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KENYA NATIONAL AUDIT OFFICE

*Paper laid on
Thurs 24/4/2014
at 2.30pm by
Hon A. Swale
(Leader of Majority)
W. Ndindiri*

REPORT



OF

THE AUDITOR-GENERAL

ON

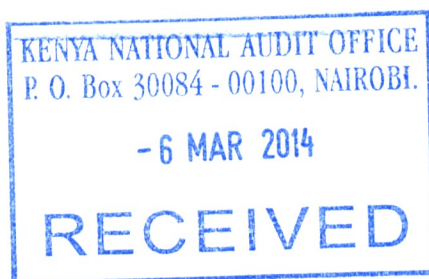
THE FINANCIAL STATEMENTS OF
SUGAR ARBITRATION TRIBUNAL

FOR THE YEAR ENDED
30 JUNE 2011

SUGAR ARBITRATION TRIBUNAL

29.11.2013

**ANNUAL REPORT AND FINANCIAL
STATEMENTS**



**FOR PERIOD ENDED
30TH JUNE 2011**

**Annual Report and Financial Statements for
Sugar Arbitration Tribunal**

**REPORT AND FINANCIAL STATEMENTS
FOR YEAR ENDED 30TH JUNE 2011**

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Annual Report and Financial Statements for Sugar Arbitration Tribunal

CORPORATE INFORMATION

MANDATE

The mandate of Sugar Arbitration Tribunal is to arbitrate disputes arising between any parties under Sugar Act, 2001.

MEMBERS OF TRIBUNAL

MR. FRANCIS TUIYOT – Chairman
MR. GEORGE W. AYUGI – Member
MRS. ODDAH N. OWAKWABI – Member
MRS. LOICE A. OLOO – Administrative Officer.

FACILITATORS

KENYA SUGAR BOARD
P.O. BOX 51500 - 00200
NAIROBI

PARENT MINISTRY

MINISTRY OF AGRICULTURE
KILIMO HOUSE
P.O. BOX 30028 – 0100
NAIROBI

REGISTERED OFFICE

SUGAR ARBITRATION TRIBUNAL
WAIYAKI WAY – 00800
P.O. BOX 13678
NAIROBI

BANKERS

NATIONAL BANK OF KENYA LIMITED
HILL PLAZA
P.O. BOX 45219 – 0100
NAIROBI

AUDITORS

AUDITOR-GENERAL
KENYA NATIONAL AUDIT OFFICE
ANIVERSARY TOWER
P.O. BOX 30084 - 00100
NAIROBI

Annual Report and Financial Statements for Sugar Arbitration Tribunal

CHAIRMAN'S REPORT

I am delighted to present the Annual report and unaudited financial statements of the Sugar Arbitration Tribunal for the year ended 30th June 2011.

OVERVIEW

The year 2011 witnessed major changes in the funding arrangements and membership of the tribunal.

The Ministry of Agriculture which directly funded the Tribunal operations since inception up to 30th June 2010 mandated the Kenya Sugar Board to take over the direct funding of the Tribunal with effect from 1st July 2010. Mr. Cornelius K. Kibichiy's term as the Chairman of the Tribunal ended and Mr. Francis Tuiyot took over as the new Chairman.

FUNDING OPERATIONS

The Kenya Sugar Board (KSB) disbursed a total of Kshs. 15,972,100 to finance the operations of the Tribunal during the twelve months ending 30th June 2011. The timely release of the funds by KSB immensely contributed to smooth running and facilitation of disputes filed by stake holders.

RESULTS

A total of 300 disputes were registered by the stakeholders in the period while over 3000 cases had been carried over from the year 2010.

The Tribunal opened outstation offices in Migori and Bungoma in order to enhance the efficiency of operations and simultaneously bring the judicial services closer to the stakeholders within the Sugar Industry.

Annual Report and Financial Statements for Sugar Arbitration Tribunal

FUTURE STRATEGY

The global economic challenges in the sugar sector will no doubt have corresponding major impact on the Sugar Tribunal in Kenya.

With increased awareness by stakeholders on their rights, the workload of the Tribunal is bound to increase.

The Tribunal has therefore set in place appropriate strategic plans to cater for education and training needs for its personnel both locally and outside Kenya depending on the future financial resources available.

