

PARLIAMENT OF KENYA



23 APR 2015

THE NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – THIRD SESSION



THE DEPARTMENTAL COMMITTEE ON AGRICULTURE,
LIVESTOCK AND CO-OPERATIVES

REPORT ON THE PETITION BY HON. KATHURI MURUNGI, M.P
SOUTH IMENTI CONSTITUENCY ON BEHALF OF SOUTH IMENTI TEA
FARMERS REGARDING DECLINE IN TEA PRICES AND EFFECTS OF THE
AD VALOREM LEVY

Clerk's Chambers
Parliament Buildings

April, 2015

TABLE OF CONTENTS

TABLE OF CONTENTS	i
PREFACE	iii
ACKNOWLEDGEMENTS	vi
1.0 BACKGROUND	1
2.0 EVIDENCE AND SUBMISSIONS FROM WITNESSES	2
2.1 SUBMISSIONS BY THE HON. KATHURI MURUNGI M.P, SOUTH IMENTI CONSTITUENCY	2
2.2 SUBMISSIONS BY THE PRINCIPAL SECRETARY, NATIONAL TREASURY:	2
2.3 SUBMISSIONS BY THE PUBLIC FROM TEA GROWING AREAS:	3
2.4 SUBMISSION BY THE MANAGEMENT OF KENYA TEA DEVELOPMENT AGENCY (KTDA):	5
2.5 SUBMISSION BY THE CABINET SECRETARY, MINISTRY OF AGRICULTURE, LIVESTOCK AND FISHERIES	5
Challenges in the Tea Industry and proposed interventions	6
1. Over supply of black CTC - Tea	6
2. Decline of tea prices	7
3. Low product diversification and value addition	7
4. High cost of production (labour, fertilizers and energy)	7
5. Low productivity at the farm level	7
6. Low domestic consumption	7
7. Adulteration and counterfeiting of teas	8
INTERVENTION BY THE MINISTRY:	8
2.7 SUBMISSIONS BY EAST AFRICA TEA TRADE ASSOCIATION (EATTA) OFFICIALS:	8
Impact of the Ad valorem Levy to the tea industry	9
Impact on the producer	9
Impact on the buyer (exporter)	10
Multiplicity of taxes and levies	10
Intervention for the Multiplicity of taxes and levies	10
1. Use of a Single Industry Licensing Regulation for a Single Tax Regime per Base for the Tea Industry :	10
2. Review the KEPHIS charges in Legal Notice No 48 of 3rd April 2009:	11
3. Policy Framework for an Incentive Scheme for the Tea Industry.	11

2.8 SUBMISSIONS BY THE TEA DIRECTORATE IN AFFA	11
Government Interventions	11
Proposal on reducing/ reviewing the Taxes, fees and levies applied to the Tea Industry in Kenya;	12
Interventions by AFFA	12
RECOMMENDATIONS.....	15

PREFACE

The Departmental Committee on Agriculture, Livestock and Co-operatives is established pursuant to provisions of Standing Order 216. Under the provisions of Standing Order 216 (5) the Committee is mandated to:-

- (a). investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
- (b). study the Programme and policy objectives of the Ministries and departments and the effectiveness of the implementation;*
- (c). study and review all legislation referred to it;*
- (d). study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
- (e). investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
- (f). vet and report on all appointments where the Constitution or any other law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments); and*
- (g). make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.*

The Committee is also mandated to scrutinize the budget of line Ministries and Departments as provided under Standing Order No. 235.

Section 124 of the Constitution of Kenya (2010) also provide for the establishment of the Committees by Parliament.

The Departmental Committee on Agriculture, Livestock and Co-operatives oversees the performance of the following Ministries and Government department:-

- (i) Agriculture,
- (ii) Livestock,
- (iii) Irrigation,

- (iv) Fisheries development,
- (v) Co-operatives development, and
- (vi) Production and marketing.

Under the above Ministries, the Committee covers the following subjects;

- (i) Agriculture policy
- (ii) Livestock policy
- (iii) Fisheries policy
- (iv) Cooperative societies

Membership

The Committee comprises the following Members:-

- | | | |
|---|---|---------------|
| 1. The Hon. Adan Mohamed Nooru, M.P. | - | Chairman |
| 2. The Hon. Japhet M. KarekeMbiuki, M.P. | - | Vice Chairman |
| 3. The Hon. Mary Wambui, M.P. | | |
| 4. The Hon. KabandoWaKabando, M.P. | | |
| 5. The Hon. Raphael Letimalo, M.P. | | |
| 6. The Hon. Patrick Wangamati, M.P. | | |
| 7. The Hon. Francis MunyuaWaititu, M.P. | | |
| 8. The Hon. Peter NjugunaGitau, M.P. | | |
| 9. The Hon. Maison Leshoomo, M.P. | | |
| 10. The Hon. Anthony Kimani Ichung'wah, M.P. | | |
| 11. The Hon. Alfred Kiptoo Keter, M.P. | | |
| 12. The Hon. Ayub Savula Angatia, M.P. | | |
| 13. The Hon. Justice Kemei, M.P. | | |
| 14. The Hon. Philip L. R. Rotino, M.P. | | |
| 15. The Hon. Korei Ole Lemein, M.P. | | |
| 16. The Hon. Silas Tiren, M.P. | | |
| 17. The Hon. Benjamin Jomo Washiali, M.P. | | |
| 18. The Hon. (Dr.) Victor Kioko Munyaka, M.P. | | |
| 19. The Hon. John Bomett Serut, M.P. | | |
| 20. The Hon. Millie Odhiambo, M.P. | | |
| 21. The Hon. Fredrick Outa, M.P. | | |
| 22. The Hon. Maanzo, Daniel Kitonga, M.P. | | |
| 23. The Hon. James Opiyo Wandayi, M.P. | | |
| 24. The Hon. Ferdinand Kevin Wanyonyi, M.P. | | |
| 25. The Hon. Paul Simba Arati, M.P. | | |

26. The Hon. Florence Mwikali Mutua, M.P.
27. The Hon. Hezron Bollo Awiti, M.P.
28. The Hon. John Kobado, M.P.
29. The Hon. Zuleikha Hassan Juma, M.P.

ACKNOWLEDGEMENTS

Mr. Speaker Sir,

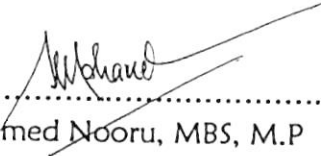
May I take this opportunity to thank the Members of the Committee for their patience, contributions and hard work despite their other commitments and tight schedules, in their endeavour to deliberate on this petition.

I also wish to sincerely thank the Office of the Speaker and the Clerk of the National Assembly for the support to the Committee, and the Parliamentary staff for their technical support and services extended to the Committee to enable it execute its mandate.

Mr. Speaker Sir,

It is my honour and pleasure on behalf of the Departmental Committee on Agriculture, Livestock and Co-operatives, to present this Report on the petition by South Imenti Tea farmers regarding the decline in Tea prices and the effects of the *Ad Valorem* Levy with Recommendations to the House for consideration and adoption.

Thank You.

Signed 

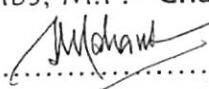
Hon. Adan Mohamed Nooru, MBS, M.P

Chairperson

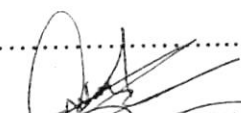
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ADOPTION OF THE REPORT OF THE COMMITTEE ON A PETITION BY SOUTH
IMENTI TEA FARMERS REGARDING THE DECLINE IN TEA PRICES AND THE
EFFECTS OF THE *AD VALOREM* LEVY

1) The Hon. Adan Mohamed Nooru, MBS, M.P.– Chairman

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2) The Hon. Kareke Mbiuki, M.P - Vice Chairman

..... 

3) The Hon. Kabando Wa Kabando, M.P.....

4) The Hon. Benjamin Washiali, M.P.....

5) The Hon. Fred Outa, M.P.....

6) The Hon. Raphael Letimalo, M.P.....

7) The Hon Mary Wambui Munene, M.P.....

8) The Hon. Francis Munyua Waititu, M.P.....

9) The Hon. Peter Njuguna Gitau, M.P.....

10) The Hon. Maison Leshoomo, M.P.....

11) The Hon. (Dr.) Victor Kioko Munyaka, M.P.....

12) The Hon. Kimani Ichung'wah, M.P.....

13) The Hon. Alfred Kiptoo Keter, M.P.....

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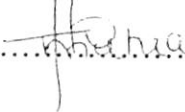
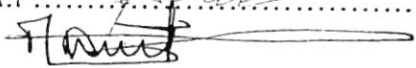
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- 24) The Hon. Ferdinand Kevin Wanyonyi, M.P.....
- 25) The Hon. Florence Mutua Mwikali, M.P.....
- 26) The Hon. Zuleikha Hassan Juma, M.P.....
- 27) The Hon. John Onyango Kobado, M.P.....
- 28) The Hon. Paul Simba Arati, M.P.....
- 29) The Hon. Hezron Awiti Bolo, M.P.....

CHAPTER 1

PETITION BY HON.KATHURI MURUNGI, M.P SOUTH IMENTI CONSTITUENCY, ON BEHALF OF SOUTH IMENTI TEA FARMERS ON DECLINE IN TEA PRICES AND EFFECTS OF THE *AD VALOREM* LEVY.

1.0 BACKGROUND

Tea accounts for approximately 26% of Kenya's export earnings and is the second largest foreign exchange earner in Kenya. Tea contributed over Kshs 116 billion in the year 2012 and consistently contributes to about 4% of GDP. Of late, Tea prices have been declining internationally and farmers have become disillusioned to an extent that the traditional growers are abandoning the crop to grow other crops that are internationally competitive and yield better prices.

Stakeholders delved into the matter to determine the underlying factors that cause constant decline of the Tea prices. They found out that among other things, the farmers in Kenya are burdened with a levy known as *Ad Valorem* levied at 1% of the total Tea value. On these grounds, they petitioned Parliament with the view of the levy being scrapped or reviewed downwards.

On the 25th of February 2014, Hon. Kathuri Murungi, M.P South Imenti Constituency on behalf of South Imenti Tea farmers presented a petition before the House on the decline in Tea prices and the effects of the *Ad Valorem* levy on the Tea industry. The petition was committed to the Departmental Committee on Agriculture, Livestock and Co-operatives.

The Committee deliberated on the matter before it and invited the Hon. Kathuri Murungi M.P, South Imenti Constituency to prosecute the petition on behalf of the farmers before inviting other relevant witnesses and stakeholders with a view of resolving the matter and reporting back to the House on the same.

CHAPTER 2

2.0 EVIDENCE AND SUBMISSIONS FROM WITNESSES

2.1 SUBMISSIONS BY THE HON. KATHURI MURUNGI M.P, SOUTH IMENTI CONSTITUENCY:

On 9th July 2014, Hon Kathuri Murungi, M.P South Imenti Constituency appeared before the Committee to elucidate the effects the *Ad Valorem* levy has on Tea prices and why it should be reviewed downwards. He informed the Committee that;

- a) The Government should review the *Ad Valorem* levy downwards not on the percentage of the value of tea but a fixed amount per kilogram of tea as proposed in the 2006 tea taskforce report as the farmers were heavily burdened by the various taxes and levies imposed on them by the Government.
- b) The Government immediately reconstitutes the Tea Board of Kenya in order to ensure oversight of the levy.
- c) The Government introduce a buffer fund to cushion farmers on the price when the prices of Tea are below than the cost of production. Cost of production in Kenya is very high and many a times farmers find that the prices in the international markets are equal to or even lower than the cost of production. In such scenarios, the Government should bail out the Tea farmers to make the production of Tea alive and its prices globally competitive.
- d) The Government waive the Value Added Tax (V.A.T) on locally produced Tea to enhance higher consumption. (*Annex 2, minutes of the 89th sitting*)

2.2 SUBMISSIONS BY THE PRINCIPAL SECRETARY, NATIONAL TREASURY:

On the 16th of July 2014, the Permanent Secretary, National Treasury appeared before the Committee and informed the Members that;

- (i) For optimal and efficient revenue collection, there was need for streamlining of the original Tea Act of 1961. As a result, the Crops Act (2013) was introduced and passed.
- (ii) Tax regime in the Tea sector had not changed and the Tea prices had gone down due to other factors in the market.
- (iii) Zero-rating tea products will not make prices go down, rather the Government stands to lose revenue that is used to address issues affecting the Agricultural sector. (*Annex 4; minutes of the 94th sitting*) An income duty of 25% is levied on imported Tea while there is no tax that is applicable to Tea that is imported for blending with Kenyan Tea.

- (iv) There is 16% Value Addition Tax that is imposed on processed tea while just like all unprocessed products, unprocessed green Tea does not attract any tax.
- (v) The low prices in the market were attributed to decline in demand in the traditional export markets (such as Egypt, Pakistan, Iran etc.), competition from other countries and locally, increased demand for other beverages like Coffee, and Cocoa.
- (vi) The decline in Tea prices was a cycle that is usually experienced in the Tea sector and the prices are bound to go up once again.
- (vii) The tax is necessary for the Government to raise funds to finance other development projects, *See (annex 4, minutes of the 94th sitting and minutes of the 104th sitting).*

2.3 SUBMISSIONS BY THE PUBLIC FROM TEA GROWING AREAS:

The Committee after undertaking visits to Eastern and South Rift/ Nyanza regions, received the following submissions from the public:-

- a) Kenya Tea Development Agency (KTDA) works with tea factories to manage costs enhance efficiency in farm and production processes and invest prudently in order to secure the farmers' financial future.
- b) But of late, famers feel aggrieved that KTDA has abdicated its role as a pioneer agency to champion for the welfare of famers and instead metamorphosed into a tool of self-enrichment for the Directors at the expense of the farmers where they reel in abject poverty.
- c) The farmers feel that KTDA has done the following wrongs and request the Committee to speedily come into the salvation of the peasant farmers lest they wither into oblivion.
- d) Undertaking Investments without following due diligence and the necessary consultations – farmers argue that KTDA has undertaken massive investments in mega projects without the consultations of the farmers who are supposed shareholders of the agency. Albeit undertaking numerous investments on behalf of the farmers, they claim that they are not paid dividends that accrue from their shares. Farmers opine that this is a scheme to siphon their hard earned money and enrich the Directors who have been at the helm of the agency since time immemorial.
- e) Poor mode of tea collection – farmers lament that KTDA has made them susceptible to illness such as pneumonia, arthritis and related illnesses by making them spend cold nights at the collection centres waiting for the KTDA Lorries to come pick their tea.
- f) Acquisition of famers land irregularly – KTDA has acquired Title Deeds in its name on all the lands that belong to farmers without the knowledge and consent of the farmers. The farmers request the

Committee to take it upon itself to ensure that the title deeds are reversed back to the community that own the said parcels of land.

