT SALES GUIDELINES

SEVENTH SCHEDULE: SALES CATALOGUE

EIGHTH SCHEDULE: COFFEE WARRANT

Company will in no case accept liabilities whatsoever for such deficiencies, losses or damages however caused.

3. Every warrant is transferable by endorsement and entitles the person named herein, or the last endorsee therefore named in the endorsement, to the goods specified therein, and the goods so specified shall for all purposes be deemed to be his property.
4. Upon lodging a warrant duly endorsed, the person there under entitled to the goods may transfer or obtain possession of the goods subject to the payment of all charges.
5. The contents of one warrant may be divided into others for smaller quantities at the will of the person entitled to the goods subject to the payment of all appropriate charges.
6. If a warrant is lost, written notice must at once be given to the Company. In such a case, before delivery of goods can be made, the loss of the warrant must be advertised in the Official Gazette and a copy of such publication containing the advertisement together with a guarantee signed by the applicant and countersigned by a bank approved by the Company to identify the Company against losses, claims, or damages, must be lodge with the Company in no circumstances will duplicate warrants be issued.
7. The Company takes all reasonable measures to protect goods against loss or damage but does not accept liabilities for—
 - (a) Loss or damage, arising otherwise than through the Company's negligence;
 - (b) Loss, damage or deficiency cause by or contributed to any of the following causes; Whether such loss, damage or deficiency be also in part caused by or contributed to by a neglect, wrongful act or default of the Company, it's servant or agents or other persons for whose acts the Company might apart from this clause be liable—
 - (a) Vermin;
 - (b) Frail, unsuitable, insufficient or defective packing;
 - (c) Strikes, combinations or lock-outs of any person in the employ of the Company or in the service of others;
 - (d) Improper, insufficient, indistinct or erroneous marking or addressing of goods or packages;
 - (e) Fire;
 - (f) Civil commotion;
 - (g) The President's enemies;
 - (h) Earthquake
 - (i) Loss of weight or damage in consequence of atmospheric conditions of humidity due to heat, damp or drought, or howsoever caused.
8. This warrant, if referring to coffee bulked in the—
 - (a) The Company accepts no financial liability under any circumstances for the even mix of the bulk, but undertakes to re-bulk free of charge provide that:

- (i) The person first entitled under the warrant shall lodge the claim within seven days of receiving the warrant; and
 - (ii) The person first entitled under warrant shall satisfy the Company that rebuilding is necessary or advisable, the Company being prepared to accept the advice of an Arbitrator.
- (b) The Company guarantees that the component coffees of the bulk are exactly those instructed by mark and quantity.
- (c) The Company does not accept liability in respect of any divergence of the bulk from the expected resultant quality by reason of a variation in quality of one or more components of the bulk. The burden of proof of the use of coffee other than the stipulated components shall rest upon the instructing dealer and in the event of such proof the Company agrees to submit to the normal quality arbitration under the Arbitration Rules of the Kenya Coffee Traders Association as shall be amended from time to time.
9. This warrant is subject to the condition that the Company shall have a general as well as a particular lien on the goods specified therein in respect of any monies owing to the Company by the person first or subsequently entitled under the warrant.
10. The acceptance of this warrant in the first place and subsequent presentation of this Warrant implies implicit acceptance of the conditions enumerated above.

Deliver to.....on payment of all charges

Signed.....Date.....20.....

Deliver to.....on payment of all charges

Signed.....Date.....20.....

Deliver to.....on payment of all charges

Signed.....Date.....20.....

MWANGI KIUNJURI,
Cabinet Secretary, Agriculture, Livestock, Fisheries and Irrigation.