APPRECIATION

I wish to acknowledge with appreciation the Government's support through the Ministry of Agriculture, the Kenya Sugar Board for timely, regular funding of the Tribunal Operations, the support given by the members of the Tribunal, and the Staff, and the stakeholders for the confidence in Tribunal.

We assure you of our commitment to the rule of law and equal protection of the rights of all stakeholders in the Industry.

Thank you.



Gregory Mutai
Chairman

Annual Report and Financial Statements for Sugar Arbitration Tribunal

REPORT OF THE SUGAR ARBITRATION MEMBERS FOR THE YEAR ENDED 30TH JUNE 2011

Members of the tribunal have the pleasure to present the Annual Report and Financial Statements of the Sugar Arbitration Tribunal for the year ended 30th June 2011 on the state of affairs of the tribunal.

PRINCIPAL ACTIVITIES

The principal activities of the tribunal are to arbitrate on disputes arising between stakeholders within the sugar industry in Kenya.

FUNDING OF OPERATIONS

Operations of the tribunal are financed by the Kenya Sugar Board on the approval of the parent Ministry of Agriculture.

FINANCIAL RISK MANAGEMENT

The relevant note on risk management is as set out on page 17

MEMBERS OF THE TRIBUNAL

Members who served during the period are set out on page 2

AUDITORS

The Tribunal is preparing the Financial Statements for the first time which will be audited by the Kenya National audit office in accordance with the Audit Act for statutory corporations.

BANKERS

National Bank of Kenya Limited
Nairobi

BY ORDER OF THE BOARD



LOICE A. OLOO
SECRETARY

Annual Report and Financial Statements for Sugar Arbitration Tribunal

STATEMENT OF MEMBERS' RESPONSIBILITIES

The state Corporations Act requires the members to prepare Financial Statements for each year which give a true and fair view of the state of affairs of the corporation as at the end of the financial year and of its operating results. It also requires members to ensure that the corporation keeps proper books of account and records which disclose, with reasonable accuracy, the financial position of the corporation. The members are also responsible for safeguarding the assets of the Institution.

The members accept responsibility for financial statements which have been prepared in accordance with the accepted accounting policies supported by prudent judgment and estimates, in conformity with international Financial Reporting Standards and requirement of the State Corporations Act.

The members are of the opinion that the final statements give a true and fair view of the state of the financial affairs of the tribunal and of its operating results. The members further accept responsibility for the maintenance of accounting records that may be relied upon in preparation of the financial statements as well as adequate systems of internal financial control.

Nothing has come to the attention of 'to indicate that the Tribunal will not remain a going concern for at least the next twelve months from the date of statement.

Approved by the members of the tribunal and signed on its behalf by:



Member

29/11/2013

Date



Member

29/11/2013

Date



KENYA NATIONAL AUDIT OFFICE

REPORT OF THE AUDITOR-GENERAL ON SUGAR ARBITRATION TRIBUNAL FOR THE YEAR ENDED 30 JUNE 2011

REPORT ON THE FINANCIAL STATEMENTS

I have audited the accompanying financial statements of Sugar Arbitration Tribunal set out on pages 9 to 18, which comprise the statement of financial position as at 30 June 2011, and the statement of comprehensive income, statement of financial position, statement of changes in reserves and statement of cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 14 of the Public Audit Act, 2003. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Financial Reporting Standards and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

The management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 13 of the Public Audit Act, 2003.

Auditor-General's Responsibility

My responsibility is to express an opinion on these financial statements based on the audit and report in accordance with the provisions of Section 15(2) of the Public Audit Act, 2003 and submit the audit report in compliance with Article 229(7) of the Constitution of Kenya. The audit was conducted in accordance with International Standards on Auditing. Those standards require compliance with ethical requirements and that the audit be planned and performed to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected

depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Tribunal's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the management, as well as evaluating the overall presentation of the financial statements.

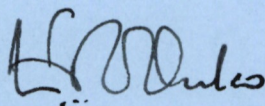
I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my qualified audit opinion.

Basis for Qualified Opinion

1. The Financial Statements for the year 2010/11 were submitted to the Auditor-General for audit on 15 July 2013 contrary to the Public Audit Act, 2003 which requires that Financial Statements be presented for audit three months after the end of the financial year to which they relate. The Tribunal is therefore in breach of the law.
2. As at 30 June 2011, the Tribunal realized a net deficit of Kshs.707,064.00 which reduced its total reserves to negative Kshs.707,064. The financial statements have therefore been prepared on the going concern basis which assumes continued financial support from the Government and creditors.