- g) Greenland Fedha Limited –a subsidiary of KTDA, Greenland Fedha limited provides affordable credit to farmers. The farmers have critiqued its establishment claiming that it should be abolished since KTDA is the custodian of farmers' money hence causes conflict of interest.
- h) Policies to be formulated to enable each factory market and sell its tea on its own directly without the involvement of KTDA and other brokers. Farmers lament that KTDA is doing a disservice to small scale farmers and they stand a better chance if they be allowed to market and sell their produce directly to the international markets.
- i) There should be a fixed minimum tea price factoring in cost of production and transportation costs as opposed to the current scenario whereby the buyer determines the buying price without any considerations to the above.
- j) Kenya Union of Small Scale Tea Owners (KUSSTO) should be recognised as an association that represent tea farmers at the grassroot level since its best placed to aptly articulate the plights and advance the grievances of small scale tea farmers effectively.
- k) Factories should be compelled to use furnace oil as opposed to the use of firewood since the later leads to the reduction of forest cover hence desertification.
- l) The laws that require fifty three (53) factories to approve the cancellation of the contract of KTDA as a managing agency for small scale tea farmers be amended since its practically untenable hence leaving small scale farmers disadvantaged.
- m) Agencies should pay quarterly bonuses to farmers as opposed to annual payments to cushion farmers against unnecessary borrowing from banks and other lending agencies.
- n) Directors draw a lot of allowances at the expense of the farmers hence they should be reduced to manageable numbers and voting should be based on one person one vote as opposed to the number of shares an individual own.
- o) Green tea leaves loaders should be employed at tea buying centres to relieve the farmers from the agony of spending cold nights at the collection centres.
- p) The Government should supply tea farmers with subsidised fertilizers as the revenue the Government gets from the tea industry is unparalleled. Moreover, the prices of fertilizers should be announced before distribution.
- q) Prices of tea should be harmonised as there is price discrimination with regard to selling of the product to the locals. One (1) kg of made tea is reportedly being retailed at Kshs, 400 at the factory

level, while the same kilogram of made tea retails at around Kshs. 170 at the Mombasa auction centre.

2.4 SUBMISSION BY THE MANAGEMENT OF KENYA TEA DEVELOPMENT AGENCY (KTDA):

Appearing before the Committee on 23rd September 2014, the KTDA management informed the Committee as follows;

- a) The fall in the prices was occasioned by overproduction as farmers have produced more than the farmers needed.
- b) Potential buyers have shunned Kenyan tea compared to other teas due to the effects of the *Ad-Valorem* levy. The level is imposed on the buyers and this has affected the tea industry negatively.
- c) KTDA owns seven (7) subsidiaries within the value chain that are all owned by the farmers.
- d) The profits that emanates from the assets run by KTDA are paid to the farmers through bonuses while KTDA charges a management fee of 2.5%.
- e) Directors are elected by the farmers basing on the number of shares farmers hold.
- f) Tea price variance between Eastern & Western region is occasioned by buyer preference as buyers prefer tea from the Eastern region due to its high quality.
- g) Tea is tested organoliptically as there is no modernised mode of testing it currently.

2.5 SUBMISSION BY THE CABINET SECRETARY, MINISTRY OF AGRICULTURE, LIVESTOCK AND FISHERIES

Appearing before the Committee on 15th July 2014 and 28th October 2014 the Cabinet Secretary for Agriculture, Livestock and Fisheries informed the members that the

Ad Valorem levy should not be reviewed downwards as prayed by The Hon. Kathuri Murungi, M.P South Imenti Constituency for it serves the following purposes that are of crucial importance to the Tea sector.

The levy is used to finance the following institutions that play key roles in the Tea sector;

- I. 50% of the collected levy is apportioned to the Tea Directorate(2013) under Agriculture, Fisheries and Food Authority (AFFA) Act of 2013 which carries out among other things the following core functions;
 - a. Regulation, control of cultivation and processing of tea
 - b. Monitoring trade in tea

- c. Tea research and advisory
 - d. Tea promotion and marketing of Kenya tea
 - e. Liaison with the tea industry and Government
 - f. Information dissemination
 - g. Advisory role
 - h. Resource mobilisation and utilisation
- II. 40% of the collected levy is also apportioned to Tea Research Foundation under Kenya Agricultural and Livestock Research Organisation (KALRO) that is mandated to promote research and investigate problems related to tea.
- III. 10% of the collected levy is set aside to ensure that roads in the Tea growing areas are well maintained and accessible all the time.

For the three (3) years period of 2012 to 2014, the *Ad Valorem* Levy translates to an average of Ksh. 0.43 per kilo of green leaf. This indicates that the impact of the levy on the growers earnings is minimal compared to the benefits accruing from the use of the levy.

The introduction of the levy was meant to relieve the farmer the burden of financing the tea industry as was the case during the era of Manufacturing Cess where the farmer would pay KShs. 0.46 per kilogram. (*Annex 3; submissions by the Cabinet secretary*)

Challenges in the Tea Industry and proposed interventions.

1. Over supply of black CTC - Tea

Over the last (10) years there has been a steady increase in tea supply from 3.3 billion kgs in 2003 to 4.8 billion kgs in 2013 a difference of 1.5 billion kgs while demand has increased from 3.2 billion kgs to 4.6 billion kgs a difference of 1.4 billion kgs in the same period.

The supply – demand gap is widening with a surplus of 158 million kilos in 2013. Out of the surplus of 158 million kgs, Kenya contributed 72 million kgs which is over 50% of the global surplus.

According to FAO projections, production for CTC black tea will increase at the rate of 14.13% while consumption will increase at the rate of only 9.95%.

2. Decline of tea prices

The decline in tea prices in the Tea Industry was noted from May 2013 as a result of excess production of tea by tea producing countries. By April 2014, production had reached 66 million kgs in excess of consumption.

At the time, Tea prices at the Mombasa auction averaged USD 2.41 per Kilogram. Current prices are averaging at USD 2.34 per kg compared to average prices of USD 3.18 per kg same period in 2012.

FAO projections suggest that supply and demand for black CTC tea will reach equilibrium in 2021 at a price of USD 2.75 per kg if the current production levels continue.

3. Low product diversification and value addition

Kenya predominantly produces and sells CTC-teas and mostly in bulk form. Exports of value added teas from Kenya have marginally grown and are currently at 10%. Consequently Kenyan black CTC continues to fetch lower prices compared to value-added teas.

4. High cost of production (labour, fertilizers and energy)

The tea industry is grappling with increased costs of production inputs, for example labour costs have gone up at an average of 173% between 2001 and 2012.

The cost of fertilizer has gone up by about 146%, electricity has gone up 92% and the cost of diesel has gone up 345%.

Labour costs arising from tea plucking are normally negotiated by the Trade Unions through the CBA. This therefore is not with reference to productivity. These wages are negotiated every two years hence increasing the wage levels by 10% without commensurate increase in productivity. The tea industry is also faced with seasonal and regional labour scarcity which leads to high wage demand by tea pickers.

5. Low productivity at the farm level.

Although Kenya Tea productivity is the highest in the world, there is potential of increasing small holder productivity from the current one kilogram per bush to 1.5 kg per bush.

6. Low domestic consumption -

The per capita consumption in Kenya is 0.65 kg per annum; while in countries like China it is 1Kg per capita per annum. Low per capita consumption is caused by undeveloped tea drinking culture; inadequate awareness on health benefits on tea and preference for tea with high milk content and low tea content.

7. Adulteration and counterfeiting of teas

Where high quality teas from different regions are blended with low quality teas and still branded pure tea from the land of origin.

The Government has also constituted a Pre Shipment Inspection Panel to be able to test the quality of all imported teas.

INTERVENTION BY THE MINISTRY:

Promotion of diversification into production of non CTC teas e.g. Orthodox tea, purple tea, green tea etc. by encouraging new factories to manufacture Orthodox tea and currently over 10 factories have been issued with licenses to process Orthodox ,purple and green Teas. The estimated earnings from the diversification is USD 190,167,500 or 16.7 Billion Kenya Shillings.

The Ministry is in the process of engaging a consultant to study the export market and advices on the range of value added products demanded and explore any barriers to trade.

Develop Common User Facility in Mombasa to facilitate stakeholders to add value to their teas through blending and packaging. The total cost of the facility will be 3.2 Billion Kenya Shillings and will be operationalized through a Private Public Partnership model.

The AFFA Tea Directorate to develop mechanisms of increase the visibility Kenyan tea through the development of the Kenya Tea Mark of Origin. Upon the development of the GI Law in Kenya the process of Geographical Indications to enhance branding will also continue.

There is need to link wages to productivity, promote use of cost saving technology especially in plucking (use of plucking machines) and promote efficient use of fertilizer.

The Ministry has included Tea farmers in the Government subsidized fertilizer programme from the 2014/15 financial year. Government has committed 600 Million Kenya shillings for this purpose.

Encourage the planting of high yielding clones and improved Good Agricultural Practices at farm level through extension services. Since 2008 fifty (50) high yielding clones have been released with three (3) more being in the pipeline awaiting released

Use of research findings that highlight the health benefits of tea – e.g. Tea for health Marathon

Proposal to increase duty on imported packaged teas.

Increased and sustained Local Generic Promotion for Kenya Tea.

2.7 SUBMISSIONS BY EAST AFRICA TEA TRADE ASSOCIATION (EATTA) OFFICIALS:

On December 1, 2014, the Committee visited East Africa Tea Trade Associations (EATTA) headquarters in Mombasa to look into the issues that bedevil the tea industry and to understand how the tea auction centre runs.

Key stakeholders of East Africa Tea Association (EATTA) presented the following proposals as interventions to the problems in the Tea Industry;

In order to address the challenges on Ad Valorem, the following are proposed;

- a) **Level of payment:** There are two options proposed to address the impact of Ad valorem levy besides the existing system as indicated below:
 - i. The levy could be withdrawn altogether and this implies that the Government fully funds the mandates of the Tea Board (TBK) and Tea Research Foundation of Kenya (TRFK).
 - ii. If the levy cannot be withdrawn altogether, review the levy payment and charge it at a fixed amount /kg of made tea at the factory. The fixed amount should not exceed Kshs. 1 /kg. A levy at Kshs.1 /kg, the tea industry would contribute Kshs. 432,452,700 in 2013.
- b) **Representation:** There should be adequate representation of the stakeholders in the utilization of the levy, with clear cut budgetary provisions backed by prioritized activities that require implementation. The Promotion component under the Tea Directorate (Tea Board of Kenya) should be managed by a committee comprising of stakeholders.
- c) **Collection:** The definition of auction price should be included in the customs schedule and it should be taken as ex warehouse. That means that the levy should be collected at ex- warehouse value as opposed to customs [value.
- d) **Ring fencing:** The levy should be ring fenced so that it is not utilized by other crops or directorates under AFFA Act 2013, Crops Acts, 2013 and KALRO Act, 2013 and the same applies to the assets of TBK and TRFK.
- e) **Rebranding:** The levy should be renamed to be tea levy or manufacturing cess and not ad valorem as is the case currently.

Impact of the Ad valorem Levy to the tea industry

There are several challenges arising from the introduction of Ad valorem levy on the tea industry in Kenya. The most affected in the value chain have been the producers and buyers of tea as follows;

Impact on the producer

- a) **Impact on Kenyan teas:** The introduction of the levy which is charged on Kenyan tea at the rate of 1% of customs value at the point of export means that the buyers in the auction prefer to buy non Kenya East Africa teas. The decrease in demand for Kenya teas has resulted in the Kenyan tea being discounted and directly affects farmers' earnings not only because of the payment of the levy but also because of the discounting by the buyers.

- b) Punitive to high quality teas: The ad valorem levy is charged as a percentage so that the higher the auction prices and the high levy charged and this discourages the producer of good quality tea and also makes Kenya tea less competitive.
- c) Reduced purchases: There is increased level of out lots as buyers are reducing their purchases during the auction.
- d) Bureaucracy and delays: The documentation required to process the payment of the levy gives rise to bureaucracy and delays. An important principal of any taxation levy or license is to ensure that payment process is simplified administratively.
- e) Cumbersome refund mechanism: The exporters pay the levy at customs value and refunded the difference between the customs value and the auction price.

Impact on the buyer (exporter)

- a) Cash flow: The levy has an impact on the exporter's business cash flow because most sale transactions are on 90 day credit. Many exporters obtain trade financing to cover their expenses. The fact that they have to pay for the levy upfront will impact on their cash flow.
- b) Cumbersome payment process: Daily payments of the Ad valorem levy take a lot of time used in making payments and follow up the documentation.
- c) Delay obtaining Commercial invoice: currently commercial invoice is required as part of the document of the levy to be charged. However, in the absence of the commercial invoice then a proforma invoice is used as basis of payment as long as the commercial invoice is produced within 7 days after release of the teas.
- d) Impact on the Mombasa Auction Centre: The levy is likely to discourage buyers from buying tea in the Mombasa auction which will make other tea auctions benefit. It will also encourage tea stakeholders such Dubai Tea Trade Centre set up a tea auction centre.

Multiplicity of taxes and levies

There are more than 41 taxes and levies affecting the tea industry in Kenya.

Intervention for the Multiplicity of taxes and levies

1. Use of a Single Industry Licensing Regulation for a Single Tax Regime per Base for the Tea Industry :

It is recommended that the Tea industry should consider adopting the use of smart regulation which entails the use of one tax regime per base and simple tax administration. A single tax base regime is applicable when all other levies other than income tax are lumped together and charged as one. Under such a regime, levies like

National social security, NHIF, NEMA, KEBs, fuel levy, land rents and rates, and training and business permits fees are lumped together and charged as one levy.

2. Review the KEPHIS charges in Legal Notice No 48 of 3rd April 2009:

KEPHIS gazetted new charges of tea grading and inspection under Legal Notice No 48 of 3rd April 2009 that increased levies by up to 500%). The new charges took effect from 1st June 2010 and industry stakeholders were not adequately consulted before their gazettment. Upon industry consultation with the management team at KEPHIS on 28/05/2010, it was resolved that the charges for multiple custom entries be reduced to Kshs 10,000 from Kshs 20,000. This agreement has however not been formalized legally to date.

3. Policy Framework for an Incentive Scheme for the Tea Industry.

The industry recommends an incentive scheme that is favourable and grants the industry special fiscal tax and concessionary financing incentives.

2.8 SUBMISSIONS BY THE TEA DIRECTORATE IN AFFA

On 19th February 2015, the representatives from the Tea Directorate headed by the interim Director General of AFFA appeared before the Committee to respond to matters raised in the petition. The Directorate informed the Committee that decline of Tea prices is attributable to;

- I. Tea production increased by 15% in the year 2013 resulting a yield of 432 million kilos of made tea.
- II. Overproduction resulted in decline of tea prices which was felt from May 2013.
- III. In 2014, increase in production to the tune of 445 million kilos was also noted.
- IV. Production of black Cut, Tear and Curl (CTC) as the only type and lack of diversification also resulted in decline of tea prices.

Government Interventions

The Government is addressing the problem of decline of Tea prices through diversification of tea products by ensuring that;

- I. Any request for tea manufacture license is issued on condition that at least one line will be a dedicate production line for specialty tea.
- II. Common user facility (CUF) modelled along the Dubai Tea Trade Centre Facility is constructed through a Public Private Partnership (PPP) arrangement to address value addition gap.
- III. AFFA has commissioned a study to look into ways and means of establishing a Stabilization fund and minimum price setting mechanism for tea including other commodities.

- IV. Adequate internal controls, checks and balances are in place to ensure oversight of the levy funds as the Government is in the process of constituting an AFFA board following the repealing of the former boards.
- V. Following several consultative meetings, the National Treasury asked the Ministry to submit the request for the waiver to be considered during the 2015/16 budget cycle. The Ministry is following up on this matter.

Impact of *Ad Valorem* levy on Tea Industry

- I. *Ad Valorem* levy is payable at the rate of 1% of the customs value for made tea exports or imports.
- II. The burden of financing TBK and TRFK was shifted from the tea growers to the tea exporter.
- III. 50% of the levy is used to fund tea promotion and regulatory services through tea directorate under AFFA, while 40% is allocated to tea research institute under KALRO and 10% is apportioned to industry infrastructure development.
- IV. The amount allocated to TBK is used in Trade and Promotion; Administrative Services; Regulation, Trade Compliance and Technical Services; Industrial Development and Value Addition;
- V. The amount allocated to Tea Research Foundation (TRFK) is used in Capacity Building and Advisory Services; Production and Post- Production Research; Administrative Services; and Capital Investment.
- VI. The amount allocated for infrastructure will be utilized in construction of minor roads; culverts and bridges in the tea growing regions.
- VII. Assuming that the levy is scraped, and the Government was to fund promotion, research and infrastructure, farmers stand only to gain Ksh. 0.45 per kg of green leaf while the Government may not ensure sustainability and development of the industry due to competing needs.
- VIII. There is no direct relationship between the levy and price decline as there may be other factors that could have contributed to decline in tea prices that have been witnessed in the last couple of years.

Proposal on reducing/ reviewing the Taxes, fees and levies applied to the Tea Industry in Kenya;

A review of the various taxes and other charges reveals that the Tea Industry pays a host of taxes and other charges that is categorized as National and institutional. The first eight (8) taxes are National in nature and applied to all tax payers. These include Corporate Tax at 30%; Value Added Tax at 16%; Excise duty 25% among others.

Interventions by AFFA

- I. AFFA has engaged the Government on the possibility of reducing these taxes but we are aware that a waiver of the taxes may bring a spiral effect on other crops. This may not be practical as it would reduce government revenue hence

affecting implementation of critical services in the security, energy, food security and infrastructure sectors.

- II. On advice by the National Treasury (NT) for waiver, Tea Directorate through the Ministry of Agriculture Livestock & Fisheries has forwarded a request for consideration by the National Treasury NT regarding a waiver on Value added Tax on locally sold tea for inclusion in the 2015/16 budget. If achieved, the waiver will spur local tea sales hence increase local consumption and earnings. The other fees and levies are institutional.
- III. The AFFA - Tea Directorate charges a Tea Ad Valorem Levy at 1% of customs value on all imports and exports. The levy was introduced in January 2012 and collected from March 2012 from buyers and importers. The purpose of the Levy is to fund Tea Promotion, Research, Technical services, Compliance surveillance audits, industry development and operations. In order to sustain a vibrant Tea Industry, all the above services are vital.
- IV. The shift of the point of charge from Manufacturing Cess which was being levied at a rate of 46 Kenya Cents per Kilogramme of manufactured tea was to relieve the grower the burden of financing the two institutions. In this regard, the burden of financing TBK and TRFK was shifted from the tea grower to the tea exporter.
- V. Following complaints by the stakeholders, the Ministry of Agriculture, Livestock and Fisheries and AFFA-Tea Directorate carried out consultations with the Stakeholders, during a Task Force exercise in 2014. It was agreed that the rate of the Levy be reduced from 1% to 0.75%. The proposals have been included in the Tea Regulations 2014 which were submitted to the office of the Attorney General for review.
- VI. AFFA- Tea directorate is also reviewing charges related to licensing of Tea Dealers with a view to removing it to ease doing business in tea.
- VII. The Agricultural Produce Cess was repealed by the Agriculture Fisheries and Food Authority Act, 2013 since the function of road infrastructure has been devolved to County governments.
- VIII. The other charges are imposed by the various oversight bodies such as NEMA, KEPHIS, KEBS, KPA and County Governments among others. Further, the Industry players also charge service fees at various levels including Management fees by KTDA Ltd (2.5% of net proceeds), EATTA and KTGA member subscription fees and Brokerage fees (0.75% from the producer and 0.5% from the buyer). The other taxes are imposed by some countries who import Kenya tea including Pakistan.

CHAPTER 3

COMMITTEE FINDINGS AND OBSERVATIONS

The Committee made the following observations and findings:-

- 1) On Tea pricing, the final prices for tea are determined by supply and demand forces in the market. The Ministry through the KTDA and Tea Research Institute was in the process of determining the current tea cost production in order to recommend a sustainable green leaf payment price
- 2) A review of the various taxes and other charges reveals that the Tea Industry pays a host of taxes and other charges which may be categorized as National and Institutional. The first 8 taxes are national in nature and applied to all tax payers. These include Corporate Tax at 30%; Value Added Tax at 16%; Excise duty 25% among others.
- 3) Over the years small holder growers have earned between 65% and 85% of the auction price. However the initial monthly payment is calculated based on the Cost of Production (COP) with a margin for domestic expenses and is reviewed and adjusted regularly by tea factory companies with advice by KTDA.
- 4) There is lack of proper marketing as the Directorate still majorly relies on traditional markets rather than exploring new markets for the product. However the Ministry is at present venturing into new markets such as U.A.E where they are marketing not only bulk tea but also value added tea.
- 5) That, 10% infrastructure development in the Tea growing areas can be taken up by respective County Governments hence this may act as reprieve to the farmers.
- 6) Stakeholders are not represented in the AFFA Board.
- 7) The charging of a levy at the Tea Export level may scare away potential buyers and make Kenyan Tea uncompetitive globally hence the Board was asked to come with proposals that strike a balance and would be favourable to all parties involved.
- 8) The Agricultural Produce Cess was repealed by the Agriculture Fisheries and Food Authority Act, 2013 since the function of road infrastructure has been devolved to County governments.
- 9) There are other charges imposed by the various oversight bodies such as NEMA, KEPHIS, KEBS, KPA, KTDA, EATTA, KTGA and County Governments among others. Further, there are other taxes which are imposed by some countries who import Kenya tea including Pakistan.

RECOMMENDATIONS

The Committee made the following recommendations:-

- 1) **THAT**, the Government should reduce the Ad-Valorem levy rate charged on Kenya Tea product from 1% to 0.75%. This reduction should be included in the Tea Regulations 2014.
- 2) **THAT**, the Government through the AFFA should review the charges related to licensing of tea brokers with a view to removing it to ease doing business in tea.
- 3) **THAT**, the Government should review other charges imposed by the various oversight bodies such as NEMA, KEPHIS, KEBS, KPA and County Governments among others with a view of harmonizing and consolidating them. Further, services fees charged which include Management fees by KTDA Ltd (2.25% of net proceeds), EATTA and KTGA member subscription fees and Brokerage fees (0.50% from the producer and 0.25% from the buyer) be reviewed.
- 4) **THAT**, the Government of Kenya should move with speed to lobby with countries such as Pakistan who import Kenya tea to consider easing the taxes imposed on the Kenya Tea exports.
- 5) **THAT**, the Government through the AFFA should intensify the marketing of Kenya tea in the new emerging markets such UAE and China.
- 6) **THAT**, 10% infrastructure development in the tea growing areas should be taken up by respective County Governments.

PUBLIC PETITION

BY THE RESIDENTS OF SOUTH IMENTI CONSTITUENCY AND TEA
FARMERS
ON DECLINE IN TEA PRICES AND EFFECTS OF THE AD VALOREM LEVY

*Petition
presented by
Hon. Kithure
Murungi
on 25/2/2014
25/2/2014*

We, the undersigned residents of South Imenti and Tea Farmers

DRAW the attention of the House to the following:

THAT, the performance of the tea industry is vital to the Kenyan economy, noting that tea is the largest foreign exchange earner in Kenya contributing over Kshs 116 billion in 2012 and the tea industry consistently contributes 4% of GDP. More than 650,000 Kenyans directly earn an income from tea;

THAT, tea accounts for approximately 26% of Kenya's export earnings and is the leading foreign exchange earner;

THAT, tea cess supports and funds maintenance of rural roads, health and education facilities in the tea growing areas;

THAT, whenever there is an unprecedented increase in tea production in Kenya, auction prices usually experience a big slump as recorded in the year 1995, 1999, 2001, 2007, and 2013. The upward and downward trends in tea prices are cyclical and dependent on supply and demand situations;

THAT, the Ad Valorem levy continues to hurt the Tea industry as it is a regressive tax which penalises the higher priced finely picked quality tea produced by the small scale farmer. Further, the tea industry is grappling with increased costs of farm inputs;

THAT, the Government has failed to create an enabling environment by eliminating the bottlenecks that the tea industry is exposed to, for example, the Tea Board of Kenya should harmonise the payments made by the tea industry to various bodies and create a single window payment system.



PUBLIC PETITION

BY THE RESIDENTS OF SOUTH IMENTI CONSTITUENCY AND TEA FARMERS
ON DECLINE IN TEA PRICES AND EFFECTS OF THE AD VALOREM LEVY

THEREFORE, your humble petitioner (s) prays that Parliament through:-

The Departmental Committees on Agriculture, Livestock and Cooperative obtain without delay, undertaking from Cabinet Secretary in charge of the Agriculture, Livestock and Cooperatives that:

- i) The Government will review the Ad Valorem levy downwards, not on percentage of the value of tea but a fixed amount per kilogram of tea as proposed in the 2006 Tea Taskforce Report;
- ii) The Government immediately reconstitute the Board of the Tea Board of Kenya in order to ensure oversight on the levy;
- iii) The Government introduces a Buffer fund to cushion farmers on price when the prices of tea are below the cost of production; and
- iv) The Government waive the Value Added Tax levied on locally produced tea to enhance higher local consumption.

And your PETITIONERS will ever pray

Presented By



HON. KATHURI MURUNGI, MP
MEMBER OF PARLIAMENT FOR SOUTH IMENTI

SOUTH IMENTI CONSTITUENCY-TEA FARMERS PETITION LIST

NO.	NAME	TEA BUYING CENTRE	FACORY	ID NO.	CONTACT	SIGN
1	Alex. M. GATIMBU	KIEGENE	KIONYO	800078	0722662164	[Signature]
2	DR LEONARD M. ARITHI	KIRAKA	KIONYO	10421057	07227142325	[Signature]
3	PETER MITWIRI SIMON	KERUMANTHI	IMENTI	31621273	0721944994	[Signature]
4	Wesley Gitabou	MUCUMOTVE	KIONYO	6253281	0740766109	[Signature]
5	James Kimani	CUMPIRE	KIONYO	1054723	0710448965	[Signature]
6	JACKIM MURIGI M.	MURUNGURUNE	KIONYO	9295563	0710638636	[Signature]
7	FRANCIS GIKUNDA	NKABONE	KIONYO	2523050	0721946182	[Signature]
8	JOHNSON GIDBUNKATIA	KARIBNE	KIONYO	10971300	0724657744	[Signature]
9	JACKIM GITONGA M.	KIRAKA	KIONYO	9215936	0722250857	[Signature]
10	James Kimani	KARIBNE	KIONYO	17890412	0716654138	[Signature]
11	PATRICK MBARE	GATIRENE	KIONYO	2529821	0725749151	[Signature]
12	LIVUS MURUNGI	MURUNGURUNE	KIONYO	7714270	0710997409	[Signature]
13	FRANKLIN KIMATHI	MURUNGURUNE	KIONYO	2523879	0726439378	[Signature]
14	JOHN R. KIRIMA	CHUGU	KIONYO	237490	0728889844	[Signature]
15	SALVATION GICHURU	KIAMWERI	KIONYO	6757305	0724721287	[Signature]
16	EDWARD K. KIRIRI	KIAMWERI	KIONYO	131177181	0723013861	[Signature]
17	ELICITIMAKEN	KIAMWERI	KIONYO	11401958	0702119761	[Signature]
18	PATRICK KIMATHI	KIAMWERI	KIONYO	22252151	0725847203	[Signature]
19	Johnson Gidbun	MURUNGURUNE	KIONYO	21495757	07265753	[Signature]
20	HOSEA N. KATHURI	MURUNGURUNE	KIONYO	22622134	0704646548	[Signature]
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MINUTES OF THE 9TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES (MEETING WITH TEA DIRECTORATE OVER TEA PETITION) HELD ON THURSDAY 19TH FEBRUARY, 2015 AT MEDIA CENTRE, PARLIAMENT BUILDINGS AT 10.00 A.M.

Present

1. Hon. Adan M. Nooru, MBS, M.P - Chairman
2. Hon. Kareke Mbiuki, M.P
3. Hon. Mary Wambui, M.P
4. Hon. Phillip Rotino, M.P.
5. Hon. Daniel Maanzo, M.P
6. Hon. Kabando Wa Kabando, M.P.
7. Hon. (Dr.) Victor Munyaka, M.P
8. Hon. Alfred K. Keter, M.P
9. Hon. Kimani Ichung'wah, M.P
10. Hon. Maison Leshoomo, M.P
11. Hon. Florence Mutua, M.P
12. Hon. Patrick Wangamati, M.P
13. Hon. Benjamin Washiali, M.P
14. Hon. Paul Simba Arati, M.P
15. Hon. Fredrick Outa, M.P
16. Hon. Peter N. Gitau, M.P
17. Hon. Ayub Savula Angatia, M.P.
18. Hon. John Kobado, M.P
19. Hon. John B. Serut, M.P
20. Hon. Waititu Munyua, M.P
21. Hon. James Opiyo Wandayi, M.P
22. Hon. Raphael Letimalo, M.P
23. Hon. Justice Kemei, M.P
24. Hon. Korei Ole Lemein, M.P
25. Hon. Ferdinand Wanyonyi, M.P

Apologies

1. Hon. Millie Odhiambo - Mabona, M.P
2. Hon. Zuleikha Hassan Juma, M.P

Absent

1. Hon. Silas Tiren, M.P
2. Hon. Hezron Awiti Bollo, M.P

In Attendance: Member of Parliament

1. Hon. Kathuri Murungi, M.P – Petitioner and Friend of the Committee.

In Attendance: AFFA

1. Mr. Alfred Busolo, - Interim Director General, Agriculture, Fisheries and Food Authority, (AFFA)
2. Mrs. Elizabeth Kimenyi, - Interim Head, Tea Directorate.
3. Ms. Rosemary Owino - Tea Directorate
4. Ms. Christine Chesaro - Tea Directorate
5. Ms. Phrasiah Mwangi - Tea Directorate

In Attendance : National Assembly Secretariat

1. Mr. Ahmad Adan Guliye - Third Clerk Assistant
2. Ms. Angeline Naserian - Third Clerk Assistant
3. Mr. David Ngeno - Research Officer
4. Ms. Mercy Wanyonyi - Legal Counsel
5. Mr. John Nganga - Audio Officer
6. Mr. Onesmus Kiragu - Sergeant at Arms

Min. 35/2015: Preliminaries

- I. The meeting was called to order at 10.30 hours and prayer was said by Hon. Kareke Mbiuki, M.P
- II. The Chairman welcomed members and the witnesses to the meetings and requested them to introduce themselves.
- III. The Chairman informed the members of the day's agenda, and requested them to adopt it as stipulated in the notice of meeting.

Min. 36/2015: Adoption of Agenda

The Committee adopted the day's agenda as follows:

- I. Adoption of Report on Supplementary Estimates for Year 2014/2015
- II. Meeting with the Tea Directorate on a Petition of Decline in Tea Prices and effects of the *Ad Valorem* levy in the Tea Industry.

Min.37 /2015: Adoption of Report on Supplementary Estimates for 2014/2015

The Committee adopted the report on the supplementary estimates for the year 2014/2015.