Qualified Opinion

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion paragraph, the financial statements present fairly, in all material respects, the financial position of the Tribunal as at 30 June 2011, and of its financial performance and its cash flows for the year then ended, in accordance with International Financial Reporting Standards and comply with the Sugar Act, 2001.



Edward R. O. Ouko, CBS
AUDITOR-GENERAL

Nairobi

17 February 2014

Annual Report and Financial Statements for Sugar Arbitration Tribunal

STATEMENT OF COMPREHENSIVE INCOME

FOR YEAR ENDED 30TH JUNE 2011

	NOTES	30 th June 2011
Income		Kshs
Grants	2	15,972,100
Miscellaneous Income (AIA)	2	100,000
Total		<u>16,072,100</u>
Expenses		
Members' expenses	3	12,955,474
Staff costs	4	627,500
Office expenses	5	1,013,737
Other expenses	6	1,819,638
Audit fees	7	350,000
Finances expenses	8	<u>12,815</u>
Total expenses		<u>16,779,164</u>
Net Surplus (Deficit)		<u>(707,064)</u>

Annual Report and Financial Statements for Sugar Arbitration Tribunal

STATEMENT OF FINANCIAL POSITION

AS AT 30TH JUNE 2011

	NOTES	30.6.2011
<u>ASSETS</u>		KSHS
Fixed Asset	9	<u>421,337</u>
Current Assets		
Bank balances	10	<u>12,773</u>
Total current assets		<u>12,773</u>
TOTAL ASSETS		<u>434,110</u>
<u>LIABILITIES AND RESERVES</u>		
Current Liabilities		
Accounts Payable	11	473,416
Payroll Accruals	12	<u>667,758</u>
Total current Liabilities		1,141,174
<u>Reserves</u>		
Retained earnings		
Net Surplus (Deficit)		(707,064)
Total Reserve		(707,064)
TOTAL LIABILITIES & RESERVES		<u>434,110</u>

The financial statement on pages 9 – 18 were approved and authorized for issue by the board on -----


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Member

29/11/2013
.....

Member

29/11/2013
.....

Date

Date

Annual Report and Financial Statements for Sugar Arbitration Tribunal

.....

Member

Member

STATEMENT OF CHANGES IN RESERVES FOR YEAR ENDED 30TH JUNE 2011

	Share Capital Kshs	Revaluation Surplus/ (deficit) Kshs	Retained Earnings Kshs	Total Kshs
At 1 st July 2009	-	-	-	-
Total comprehensive Income for year	-	-	-	-
At 30 th June 2010	-	-	-	-
At 1 st July 2010	-	-	-	-
Total Comprehensive Income for year	-	(707,064)	(707,064)	(707,064)
At 30 th June 2011	-	-	(707,064)	(707,064)

Annual Report and Financial Statements for Sugar Arbitration Tribunal

STATEMENT OF CASHFLOWS FOR THE YEAR ENDED 30TH JUNE 2011

	2011 Kshs
OPERATING ACTIVITIES	
Surplus (Deficit)	(707,064)
Add Depreciation – Current	<u>98,663</u>
Before Working Capital Changes	(608,401)
Changes in Working Capital	-
Changes in Payables/accrued Expenses	<u>1,141,174</u>
Net Cash (used) generated from operating activities	532,773
INVESTMENT ACTIVITIES	
Acquisition of office furniture & equipment	520,000
Net cash generated(used) in investing activities	-
Net increase(decrease) in cash/cash Equivalents	12,773
Cash and cash equivalent at beginning of the year	-
Cash and cash equivalent at the end of year (2011)	12,773

Annual Report and Financial Statements for Sugar Arbitration Tribunal

NOTES TO FINANCIAL STATEMENTS

For the year ended June 2011

1. ACCOUNTING POLICIES

The financial statements are prepared in accordance with the International Financial Reporting Standards and the State Corporations Act of Kenya. The Principal accounting policies adopted in the preparation of these financial statements are set out below:

(a)Basis of preparation

The financial statements are prepared by the Tribunal on the historical cost basis of accounting, modified to include the revaluation of certain assets.

(b)Income Recognition

Income of the Tribunal is mainly in quarterly grants from Kenya Sugar Board which is predetermined and recognized when due.