Min. 38/2015: Presentation by the Interim Director General – AFFA

The Interim Director General informed the Committee of the following;

Decline of Tea Prices

- (a) Tea production increased by 15% in the year 2013 resulting a yield of 432 million kilos of made tea.
- (b) Overproduction resulted in decline of tea prices which was felt from May 2013.
- (c) In 2014, increase in production to the tune of 445 million kilos was also noted.
- (d) Production of black Cut, Tear and Curl (CTC) as the only type and lack of diversification also resulted in decline of tea prices.

Regulatory Matters & Interventions

- (a) Any request for tea manufacture license is issued on condition that at least one line will be a dedicate production line for specialty tea.
- (b) Common user facility (CUF) modeled along the Dubai Tea Trade Centre Facility is constructed through a Public Private Partnership (PPP) arrangement to address value addition gap.
- (c) AFFA has commissioned a study to look into ways and means of establishing a Stabilization fund and minimum price setting mechanism for tea including other commodities.

Impact of *Ad Valorem* levy on Tea Industry

- (a) *Ad Valorem* levy is payable at the rate of 1% of the customs value for made tea exports or imports.
- (b) The burden of financing TBK and TRFK was shifted from the tea growers to the tea exporter.
- (c) 50% of the levy is used to fund tea promotion and regulatory services through tea directorate under AFFA, while 40% is allocated to tea research institute under KALRO and 10% is apportioned to industry infrastructure development.
- (d) The amount allocated to TBK is used in Trade and Promotion; Administrative Services; Regulation, Trade Compliance and Technical Services; Industrial Development and Value Addition;
- (e) The amount allocated to Tea Research Foundation (TRFK) is used in Capacity Building and Advisory Services; Production and Post- Production Research; Administrative Services; and Capital Investment.
- (f) The amount allocated for infrastructure will be utilized in construction of minor roads; culverts and bridges in the tea growing regions.
- (g) Assuming that the levy is scraped, and the Government was to fund promotion, research and infrastructure, famers stand only to gain Ksh. 0.45

per kg of green leaf while the Government may not ensure sustainability and development of the industry due to competing needs.

- (h) There is no direct relationship between the levy and price decline as there may be other factors that could have contributed to decline in tea prices that have been witnessed in the last couple of years.
- (i) Adequate internal controls, checks and balances are in place to ensure oversight of the levy funds as the Government is in the process of constituting an AFFA board following the repealing of the former boards.
- (j) AFFA has commissioned a study to look into ways and means of establishing a Stabilization fund and minimum price setting mechanism for tea including other commodities.
- (k) Following several consultative meetings, the National Treasury asked the Ministry to submit the request for the waiver to be considered during the 2015/16 budget cycle. The Ministry is following up on this matter.

Committee Observation

The Committee observed the following;

- (a) Proper marketing is not done as the Directorate still majorly relying on traditional markets rather than exploring new markets for the product.
- (b) That, 10% infrastructure can be taken up by respective County Governments hence this may act as reprieve to the farmers.
- (c) The Committee observed that stakeholders are not represented in the AFFA Board and recommend that representatives of stakeholders be part of the Board.
- (d) The Committee also observed that charging the levy at export level may scare away potential buyers and make Kenyan Tea uncompetitive globally hence the Board was asked to come with proposals that strike a balance and would be favorable to all parties involved.

Min. 39/2015: Adjournment

There being no other business to discuss, the meeting was adjourned at 12.10 hours.

Signature

HON ADAN MOHAMEDNOORU, MBS, M.P.

(Chairman)

Date.....

MINUTES OF THE 108th SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD AT THE MAIN PARLIAMENT BUILDINGS IN COUNTY HALL MAIN CHAMBERS ON TUESDAY 23rd SEPTEMBER 2014 AT 10.30 AM

PRESENT:

1. Hon. Kareke Mbiuki, M.P – Vice Chair person
2. Hon. Fred Outa, M.P
3. Hon. Kabando wa Kabando, M.P
4. Hon. Alfred Keter, M.P
5. Hon. Ayub Savula, M.P
6. Hon. Dr. Victor Munyaka, M.P
7. Hon. James Opiyo Wandayi, M.P
8. Hon. Mary Wambui, M.P
9. Hon. Philip Rotino, M.P
10. Hon. Kimani Ichung'wah, M.P
11. Hon. Simba Arati, M.P
12. Hon. Justice Kemei, M.P
13. Hon. John Serut, M.P

APOLOGIES

1. Hon. Adan Mohamed Nooru, M.P – Chairperson
2. Hon. Raphael Letimalo, M.P
3. Hon. Hon. Benjamin Washiali, M.P
4. Hon. Millie Odhiambo, M.P
5. Hon. Korei Ole Lemein, M.P
6. Hon. Silas Tiren, M.P
7. Hon. Daniel Maanzo, M.P
8. Hon. Florence Mutua, M.P
9. Hon. Peter Gitau, M.P
10. Hon. Zuleikha Juma, M.P

ABSENT

1. Hon. Maison Leshoomo, M.P
2. Hon. Patrick Wangamati, M.P
3. Hon. Francis Waititu, M.P
4. Hon. Ferdinand Wanyonyi, M.P

5. Hon. John K'Obado, M.P
6. Hon. Hezron Awiti Bollo, M.P

IN ATTENDANCE

Hon. Kathuri Murungi, M.P – Friend of the Committee

KTDA

1. Mr. Peter T. Kanyago- Chairman, KTDA Board of Directors
2. Mr. Philip Ng'etich – Vice-Chairman,
3. Mr. Benson Matonda – Director
4. Eng. Joseph Wakimani – Director
5. Mr. Chege Kirundi – Director
6. Mr. Lerionka S. Tiampati- Managing Director
7. Mr. Benson Ngari- Finance &Strategy Director
8. Mr. Ken Omanga-Company Secretary
9. Mr. Albert Otochi-Head of Marketing

National Assembly

1. Mr. Oscar Namulanda –Senior Clerk Assistant
2. Ms. Tracy Chebet Koskei- Clerk Assistant II
3. Mr. Ahmad and Guliye-Clerk Assistant III
4. Mr. David Ngeno-Research Assistant
5. Mr. Elijah Ichwarah-Hansard Editor

MIN. NO. 236 /2014 - PRELIMINARIES

The vice Chair called the meeting to order at 10.50 am after which he prayed. The chairman welcomed the members of the Committee and the witnesses to the meeting and informed them that the purpose of the meeting was to get clarification from KTDA on the tea crisis and issues raised during a field visit undertaken by the Committee to tea growing areas in the Western and Eastern Region.

MIN. NO. 237/2014 - ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as follows:

1. Preliminaries
2. Confirmation of previous minutes
3. Matters arising
4. Meeting with KTDA Management over various issues in the Tea Sector
5. Any Other Business
6. Adjournment

MIN. NO. 238 /2014 - SUBMISSION BY KTDA

KTDA made the following submissions:

- i) The issues of price decline was occasioned by the Tea glut in the market
- ii) The Ad valorem levy had made Kenyan tea less competitive since the levy was directed at the buyer, hence buyers preferred to buy other teas by the fall of the hammer.
- iii) Part of the levy was given to the tea directorate and was meant for infrastructure but none of the factories managed by KTDA had received any of these funds.
- iv) The company owns seven (7) subsidiaries that are in line with the value chain. All the assets of the subsidiaries are owned by tea farmers.
- v) The profits are given to farmers through the bonus and KTDA charged 2.5 percent as management fee.
- vi) On the issue of election, voting was done on the basis on the no. of shares one had, the company having done away with the 'one man one vote' system.

- vii) The difference in tea prices between the Eastern and Western Region was due to buyer preference, the buyers preferred tea from the Eastern region hence the higher prices.
- viii) Testing of tea was done organoliptically and there was no automated mechanized system to carry out tea testing.
- ix) There ten (10) brokers appointed by the factories to sell tea and KTDA had no control over the brokers.
- x) Tea research is funded from the money collected from the Ad Valorem Levy, KTDA requested that the government comes on board to support research because it is a very expensive venture.

MIN. NO. 239/2014 - COMMITTEE RECOMMENDATIONS

The Committee made the following recommendations:

- i) KTDA needs to aggressively look for other markets besides the traditional markets to increase its revenue.
- ii) There was need for value addition so as to increase the product offering other than the Black CTC Tea, other products such as white tea, green tea and purple tea would widen the market scope.
- iii) KTDA needs to create awareness among the farmers on its operations and to ensure proper information trickles down to the farmer.
- iv) KTDA to provide more information on the following:
 - a. The composition of management and the directors, and how long they have held the positions
 - b. Provide a written brief on the strategies to transform the tea industry
 - c. Provide the loan status of all factories
 - d. Provide the cost of construction of a KTDA factory Vis a Vis a the cost of construction by a private factory
 - e. The list of the brokers selling tea on behalf of KTDA and the factories they covered
- v) The Committee to invite the Tea Directorate to also shed light on the various issues raised during the meeting.

MIN. NO. 240 /2014 - ANY OTHER BUSINESS

The Vice Chairman informed the members of Correspondence from the Ministry of Agriculture inviting two members of the Committee to accompany the Cabinet Secretary for Agriculture, to the Polagra International Trade Fair for Food in Poland.

The following members were nominated for the trip:

1. Hon. Simba Arati, M.P
2. Hon. Justice Kemei, M.P

MIN. NO. 241/2014 - ADJOURNMENT

There being no other business to discuss the meeting was adjourned at Forty-Five Minutes past Three O'clock. The next meeting will be on notice.

Signature

HON ADAN MOHAMED NOORU, MBS, M.P.

(Chairman)

Date..... 17. 12. 2014

MINUTES OF THE 103rd SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES (with Cabinet Secretary National Treasury over VAT on Tea) HELD ON MONDAY 25TH AUGUST, 2014 AT THE CONTINENTAL HOUSE 5TH FLOOR, PARLIAMENT BUILDINGS AT 3.30 P.M.

PRESENT

- | | | |
|---------------------------------------|---|----------|
| 1. Hon. Adan M. Nooru, MBS, M.P | - | Chairman |
| 2. Hon. Maanzo Daniel Kitonga, M.P | | |
| 3. Hon. Phillip Rotino, M.P. | | |
| 4. Hon. John B. Serut, M.P | | |
| 5. Hon. Peter N. Gitau, M.P | | |
| 6. Hon. Paul Simba Arati, M.P. | | |
| 7. Hon. James Opiyo Wandayi, M.P | | |
| 8. Hon. Zuleikha Hassan, M.P | | |
| 9. Hon. Millie Odhiambo - Mabona, M.P | | |
| 10. Hon. (Dr.) Victor Munyaka, M.P | | |
| 11. Hon. Ferdinand Wanyonyi, M.P | | |

ABSENT WITH APOLOGIES

- | | | |
|----------------------------------|---|---------------|
| 1. Hon. Kareke Mbiuki, M.P | - | Vice Chairman |
| 2. Hon. Kabando Wa Kabando, M.P. | | |
| 3. Hon. Florence Mutua, M.P | | |
| 4. Hon. Fredrick Outa, M.P | | |
| 5. Hon. Kimani Inchung'wah, M.P | | |
| 6. Hon. Silas Tiren, M.P | | |
| 7. Hon. Raphael Letimalo, M.P | | |
| 8. Hon. Hezron Awiti Bollo, M.P | | |
| 9. Hon. Korei Ole Lemein, M.P | | |

ABSENT

1. Hon. Justice Kemei, M.P
2. Hon. Ayub Savula Angatia, M.P.
3. Hon. Mary Wambui, M.P
4. Hon. Patrick Wangamati, M.P
5. Hon. John Kobado, M.P

6. Hon. Maison Leshoomo, M.P
7. Hon. Alfred K. Keter, M.P.
8. Hon. Benjamin Washiali, M.P
9. Hon. Waititu Munyua, M.P

IN ATTENDANCE

The National Treasury

- | | |
|------------------------|---------------------------------------|
| 1. Mr. Henry K. Rotich | - Cabinet Secretary; |
| 2. Martin S. O. Gumo | - Deputy Director - Economic Affairs; |
| 3. Joseph Ngugi | - Principal Economics. |

Kenya National Assembly

- | | |
|----------------------------------|------------------------|
| 1. Ms. Tracy Chebet Emily Koskei | - Clerk Assistant II |
| 2. Mr. Ahmad Adan Guliye | - Clerk Assistant III |
| 3. Ms. Mercy Wanyonyi | - Legal Counsel II |
| 4. Mr. David Ngeno | - Research Officer III |

MIN. NO. 215/2014:

PRELIMINARIES:

1. The meeting was called to order at Thirty minutes past four O'clock with a word of prayer from Hon. Opiyo Wandayi M.P.
2. The chairman informed the members that the meeting started late because the Cabinet Secretary was also attending another committee meeting. He further apologised to the Cabinet Secretary for inviting him to two committees at the same time and acknowledged that it was an oversight from the clerk's office.

MIN. NO. 216/2014:

SUBMISSIONS BY THE CABINET SECRETARY

a. Tea Issues

The cabinet secretary informed the committee that;

- I. Imported tea attracts a 25% income duty while tea imported for blending with Kenyan tea is duty free.
- II. Processed tea attracts 16% VAT while unprocessed green tea is tax exempt just like all other unprocessed goods.
- III. Exported tea is zero rated.
- IV. Imposing levies on products such as tea is important because they help run the institutions that manage and run the produce.

- V. Tea prices are determined by market factors such as demand and supply and it's also affected by the dynamics in the traditional export markets.

b. On Sugar

The cabinet secretary informed the committee that;

- I. No sugar was imported by Mumias Sugar Company between the years of 2006 to 2012.
- II. There were no exports levy imposed on sugar.
- III. There are challenges being faced due to dumping of excess sugar from Uganda.
- IV. VAT has no impact on the consumption of tea in the country as alleged by the petitioners unless it's backed up by facts and figures which are not available at the moment.
- V. Uganda insists on exporting sugar while it does not have the capacity to do so but the head of Sates of the region are in process of dealing with the issue administratively.
- VI. A common tax entry point has helped to reduce the issue of sugar dumping and tax evasion.
- VII. Boarder control is being enhanced to curb illegal smuggling of goods and budget will allocated for the purchase of modern scanners to facilitate 100% goods verification.
- VIII. All agencies are working together to introduce one point boarder control.

MIN NO. 217/2014:

COMMITTEE OBSERVATION

The committee observed that the Cabinet Secretary didn't provide the specific information requested of him by the committee and resolved him to appear before the committee on Friday 29th August 2014 with the following information;

- a. Imports of sugar in 2013 which was purported to be imported by Mumias Sugar Company but given to a third party.
- b. Verify whether the permit to import the sugar may have been used more than once.
- c. Verify whether sugar has indeed being exported between the years 2006 and 2013.
- d. Give a brief on privatization of the Sugar Industry.

MIN. NO. 218/2014:

ANY OTHER BUSINESS

a. Invitation to Sugar Caucus Meeting

- I. The members were not happy with the manner in which a member who is not a Committee member organised for a workshop in the conjunction with the Ministry of Agriculture without the knowledge of the Committee members and cancels the meeting without a prior notice.
- II. The members resolved to write to the speaker to seek clarification on the matter and demand an apology from the organisers.

b. Frequent foreign trips of the Lead Clerk

- I. The members aired their dissatisfaction with the chronic absenteeism of the lead Clerk due to his frequent foreign travels.
- II. The Chairman informed the members that the matter is with the Liaison Committee and is being deliberated upon.

MIN NO.219/2014:

ADJOURNMENT

Since no other matter to discuss, the meeting was adjourned at twenty minutes past seven O'clock.

Signature


HON ADAN MOHAMEDNOORU, MBS, M.P.

(Chairman)

Date.....

14th Oct. 2014

MINUTES OF THE NIGHTY FOURTH SITTING OF THE DEPARTMENTAL COMMITTEE
ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD ON WEDNESDAY 16TH
JULY, 2014 IN COMMITTEE ROOM 2ND FLOOR, CONTINENTAL HOUSE,
PARLIAMENT BUILDINGS AT 3.30 PM.

PRESENT

- | | | |
|--|--------|---------------|
| 1. Hon. Adan M. Nooru, MBS, M.P | - | Chairman |
| 2. Hon. Kareke Mbiuki, M.P | - | Vice Chairman |
| 3. Hon. Maanzo Daniel Kitonga, M.P | | |
| 4. Hon. Fredrick Outa, M.P | | |
| 5. Hon. Mary Wambui, M.P | - PNP | |
| 6. Hon. Silas Tiren, M.P | | |
| 7. Hon. Justice Kemei, M.P | | |
| 8. Hon. Raphael Letimalo, M.P | | |
| 9. Hon. Kabando Wa Kabando, M.P. | | |
| 10. Hon. Phillip Rotino, M.P. | - SEC, | |
| 11. Hon. James Opiyo Wandayi, M.P. | | |
| 12. Hon. Maison Leshoomo, M.P | | |
| 13. Hon. John B. Serut, M.P | | |
| 14. Hon. Patrick Wangamati, M.P | | |
| 15. Hon. Benjamin Washiali, M.P | | |
| 16. Hon. Alfred K. Keter, M.P. | | |
| 17. Hon. Paul Simba Arati, M.P. | | |
| 18. Hon. John Kobado, M.P | | |
| 19. Hon. Kimani Inchung'wah, M.P | | |
| 20. Hon. Ferdinand Wanyonyi, M.P | | |
| 21. Hon. Korei Ole Lemein, M.P | | |
| 22. Hon. Peter N. Gitau, M.P | | |
| 23. Hon. Millie Odhiambo - Mabona, M.P | | |
| 24. Hon. Ayub Savula Angatia, M.P. | | |
| 25. Hon. Hezron Awiti Bollo, M.P | | |

ABSENT WITH APOLOGIES:

1. Hon. Zuleikha Hassan, M.P.

ABSENT

1. Hon. (Dr.) Victor Munyaka, M. P.
2. Hon. Waititu Munyua, M.P
3. Hon. Florence Mutua, M.P

In attendance:

The National Treasury and Tea Board of Kenya

- | | |
|--------------------------|---------------------------------|
| 1. Dr. Kariuki Thugge | - PS, National Treasury |
| 2. Mr. Justus Nyamunga | - National Treasury |
| 3. Mr. Apollo N. Kiarii | - Kenya Tea Growers Association |
| 4. Mr. Benson Ngari | - Finance Director, KTDA |
| 5. Ms. Phrasia W. Mwangi | - Tea Board of Kenya |

Kenya National Assembly

- | | |
|----------------------------------|--------------------------|
| 1. Mr. Oscar Namulanda | - Senior Clerk Assistant |
| 2. Ms. Tracy Chebet Emily Koskei | - Clerk Assistant II |
| 3. Mr. Rogers Kilungya | - Hansard Reporter |

MIN. NO. I65/2014:

PRELIMINARIES

- I. The meeting was called to order at forty minutes past Three O'clock with a word of prayer from the Vice-Chairman.
- II. The members of the Committee introduced themselves followed by Permanent Secretary Treasury, who gave the apologies of the Cabinet Secretary

The members of the Committee expressed disappointment over the failure of key witnesses to honour invites to appear before the Committees. The committee noted that it was becoming the norm for the Cabinet Secretaries to send the Principal Secretaries of their respective Ministries on their behalf. The Committee resolved that should the Submissions by the PS not be satisfactory, they would invite the Cabinet Secretary again.

MIN.NO. 166/2014:

ADOPTION OF THE AGENDA

The Committee adopted the agenda of the meeting as follows:

1. Prayer
2. Meeting with CS Treasury on VAT on locally produced Tea
3. Any other Business

The PS made the following submissions:-

- I. The previous Tea Act of 1961 was very hard to execute and had therefore been streamlined to make it more efficient. The new Act had made it easier for KRA to collect revenue.
- II. The VAT on Tea is used in creating good infrastructure hence reducing cost of production. This would make Tea and other agricultural products more competitive. The VAT is also used to fund research especially on Tea.
- III. Zero-rating rating products does not make prices go down and the Government then loses revenue to address issues tackling the Agricultural sector.
- IV. The PS appreciated that Tea was a key export revenue earner and the Tea farmers needed to be encouraged to plant Tea by reducing the levies they face. He suggested that the Committee, the Ministry of Agriculture and the Treasury have a workshop to discuss key issues facing the Agricultural sector.

The Committee asked the PS to submit a write-up to the Committee by the following week, Tuesday 29th July, 2014.

- I. The Members present expressed disappointment over some members of the committee for digressing to other issues not relevant to the agenda of the day when interrogating witnesses. Hon. Silas Tiren, M.P. also impressed on the members to always respect the ruling of the Chairman.
- II. The committee resolved that there should always be guiding questions when there are witnesses, to ensure the meeting is systematic.
- III. Following the withdrawal of the Petition by Hon. Kathuri Njuki, M.P. on the stalled grain project in Tharaka Nithi Constituency, the Committee resolved that some members of the Committee should visit the site to confirm on the progress of the project on 28th July, 2014. The following members were nominated:

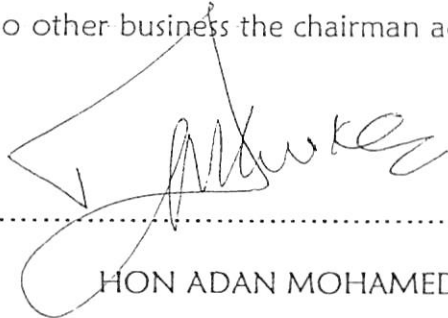
1. Hon. Kareke Mbiuki, M.P - Vice- Chairman
2. Hon. Florence Mutua, M.P
3. Hon. Daniel Maanzo, M.P
4. Hon. Opiyo Wandayi, M.P
5. Hon. Kabando Wa Kabando, M.P
6. Hon. Francis Waititu, M.P

7. Hon. Mary Wambui, M.P
8. Hon. Silas Tiren, M.P
9. Hon. Paul Simba Arati, M.P

MIN. NO.169/2014: ADJOURNMENT

There being no other business the chairman adjourned the meeting at thirty minutes past five O'clock.

Signature



HON ADAN MOHAMEDNOORU, MBS, M.P.

(Chairman)

Date.....

25/9/2014

MINUTES OF THE EIGHTY NINTH SITTING OF THE DEPARTMENTAL -
COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES
(MEETING WITH HON. KATHURI MURUNGI & SOUTH IMENTI TEA FARMERS
ON

(Petition on tea prices and ad valorem tax)) HELD ON WEDNESDAY 9TH
JULY, 2014 IN COMMITTEE ROOM 2ND FLOOR, CONTINENTAL HOUSE,
PARLIAMENT BUILDINGS AT 2.30PM.

PRESENT:

1. Hon. Adan Mohamed Nooru, MBS, M.P
2. Hon. Kareke Mbiuki, M.P
3. Hon. Benjamin Washiali, M.P
4. Hon. Justice kemei, M.P
5. Hon. Francis Waititu, M.P
6. Hon. John B. Serut, M.P
7. Hon. Philip R. Rotino, M.P
8. Hon. Silas Tiren, M.P
9. Hon. Raphael letimalo, M.P
10. Hon. John kobado, M.P
11. Hon. Fred Outa, M.P
12. Hon. Ayub Savula Angatia, M.P
13. Hon. Kbando Wa kabando, M.P
14. Hon. James Opiyo Wandayi, M.P
15. Hon. Millie Odhiambo Mabona, M.P
16. Hon. Wangamati Patrick, M.P
17. Hon. Simba Arati, M.P

ABSENT WITH APOLOGY:

1. Hon. Mary Wambui, M.P
2. Hon. Peter Gitau, M.P
3. Hon. Kimani Ichung'wah, M.P
4. Hon. Korei Ole Lemein, M.P
5. Hon. Victor Munyaka, M.P
6. Hon. Ferdinand Wanyonyi, M.P

ABSENT:

1. Hon. Maanzo Daniel Kitonga, M.P
2. Hon. Maison Leshoomo, M.P
3. Hon. Florence Mutua, M.P
4. Hon. Alfred Keter, M.P
5. Hon. Zuleikha Hassan, M.P

6. Hon. Hezron Awiti Bollo, M.P

Kenya National Assembly Secretariat:

- | | |
|----------------------------------|--------------------------|
| 1. Mr. Oscar Namulanda Wesonga | - Senior Clerk Assistant |
| 2. Ms. Tracy Chebet Emily Koskei | - Clerk Assistant II |
| 3. Mr. Ahmad Adan Guliye | - Clerk Assistant III |
| 4. Ms. Mercy Wanyonyi | - Legal Council II |
| 5. Ms. Rehema Koech - | Audio Officer |

Inattendance:

Hon. Kathuri Murungi, M.P – South Imenti Constituency

MIN NO. 138/2014 PRELIMINARIES

1. The meeting was called to order by the chairman at five minutes to three o'clock with a word of prayer by Hon. Kareke Mbiuki, M.P- The Vice Chairman

The chairman welcomed the members and thanked them for turning up for the meeting despite them being on recess.

2. The chairman requested the members to introduce themselves followed by the witness.

MIN NO. 139/2014: ADOPTION OF AGENDA

The members adopted the agenda of the meeting as follows:

- I. Prayer
- II. Confirmation of Previous Minutes
- III. Meeting with Hon. Kathuri Murungi on Petition of tea prices and *Ad Valorem* levy
- IV. Matters Arising
- V. Any Other Business

MIN NO. 140/2014: CONFIRMATION OF PREVIOUS MINUTES

The minutes of the 86th sitting were confirmed as true record of the committee's deliberations after being proposed by Hon. Kareke Mbiuki, M.P and Hon. Francis Waititu, M.P respectively.

MIN NO. 141/2104: MATTERS ARISING

Under Min no. 125/2014

The members noted that minute numbering is still an issue and advised the secretariat to be keen in minute writing.

MIN NO. 142/2014: SUBMISSION BY THE WITNESS

Hon. Kathuri Murungi, M.P for South Imenti and twenty other petitioners presented a petition on decline in tea prices and effects of the *Ad Valorem* levy on the tea industry to Parliament through Departmental Committee on Agriculture Livestock and Co-operatives with the following prayers that:

- I. The government will review the *Ad Valorem* levy downwards, not on percentage of the value of tea but a fixed amount per kilogram of tea as proposed in the 2006 tea taskforce report
- II. The government immediately reconstitute the board of the Tea Board of Kenya in order to ensure oversight of the levy
- III. The government introduces a buffer fund to cushion farmers on price when the prices of tea are below the cost of production; and
- IV. The government waive the Value Added Tax levied on locally produced tea to enhance higher local consumption

MIN NO. 143/2014: COMMITTEE OBSERVATIONS:

- 1) The committee deliberated on the afore-mentioned issue in the above minute and made the following observations and resolved to discuss it with the Cabinet Secretary of Agriculture Livestock and Co-operatives in their subsequent meeting;
 - I. That the *Ad Valorem* levy and the VAT are making the tea product expensive hence disadvantaged compared to other tea from the region.
 - II. The ministry waive the value added tax levied on locally produced tea and review *Ad Valorem* levy downwards to make the prices of tea locally competitive.
- 2) The committee raised their concern that the Cabinet Secretary should consult the committee before undertaking a decision.
- 3) The committee resolved to inquire from the Cabinet Secretary in their meeting with him on July 15th about the following:
 - a) Major programs in this new financial year
 - b) Distribution of fertilizers
 - c) The state of food security in the country
 - d) The crops act(why it has not been operationalized to date)

MIN NO. 144/2014: ANY OTHER BUSINESS

- A. The members nominated the following five members to attend a two day symposium on SACCOS and investment to be held on July 16th -17th at Laico Regency.
1. Hon. Kareke mbiuki, M.P- Vice Chairman
 2. Hon. Daniel K. Maanzo, M.P
 3. Hon. Simba Arati, M.P
 4. Hon. Florence Mutua, M.P
 5. Hon. Kabando Wa Kabando, M.P
- B. The members resolved to meet the Cabinet Secretary for Treasury on Wednesday afternoon 16th July to discuss VAT waiver on tea produced locally.
- C. Hon. John Serut and Hon. Benjamin Washiali thanked the committee members for their solidarity and support they showed during their bereavement.

MIN NO. 145/2014: ADJOURNMENT

There being no other business to discuss, the chairman adjourned the meeting at twenty minutes to five o'clock.

Next meeting will be held on Thursday, 10th July 10.30 am at the same venue.

Signature

HON ADAN MOHAMED NOORU, MBS, M.P.

(Chairman)

Date.....



AGRICULTURE, FISHERIES AND FOOD AUTHORITY

Tea House | Naivasha Road, Off Ngong Road,
P.O. Box 37962 NAIROBI - 00200.
24th February 2015

REF: AFFA/DG/PB/VOL. I/(6)

① D/Committees

Mr. Justin Bundi, CBS

Clerk of the National Assembly

Kenya National Assembly

P.O. Box 41842-00100

NAIROBI

Dear Mr Bundi

② MAHUT
Pls deal
FA 25/2

RE: REPORT ON TAXES, FEES AND LEVIES APPLIED TO THE TEA INDUSTRY IN KENYA

I wish to take this opportunity to thank you for giving us an opportunity to appear before the Departmental Committee on Agriculture, Livestock and Co-operatives on 19th February 2015.

As agreed during the meeting, I am forwarding the attached report covering the issues regarding taxes; fees and levies applied to the Tea Industry in Kenya.

I look forward to a further fruitful engagement in the future.

Yours Sincerely

PP *Alfred Busolo Tabu*

Mr. Alfred Busolo Tabu

INTERIM DIRECTOR GENERAL

Encl.

Copy to:

Sicily K. Kariuki (Mrs.) MBS

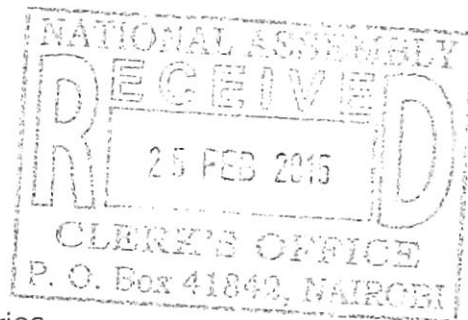
Principal Secretary

State Department of Agriculture

Ministry of Agriculture Livestock & Fisheries

P.O. Box 30028-00100

NAIROBI





AGRICULTURE, FISHERIES AND FOOD AUTHORITY

Tea House | Naivasha Road, Off Ngong Road,
P.O. Box 37962 NAIROBI - 00200.
24th February 2015

REF: AFFA/DG/PB/VOL. I/(6)

① D/Committees

Mr. Justin Bundi, CBS
Clerk of the National Assembly
Kenya National Assembly
P.O. Box 41842-00100
NAIROBI

Dear Mr Bundi

② MAF
Pls deal
FA 25/2

RE: REPORT ON TAXES, FEES AND LEVIES APPLIED TO THE TEA INDUSTRY IN KENYA

I wish to take this opportunity to thank you for giving us an opportunity to appear before the Departmental Committee on Agriculture, Livestock and Co-operatives on 19th February 2015.