(c)Property Plant and Equipment

All categories of property, Furniture and Equipment are initially recorded at cost and thereafter stated at historical cost less depreciation. Historical cost comprise of expenditure initially incurred on acquisition of the Fixed Asset to its location for its intended use. Assets are depreciated on monthly basis from the month following their acquisition.

Depreciation is calculated to write off the cost or valuation of fixed assets over the expected useful life on the straight line basis. The rates used for this purpose are as follows:

Computer equipment	33.3%
Office furniture and equipment	12.5%

Annual Report and Financial Statements for Sugar Arbitration Tribunal

NOTES TO FINANCIAL STATEMENTS (continued)

(d)Comparative

The tribunal is preparing the first financial statements for the first time and therefore comparative figures are not applicable.

2. INCOME

	Kshs.
Quarterly grants from KBS	15,972,100
AIA Income	100,000
TOTAL INCOME	16,072,100

3. MEMBERS' EXPENSES

	Kshs
Members' Expenses	
Honorarium	360,000
Per Diem	3,733,900
Sitting Allowance	3,131,000
Accommodation	2,067,212
Transport Expenses	3,663,362
Total Members' Expenses	12,955,474

4. STAFF COSTS

	Kshs
Salaries and wages	480,000
NSSF Employer contribution	4,400
House Allowance	0
Interpreter	125,000
Staff induction	18,100
Total Staff Costs	627,500

Annual Report and Financial Statements for Sugar Arbitration Tribunal

5. OFFICE EXPENSES

	Kshs
Hiring of Halls	190,000
Stationery	173,600
Water	0
Electricity	0
Telephone	17,137
Airtime	99,000
Sundry Office equipment	0
Rent	500,000
Communication Equipment	0
Other expenses	34,000
Total Office expenses	1,013,737

NOTES TO FINANCIAL STATEMENTS (continued)

6. OTHER EXPENSES

	Kshs
Training	801,975
Relocation express expenses	0
Fuel and lubricants	595,000
Motor Vehicle repairs	0
Agricultural shows	178,500
Other Expenses	145,500
Depreciation	98,663
Total Other Expenses	1,819,638

7. AUDIT FEES

	Kshs
Audit fees	350,000

Annual Report and Financial Statements for Sugar Arbitration Tribunal

Total	350,000
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8. FINANCE EXPENSES

	Kshs
Bank Charges	12,815
Total Finance expenses	12,815

9. FIXED ASSETS SCHEDULE AS AT 30. JUNE 2011

	COMPUTERS	FURNITURE FITTINGS & EQUIPMENT	TOTAL
AT COST	Kshs	Kshs	Kshs
1-July 2010			
Additions	380,000	140,000	520,000
Asset write off			
At 30th June 2011	380,000	140,000	520,000
 DEPRECIATION			
At 1 July 2010			
Charge for the year	86,996	11,667	98,663
Release on disposal			
Release on write off			
At 30 June 2011	86,996	11,667	98,663
 NET BOOK VALUE			
AT 30, JUNE 2011	293,004	128,333	421,337
 AT 30, JUNE 2010	-	-	-

Annual Report and Financial Statements for Sugar Arbitration Tribunal

NOTES TO FINANCIAL STATEMENTS (continued)

10. BANK BALANCE

Bank Balance	Kshs 12,773
11. Account payable	Kshs
Creditors and Accruals	473,416
12. Payroll accruals	
	<u>Kshs</u>
PAYE Accruals	601,916
NHIF Accruals	7,040
NSSF Accruals	8,800
Net pay Accruals	<u>50,002</u>
Payroll Accruals	667,758

Annual Report and Financial Statements for Sugar Arbitration Tribunal

NOTES TO FINANCIAL STATEMENTS (continued)

13. RISK MANAGEMENT POLICY

Financing Risk

The Tribunal is funded from one main source of income (Kenya Sugar Board) on approval by the Government and its operations would be crippled if sugar levy is scrapped.

Members of the Tribunal are exploring other alternative sources of funding by the Government to mitigate the risk.

The current developments in the judiciary favor the establishment of specialized courts and Tribunals to handle specific matters. This trend could lead to the establishment of an annual Budget by the Government and reduce future risks of the Tribunal lacking a facilitator.

14. ESTABLISHMENT

The Sugar Arbitration Tribunal was created under the Sugar Act, 2001 as a nonprofit making institution.