As agreed during the meeting, I am forwarding the attached report covering the issues regarding taxes; fees and levies applied to the Tea Industry in Kenya.

I look forward to a further fruitful engagement in the future.

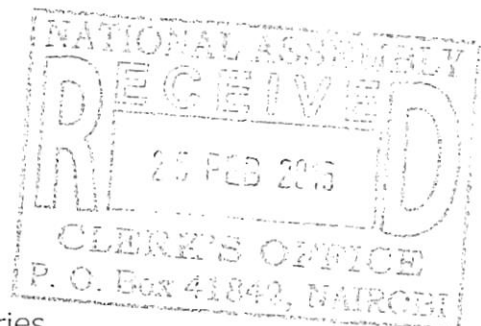
Yours Sincerely

PP *Alfred Busolo Tabu*

Mr. Alfred Busolo Tabu
INTERIM DIRECTOR GENERAL

Encl.

Copy to: **Sicily K. Kariuki (Mrs.) MBS**
Principal Secretary
State Department of Agriculture
Ministry of Agriculture Livestock & Fisheries
P.O. Box 30028-00100
NAIROBI



REPUBLIC OF KENYA



**REPORT ON "TAXES, FEES AND LEVIES APPLIED ON THE TEA INDUSTRY IN
KENYA"**

PRESENTED TO

**THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON AGRICULTURE,
LIVESTOCK AND CO-OPERATIVES**

BY

MR. ALFRED BUSOLO

INTERIM DIRECTOR GENERAL - AFFA

ON TUESDAY, 24TH FEBRUARY 2015

1.0 BACKGROUND

The committee on Agriculture, livestock and cooperatives requested for the following information:

1. *Proposal on reducing/ reviewing the Taxes, fees and levies applied to the Tea Industry in Kenya;*

2.0 RESPONSE

2.1 Taxes, fees ,cess and levies on Tea Industry

- The Tea Industry in Kenya is regulated by Agriculture Fisheries and Food Authority (AFFA) through the Tea Directorate. The Industry has over the last two years faced challenges including declining prices as a result of over production in the world market and over-reliance on black Cut Tear and Curl (CTC) teas. This occurred as the cost of production rose leading to low returns for the farmer and the country. Earnings dropped from Ksh 114 billion in 2013 to Ksh 101.1 billion in 2014 for the country. Some of the costs borne by the Industry include taxes, fees and levies. A review of the various taxes and other charges reveals that the Industry pays a host of taxes and other charges as shown on the attached annex.
- The charges may be categorized as National and institutional. The first 8 taxes are national in nature and applied to all tax payers. These include Corporate Tax at 30%; Value Added Tax at 16%; Excise duty 25% among others.

2.2 Action taken by AFFA

- AFFA has engaged the Government on the possibility of reducing these taxes but we are aware that a waiver of the taxes may bring a spiral effect on other crops. This may not be practical as it would reduce government revenue hence affecting implementation of critical services in the security, energy, food security and infrastructure sectors.
- On advice by the National Treasury (NT) for waiver, Tea Directorate through the Ministry of Agriculture Livestock & Fisheries has forwarded a request for consideration by the NT regarding a waiver on Value added Tax on locally sold tea for inclusion in the 2015/16 budget. If achieved, the waiver will spur local tea sales hence increase local consumption and earnings. The other fees and levies are institutional.
- The AFFA - Tea Directorate charges a Tea Ad Valorem Levy at 1% of customs value on all imports and exports. The levy was introduced in January 2012 and

collected from March 2012 from buyers and importers. The purpose of the Levy is to fund Tea Promotion, Research, Technical services, Compliance surveillance audits, industry development and operations. In order to sustain a vibrant Tea Industry, all the above services are vital.

- The shift of the point of charge from Manufacturing Cess which was being levied at a rate of **46 Kenya Cents per Kilogramme** of manufactured tea was to relieve the grower the burden of financing the two institutions. In this regard, the burden of financing TBK and TRFK was shifted from the tea grower to the tea exporter.
- Following complaints by the stakeholders, the Ministry of Agriculture, Livestock and Fisheries and AFFA-Tea Directorate carried out consultations with the Stakeholders, during a Task Force exercise in 2014. It was agreed that the rate of the Levy be reduced from 1% to 0.75%. The proposals have been included in the Tea Regulations 2014 which were submitted to the office of the Attorney General for review.
- AFFA- Tea directorate is also reviewing charges related to licensing of Tea Dealers with a view to removing it to ease doing business in tea.
- The Agricultural Produce Cess was repealed by the Agriculture Fisheries and Food Authority Act, 2013 since the function of road infrastructure has been devolved to County governments.
- The other charges are imposed by the various oversight bodies such as NEMA, KEPHIS, KEBS, KPA and County Governments among others. Further, the Industry players also charge service fees at various levels including Management fees by KTDA Ltd (2.5% of net proceeds), EATTA and KTGA member subscription fees and Brokerage fees (0.75% from the producer and 0.5% from the buyer). The other taxes are imposed by some countries who import Kenya tea including Pakistan.

It is these group of levies and charges that should be reduced substantially if we have to reduce the cost of doing business.

- AFFA has undertaken to impress on the players to also consider a reduction on their fees to reduce the tax burden in the industry. Further, the stakeholders are encouraged to engage the bodies who provide services to reduce the fees/levies.

3. CONCLUSION

AFFA has taken steps towards a reduction in the number of taxes, fees and levies in the Industry to enhance Tea Industry performance. It is our plea to the Committee to engage with the other stakeholders i.e. KTDA; KTGA; EATTA and the brokers to prevail upon them to also consider their levies and fees.

1.1 THE TAXES PAYABLE TO THE TEA INDUSTRY STAKEHOLDERS:

Table 1: Taxes, duty, licenses, fees and Levies Facing Stakeholders in the Tea Value Chain

	ITEM	Type	Payee	Rate of payment	Frequency	National/ tea sector	Stakeholders bearing the Cost
Government Taxes							
1.	Corporate Tax	Tax	KRA	30 % on profit	Paid in installments	National	All Companies
2.	Value Added Tax	Tax	KRA	16% on Vatable products	Monthly	National	All companies
3.	Import Declaration Fee	Tax	KRA	2.75 % of Value	At point of export	National	All Importers/
4.	Furnace Oil import tax	Tax	KRA	Kshs 0.6/litre	Daily	National	All companies
5.	Vehicle advance tax	Tax	KRA	1500/ ton of commercial vehicle	Annual	National	All companies
6.	Motor Vehicle Inspection Booking	Tax	KRA	1000/ per commercial vehicle	Annual	National	All companies
7.	Withholding Tax	Tax	KRA	5% of dividends	Annual	National	All companies
8.	Fuel for agric operations	Duty	KRA	Kshs 10,305 per Cbm	Daily	National	All companies
Registration fees							
9.	Buyers at Tea Auction	Fees	TBK	10,000	Annual	Tea sector	Buyers
10.	Brokers	Fees	TBK	10,000	Annual	Tea sector	Tea brokers
11.	Warehousemen	Fees	TBK	10,000	Annual	warehousemen	warehousemen
12.	Tea importer	Fees	TBK	10,000	Annual	Tea sector	Importers

	ITEM	Type	Payee	Rate of payment	Frequency	National/ tea sector	Stakeholders bearing the Cost
13.	Tea Manufacturing License	Fees	TBK	7,500	Annual	Tea sector	Tea Factories
14.	Tea Auction Organizers	Fees	TBK	10,000	Annual	Tea sector	EATTA
15.	Tea Packers	Fees	TBK	2,000	Annual	Tea sector	Packers
16.	Management agent	Fees	TBK	25,000	Annual	Tea sector	Tea farmers
17.	EATTA Membership	subscri ption	EATTA	30,000	Annual	Tea Sector	Producers, Buyers, warehousemen, brokers, packers
	Levies						
18.	Ad valorem levy	levy	TBK	1% customs value of tea	For each consignment	Tea sector	Bulk Exporter- Buyer/ Factories for contract
19.	Mombasa Municipal Port Health Charges	Levy	County Government	Kshs 5,000	Annual	County Government	Tea warehousemen, tea packers
20.	Mombasa Municipal Annual License Fee	Levy	County Government	Kshs 10,000	Annual	County Government	All Tea companies
21.	Land Rates	Levy	County Government	0.3-0.75% percent of undeveloped value	Annually	National	All Tea companies

	ITEM	Type	Payee	Rate of payment	Frequency	National/ tea sector	Stakeholders bearing the Cost
22.	Inspection and Grading Fee (KEPHIS)	Levy	KEPHIS	5,000/= per single consignment & 10,000/= per multiple consignment to one consignee inspected	Consignment	National	Tea factories (contract exports), tea buyers , tea packers
23.	KEPHIS SPS Certificate	Levy	KEPHIS	Kshs 1000	Weekly	National	Tea factories (contract exports); tea warehousemen, packers
24.	KEBS Product Conformity	Levy	KEBS	0.2% of value of made tea ≤ Kshs	Annually	National	Exporter/Importers
25.	KEBS Quality Standard	Levy	KEBS	0.2% of value of made tea ≤ Kshs 400,000	Quarterly	National	Tea factories, tea packers
26.	NEMA Environmental audit	Levy	NEMA	0.1% of investment costs	Annual	National	Tea factories
27.	K.P.A Port Charges (40 feet Container)	Levy	Kenya Ports Authority	Kshs 9,000	At time of loading	National	Tea buyers, tea packers, tea factories (direct
28.	K.P.A Port Terminal Handling Charges	Levy	Kenya Ports Authority	Kshs 2000 per 20 Feet Container	At time of loading	National	Tea buyers, tea packers, tea factories (direct

	ITEM	Type	Payee	Rate of payment	Frequency	National/ tea sector	Stakeholders bearing the Cost
29.	Directorate of Industry Training Levy (DIT) National Industrial Training Authority(NITA)	Levy	NITA	Kshs 50 per employee	Monthly	National	Tea factories; Tea warehousemen, buyers, brokers, auction organizer, management agents
30.	Merchant Shipping Surcharge Fee	Levy	Kenya Maritime Authority	Kshs 10 per tonne	Annual	National	Tea buyers, tea packers, tea factories (direct exports)
31.	Chamber of Commerce Certificate of Origin	Levy	Chamber of Commerce	0.025 % of the gross value tea sold	Annual	National	Buyers, packers
Cess							
32.	Agricultural Produce Cess	Cess	County Government	1% of gross value of green leaf	Monthly	Tea sector	Tea farmers
Licenses							
33.	Fuel Wood Movement	License	County Government	300 per vehicle trip	Daily	National	Tea factories
34.	Waste Water Regulations	License	NEMA	Kshs 100,000	Annually	National	Tea factories
35.	Department of Occupational Health & Safety license	License	DOHS	Kshs 2,060	Annually	National	Tea factories, warehousemen, packers
36.	Seizure of scales	License	Weights & Measures	Kshs 2,010	Annually	National	Tea Companies/ Factories

	ITEM	Type	Payee	Rate of payment	Frequency	National/ tea sector	Stakeholders bearing the Cost
37.	Water Permit	License	Water Resources Board	Kshs 4,600	Annually	National	Tea factories
38.	Underground Water Tank license	License	Ministry of Health	Kshs 1000	Annually	National	Tea factories
39.	Food & Drugs	License	F&D Board	Kshs 1000	Annually	National	Tea factories, packers, warehousemen
40.	Mombasa Municipal Parking Ticket per truck	Levy	County Council	Kshs 1,700 per day	Annually	National	All companies
	KTDA Management Fees						
41.	KTDA		KTDA	2.5% of the net sale	Monthly	Tea sector	Tea farmers
	Brokers Fees						
42.	Tea Brokers	fees	Brokers	0.75% Producers and 0.5% Buyers	Daily	Tea sector	Tea Producers, Buyers

**KENYA TEA DEVELOPMENT AGENCY
HOLDINGS LIMITED**

**Presentation to The Departmental
Committee of Agriculture, Livestock and
Cooperatives Regarding Petition By Tea
Farmers on The Decline in Tea Prices
And Effects of Ad Valorem Levy.**

Table of Contents

1. Historical Background of KTDA	3
2. Summary of Sessional Paper No. 2 of 1999	3
3. KTDA Structure	8
4. Over view of KTDA Performance.....	13
5. Ad Valorem Levy	19
6. Decline in tea prices for the past 2 years and intervention measures	20
7. Response to other Issues.....	25
i) How second payment is determined;	25
ii) Why factories borrow to finance second payment;.....	25
iii) Ceiling of minimum payment	25
iv) Transparency and competitiveness of loans for factories construction.....	25
v) Cost of putting up factories	25
8. Efficiency of KTDA operations – leaf collection, cost control, etc	29
9. Marketing of KTDA teas.....	36
i. KTDA operates as a monopoly both in marketing of teas and operations	36
ii. Introduction of County Tea Auction Centres.....	36
10. Pay points of farmers tea proceeds	37
11. New technology in KTDA tea factories	37
12. Role of tea brokers in the tea value chain.....	40
13. Transport of made tea to warehouses in Mombasa	41
14. Governance Issues	41

1. Historical Background of KTDA

Year	Activity in Phase
1. 1950's	Small-holder cultivation commences
2. 1957	First Small-holder Tea Factory started in Ragati, Nyeri Factory management through a management agreement with multinational tea companies
3. 1960	Special Crops Development Authority established
4. 1964	The Kenya Tea Development Authority established under the Agriculture Act (Cap 318) Section 191. (Legal Notice No.42). KTDA (authority) takes over small-holder management from multinational tea companies.
5. 1991	Parastatal Reform Strategy Paper developed, listing KTDA among other Strategic Parastatals for privatization.
6. 1999	KTDA Order revoked through Legal notice No.44 through Sessional Paper No. 2 of 1999.
7. 2000	KTDA (Authority) was transformed into a private company, KTDA (Agency) Ltd on 30 th June 2000 & registered under the Companies Act. (45 factories)

2. Summary of Sessional Paper No. 2 of 1999

Introduction

The Sessional Paper No. 2 of 1999 on the Liberalization & Restructuring of The Tea Industry Reforms in the Tea Board of Kenya and Privatization of the Kenya Tea Development Authority ("Sessional Paper") was a result of the Government's decision to undertake significant structural adjustment reform measures such as liberalization and privatization of various agricultural subsectors.

This led to the development of a detailed action plan on the structural reforms within the tea industry, and in particular the privatization of the Kenya Tea Development Authority that had been managing the tea activities in the small holder sub-sector and modalities to strengthen the Tea Board of Kenya to enable it undertake its mandated role as the main regulatory body of the industry.

Liberalization/Privatization Measure in the Tea Industry

The Sessional paper notes that prior to the liberalization initiatives the Agriculture ministry was charged with the role of decision making in agriculture and its functions spanned the entire sector leaving little individual entrepreneurial decision making in the hands of farmers.

However due to globalization of economies there was need to restructure some of the economic sectors with a view to enhance the private sector involvement.

The process therefore to liberalize the tea industry commenced in 1992 when the Government and the World Bank signed an agreement under the **Public Enterprise Reform Program** covering 5 major parastatals. KTDA was included among the 5 parastatals earmarked for liberalization and restructuring under the program.

Consequently the government agreed that the process of liberalization of KTDA and small holder sub-sector should result into incorporation of KTDA under the Companies Act as an independent and private tea enterprise owned by small holder tea farmers through their respective tea factory companies.

Privatization of Kenya Tea Development Authority (KTDA)

It was noted that KTDA was then owned by small holder farmers numbering 300,000 and 'de jure' owned by Government as it was established under the Agriculture Act CAP 318.

The steps that had been taken towards privatization of KTDA were cited as:-

- Exemption of the Authority from provisions of the State Corporations Act;
- Divestiture of KTDA from the tea factory companies through the following measures:-
 - Election by farmers of 6 directors (majority) out of the maximum 9 directors in each factory company board;
 - Transfer of chairmanship of factory company boards from KTDA to elected tea farmers' representatives;
 - Direct participation by elected directors in management decisions regarding procurement of goods and services by each factory company;
 - Direct participation by elected directors in formulation of annual budgets and monitoring of financial expenditures;
 - Transfer of green leaf collection and payment to farmers from KTDA to individual factory companies;

- Sales of KTDA equity in factory companies to tea farmers;
 - Allotment of ownership shares to all small holder tea growers in their respective tea factory companies;
 - Strict information and data disclosure by KTDA to factory companies regarding marketing of tea by the Authority.
- Repeal of all previous KTDA Orders and replacement with Legal Notices No. 109 to 112 of 1997. The new Legal Notice No. 109 of 1997 effectively placed control of the KTDA Board under the farmers elected representatives who number 12 out of a total KTDA Board Membership of 17 including the Managing Director;
 - Removal of provisions in the KTDA Orders which in the past required the Board to seek the Minister's approval before making important investment decisions.

Privatization & Transfer of Ownership of KTDA to Small Holder Tea Farmers

The paper indicated that KTDA will be incorporated under the Companies Act as a public company, thereby removing it from the auspices of the Agriculture Act.

The structure of the privatized KTDA would be as follows:-

▪ Incorporation and shareholding

- ✓ KTDA would be incorporated as an independent and private enterprise ("KTDA Limited") owned by all small holder tea farmers through their respective factory companies;
- ✓ KTDA limited will offer management services to the individual tea factories and the latter had the option of contracting another managing agent;
- ✓ The constitution of shareholding will be based on the current valuation of the assets of KTDA allocated in accordance with the contribution of each factory company in creation of KTDA assets;
- ✓ The net worth of KTDA will thus be distributed to the tea factory companies relative to their contribution in form of management fees from the 1983/84 to 1996/97 period.

▪ Governance

- ✓ KTDA Board of directors would comprise of a minimum of 13 and a maximum of 19 directors where 12 would be elected by shareholders and the Managing Director. The PS Treasury will be co-opted as a member of the Board in view of the Government loan guarantees.
- ✓ The chairman of the board would be elected from amongst its elected directors.

▪ **Action Plan**

- ✓ The on-going restructuring of the small holder tea subsector and KTDA would be finalized by January 2000;
- ✓ Repeal of KTDA Orders and any legislative amendments would be undertaken and effected by January 2000;
- ✓ Government subvention in respect of tea extension staff employed by KTDA and small holder factory companies will cease in January 2000;
- ✓ The term of the Board expired with the repeal of the KTDA Order and shareholders of KTDA Limited will elect a new Board of Directors within a period of 6 months.

▪ **Company Structure and Management**

- ✓ The board of the Company will delegate its executive authority to the Chief Executive and the management;
- ✓ Sales and Marketing services will be provided from the headquarters. The same would apply to the financial and accounting services save for the accounting work already decentralized to factory companies;
- ✓ The relationship between KTDA Limited and tea factory companies will be governed by revised management agreements.

▪ **Associated Companies**

Companies closely associated with KTDA Limited will include:-

- ✓ All the current 45 small holder factory companies and any future ones managed by KTDA Limited;
- ✓ Majani Insurance Brokers Limited;
- ✓ KTDA Farmer's Company Limited whose shares are held directly by small holder tea farmers;
- ✓ Chai Warehousing Limited (information) to be located in Mombasa;
- ✓ Kenya Tea Packers (KETEPA) Limited.

OTHER TEA SUB SECTOR INSTITUTIONS

▪ **Tea Research Foundation of Kenya (TRFK)**

TRFK which was operating under Ministry of Research and Technology would be transferred back to the Ministry of Agriculture and report to it through the Tea Board of Kenya.

▪ **Nyayo Tea Zones Development Corporations (NTZDC)**

The major objective of NTZDC was to protect and conserve gazetted high altitude forests against human encroachment.

Due to its geographical spread and absence of a processing facility, it would sign agreements with small holder tea companies or KTGA member companies to process its green leaf.

▪ **Kenya Tea Growers Association (KTGA)**

KTDA and KTGA were encouraged to work closely to assist small holder tea farmers willing to transfer to KTGA managed tea factories or in cases where the KTDA managed tea factories does not have adequate processing capacity.

This will be done through agreements between individual small holder tea factory companies and KTGA member companies.

▪ **East African Tea Trade Association**

The Association will:-

- ✓ Run the Mombasa auction;
- ✓ Ensure that representation at the association management committee is equitable and special representation is accorded to the large single producers like KTDA who represent all the small holders in Kenya;
- ✓ Ensure that sale of the tea at the auction and other operations of the trade is fair, efficient and transparent;
- ✓ Ensure that tea producers determine the currency of sale depending on whether the tea is for local or export sale;
- ✓ Ensure that payment of the tea sold at the auction is made within 10 days.

KTDA should examine how best the small scale tea growers can be represented in EATTA while taking cognizance that KTDA currently has one vote in EATTA and yet it represents 312,000 tea farmers owning 45 tea factory companies and also producing over 60% of Kenyan tea.

▪ **Tea Brokers**

Tea Brokers are appointed by tea producers and buyers and members of EATTA. In future they will be expected to register with the Tea Board of Kenya.

The tea factory companies will appoint their own tea brokers in consultation with their managing agents.

In future the tea board of Kenya will be involved in the registration of tea brokers and review the tea brokerage commission.

▪ **Tea Packers**

Local packers will be encouraged and assisted where necessary to develop the value added tea market.

All tea blended and packed in Kenya will contain 70% of Kenya's produced tea.

All tea packers based in Kenya will be required to register with the Tea Board of Kenya.

CONCLUSION

The various programs and plans of action contained in the Sessional Paper after their implementation will result in efficient and effective operation of the institutions in the industry.

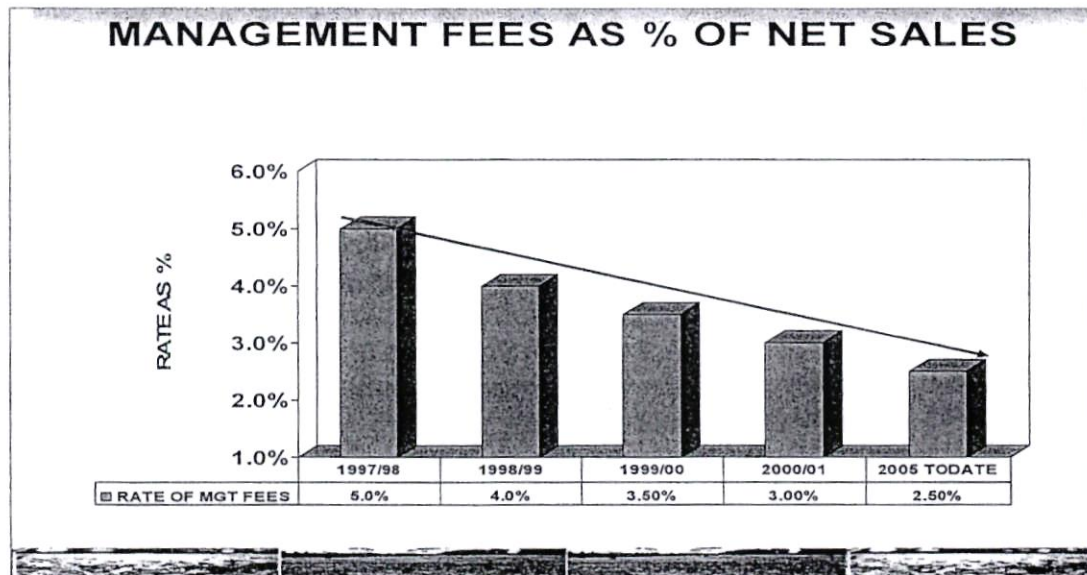
The existing constraints, problems and challenges will be addressed through the new policies.

The government would continue to support the industry through the existing institutions to enable various actors and stakeholders to fully play their rightful roles under an enabling environment in the liberalized tea industry.

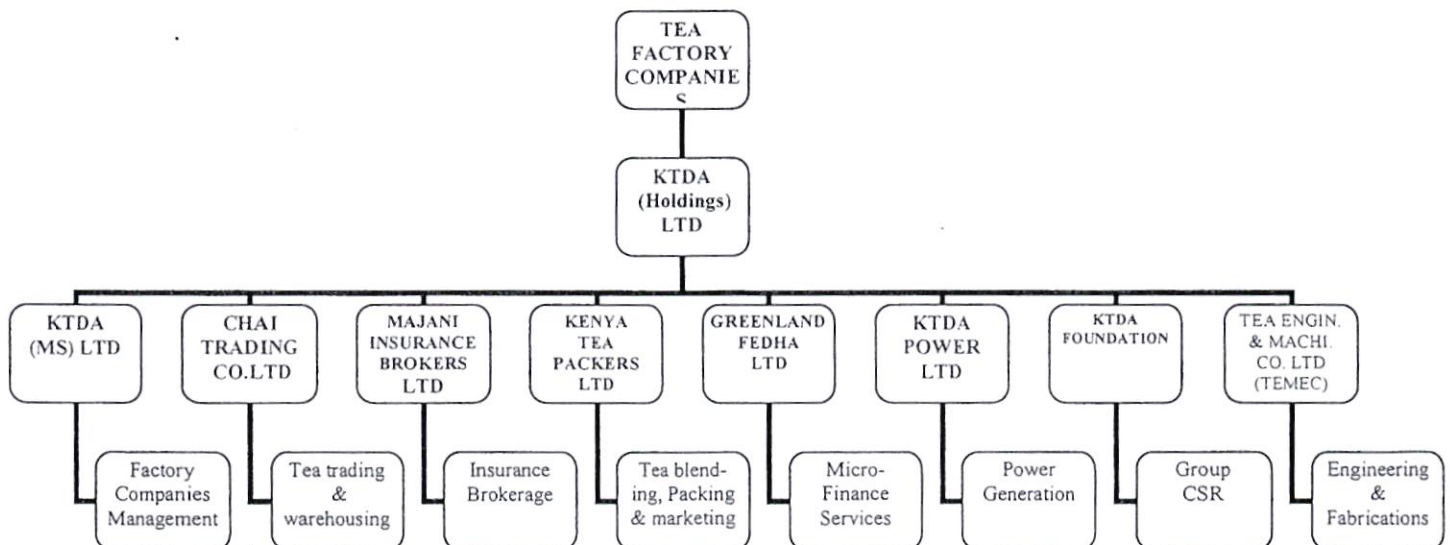
3. KTDA Structure

The Sessional Paper No.2 of 1999 on the Liberalization and Restructuring of the Tea Industry, culminated in the privatization and incorporation of KTDA under the Companies Act (Cap 486). KTDA therefore lost tax exemption status which had an effect of reduction in the profit by as much as 35%. The Sessional Paper went further to indicate that it was necessary for the company to introduce cost-cutting measures in order to break even.

Prior to privatization, KTDA's main source of revenue was management fees charged to the factory companies at a rate of 5% of the gross value of tea. Upon privatization the rate was reduced gradually to the current rate of 2.5% of the net value resulting to decreased revenue. Diversification of revenue generation sources was therefore a key strategy for sustainability of the KTDA business.



- Global business challenges such as fluctuating prices, exchange rates, interest rates, rising costs of inputs have affected KTDA therefore justifying implementation of the diversification strategy.
- In December 2009 the company changed its name to Kenya Tea Development Agency Holdings Limited in line with the recommendations made by a Government-constituted Tea Industry Task Force of 2007. KTDA Management Services, a subsidiary of KTDA Holdings Ltd, provides management services to the factory companies through a management agreement with the factory companies. KTDA (H) became the investing arm of the shareholders as outlined in the chart below:



In order to address core business activities and exploit economies of scale and scope, KTDA (H) Ltd established subsidiary companies for specific roles and responsibilities.

These investments have been made along the tea value chain to manage costs more efficiently, add value to the services to the small scale tea farmers and distribute the surplus revenue to the shareholders as explained under each company here below:-

1. KTDA (MS) Ltd

KTDA MS Ltd was established specifically to deal with management of the tea factory companies in line with the recommendations made by the Tea Industry Taskforce of 2007. The company is contracted by the tea factory companies to; manage tea cultivation, develop and maintain tea husbandry, collect, weigh, handle and pay farmers for green leaf delivered, manufacture green leaf into tea, market the manufactured tea, develop and provide sound technical, financial and managerial infrastructure, provide services in procurement, ICT, Human Resources and other support services. It is currently providing the services to 66 tea factory units in Kenya and 2 in Rwanda. It employs over 700 specialized personnel in engineering, ICT, accounting, agriculture, in its Head Office, regions and factories. Factories also employ over 7,000 staff in extension, leaf collection, production and engineering.

2. Chai Trading Company Ltd (CTCL)

CTCL core mandate is warehousing, blending, clearing & forwarding, value addition, export and general tea trading. It is now one of the top 10 buyers at the Mombasa tea auction and a member of EATTA. The warehousing arm of the company was established to ensure that the teas from the smallholder factories are assured of storage facilities at Mombasa before shipment as well as manage the shipping of the tea. Other than ensuring that warehouses are available for small holder teas, this arm has ensured that small holder factories are not vulnerable to market forces in regard to warehouse costs. It manages out bound and in bound shipping, clearing and forwarding for tea machinery and fertilizers. It employs over 100 professional staff in addition to outsourced staff.

3. Majani Insurance Brokers (MIB)

Majani Insurance Brokers Ltd was established to provide insurance brokerage services for all categories of insurance requirements for the KTDA Group and other external clients. In so doing, it ensures that the factories get value for money, that is, insurance services obtained economically, efficiently and effectively. The company has expertise able to evaluate the best insurance companies for different covers. In addition, the company in liaison with some insurance companies has been able to tailor-make some specific covers for small holder farmers like “Kinga ya Mkulima”, a health insurance cover. It provides rebates to the tea factories and employs over 100 members of staff across the factory catchments.

4. Greenland Fedha Ltd. (GFL)

Green Land Fedha Limited was set up as a non-deposit taking MFI with the objective of facilitating easy access to affordable credit for small scale farmers using their tea deliveries as collateral. Up to 30% of the small scale holder farmers had no access to credit and did not own a bank account due to onerous requirements imposed by the financial institutions. Moreover, the venture was also in-line with the strategic corporate objective of increasing value by investing in diversified, synergetic and profitable activities.

5. KTDA Power Company (KTPC)

KTPC was set to spearhead development of renewable energy starting with small hydro power projects across the tea growing regions as a way of addressing the ever increasing energy costs. The company manages Regional Power Generating Companies owned by the tea factory companies. As part of the cost cutting measures as outlined in the Sessional Paper No. 2 of 1999, the different factory Boards resolved to establish Regional Power Companies (RPCs) through which the factories would get renewable, reliable and affordable energy. KTPC would act as the managing agent for these RPCs.

6. Kenya Tea Packers Company Ltd (KETEPA)

KETEPA undertakes tea blending and packing for local and export markets. Majority shareholding of the company is owned by small holder tea farmers through KTDA while the minority shareholding is by members of Kenya Tea Growers Association (KTGA). The Company is involved in Tea blending, packing, marketing and distribution in the local and export markets. KETEPA has been a leading brand name in the tea sector over the years and has remained a profitable venture thereby adding value to the shareholders.

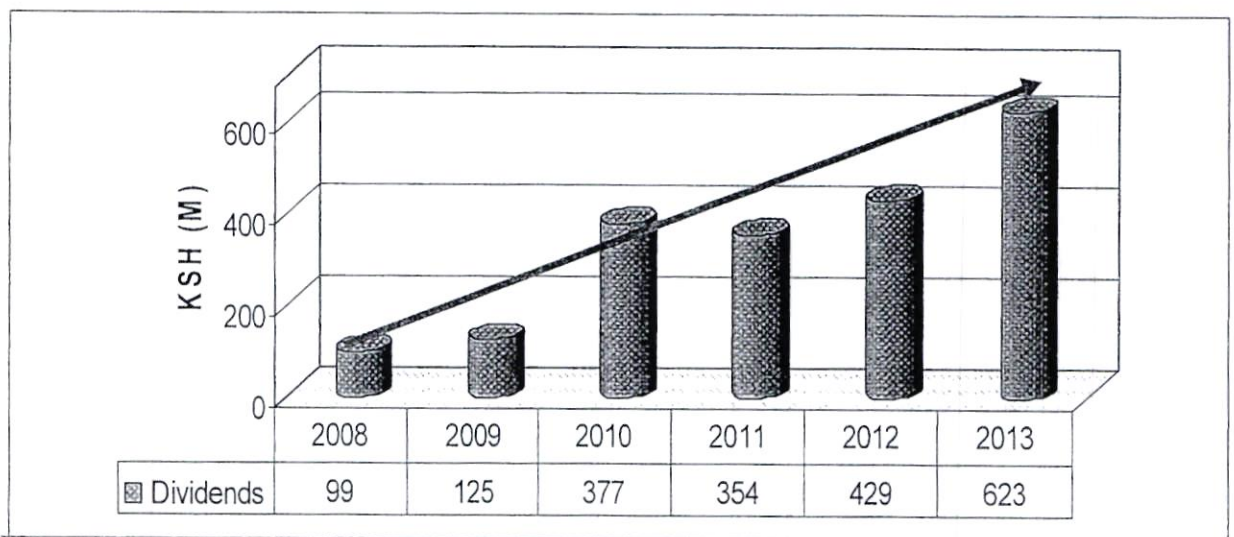
7. Tea Machinery and Engineering Company Ltd (TEMEC)

TEMEC was established to provide a modern workshop for fabrication and assembly of tea machinery for the tea factories. The majority of tea machinery is imported from India and elsewhere and it was felt that with Kenya's leadership role in tea production, it was about time we harnessed the skills of our engineers to fabricate these machineries and reduce overreliance on imported technology. This is also in line with Vision 2030 to make Kenya an industrialized country. We expect the quality of machineries manufactured by TEMEC to improve and their cost of these items to reduce for the benefit of the tea factory companies. The venture would create employment for our young engineers and enable them deploy their skills in real manufacturing.

8. KTDA Foundation

KTDA Foundation is the vehicle through which KTDA, its subsidiaries and managed factory companies give back to the community through CSR activities. Through the Foundation, KTDA group has provided 4 years secondary school scholarships to 143 students now in Form 1 and 2. This will be extended to Forms 3 and 4 and later to University. The Foundation is also involved in community health, environmental conservation and energy projects.

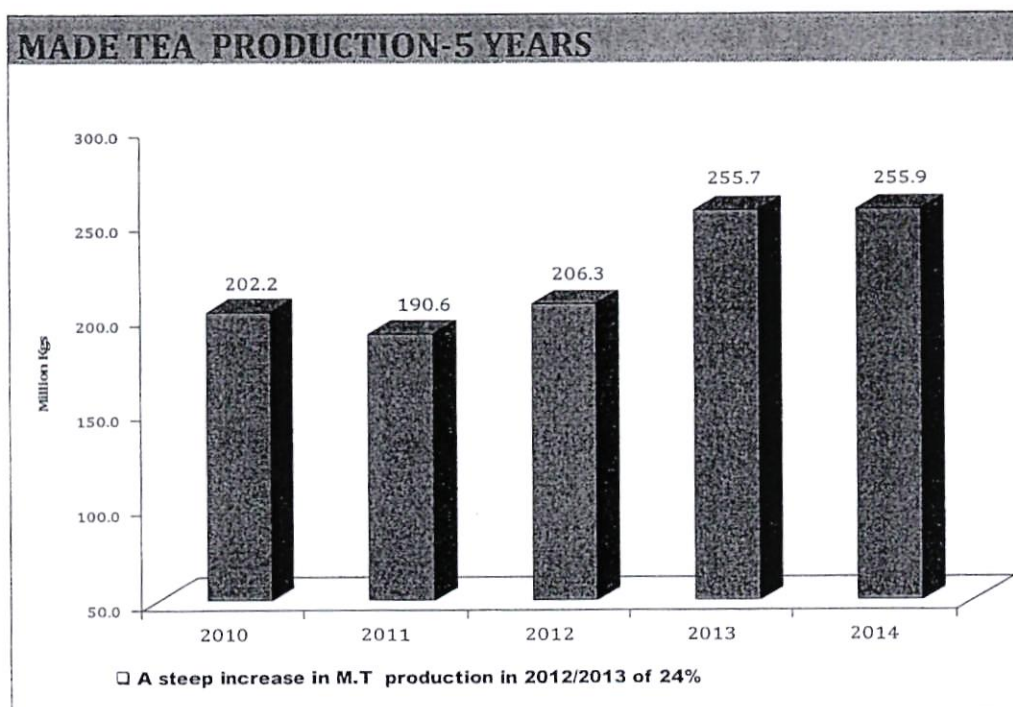
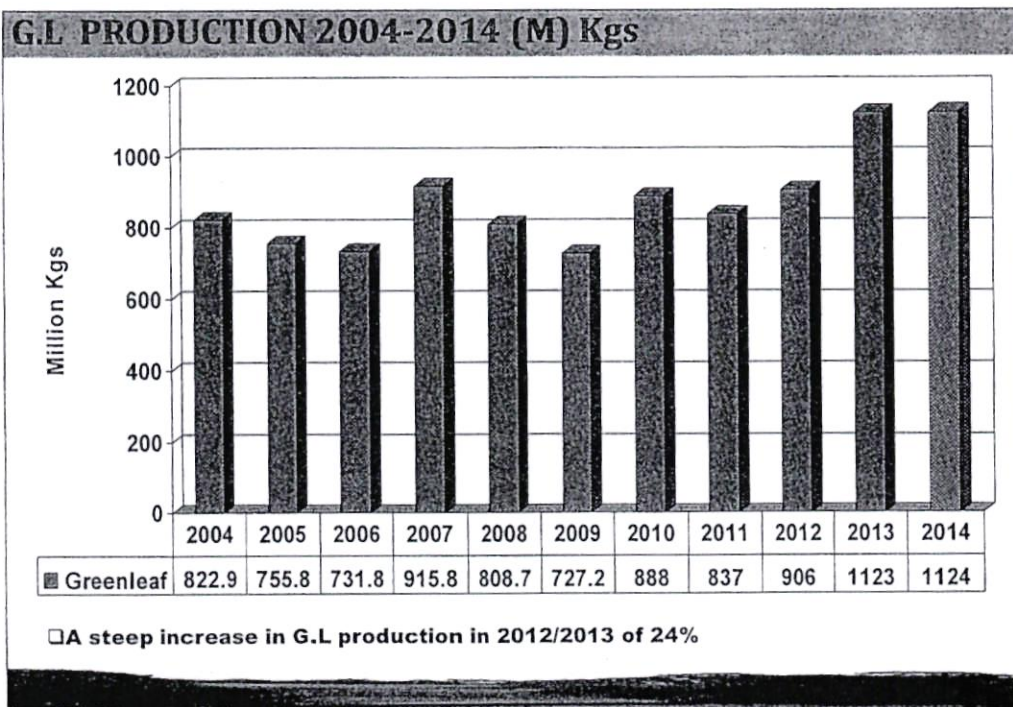
Revenue generated from the subsidiaries benefit the shareholders/farmers through annual dividend payments by the KTDA Holdings Ltd to the tea factory companies. Dividend payment trend for the last 6 years is shown here-below:-

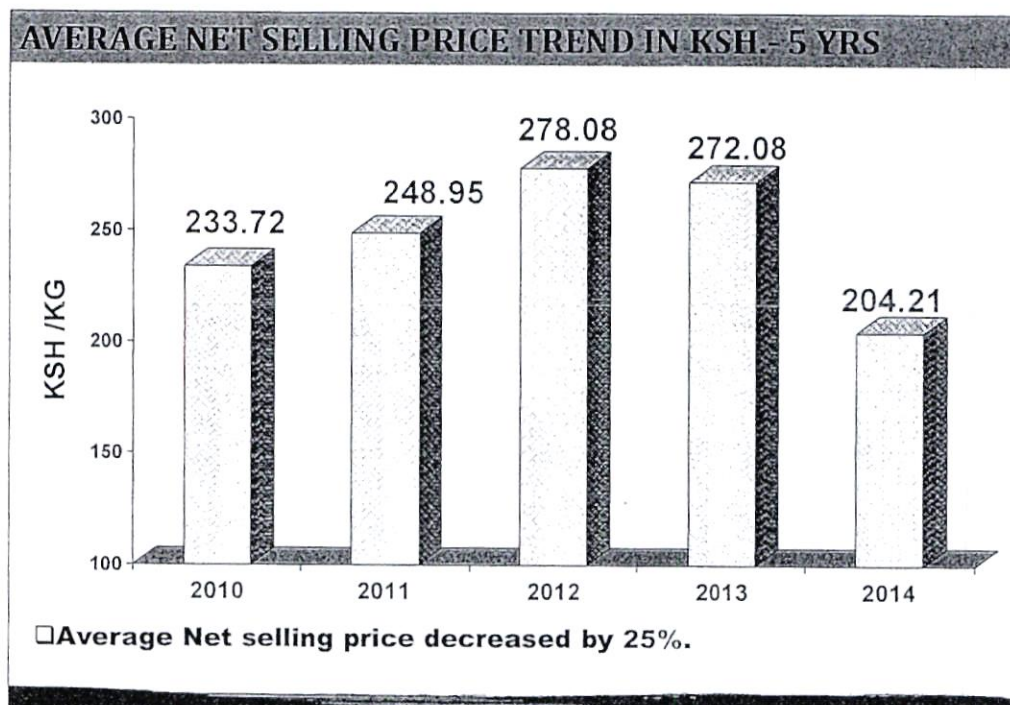
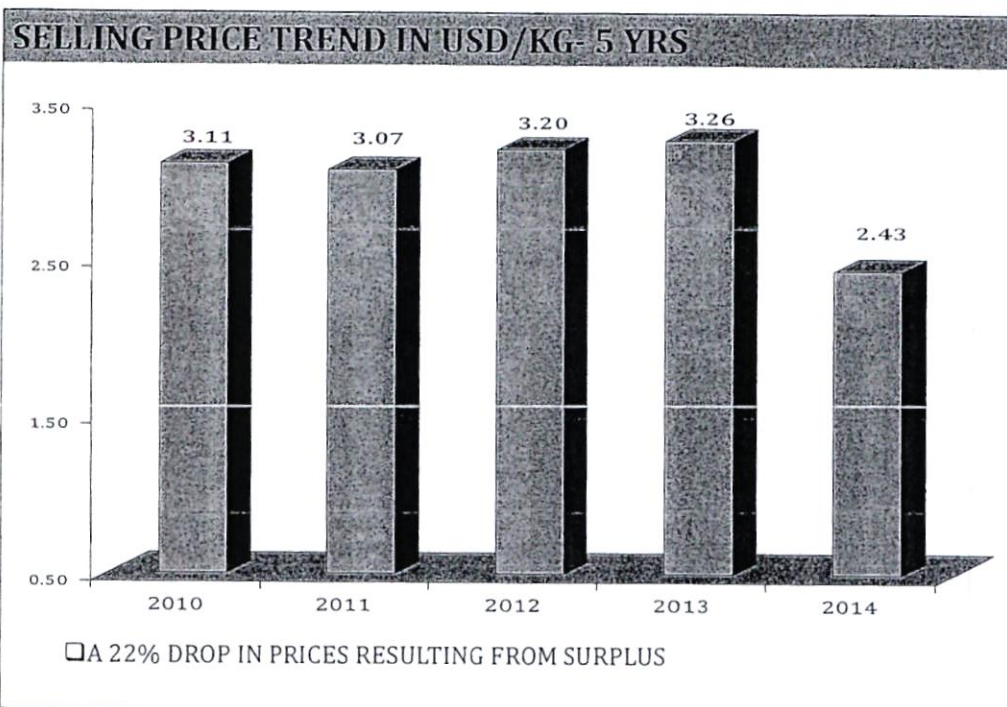


NB The above is in addition to rebates paid by some of the Subsidiary companies

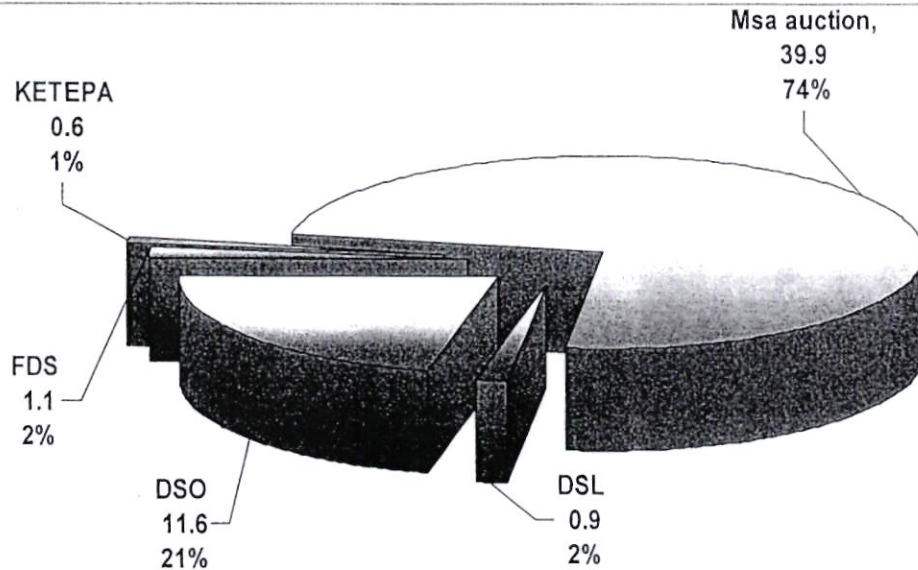
In addition, we pay taxes to the Government and through retentions, build a strong balance sheet which is leveraged for financing the debt obligations of the factory companies and regional power companies.

4. Over view of KTDA Performance

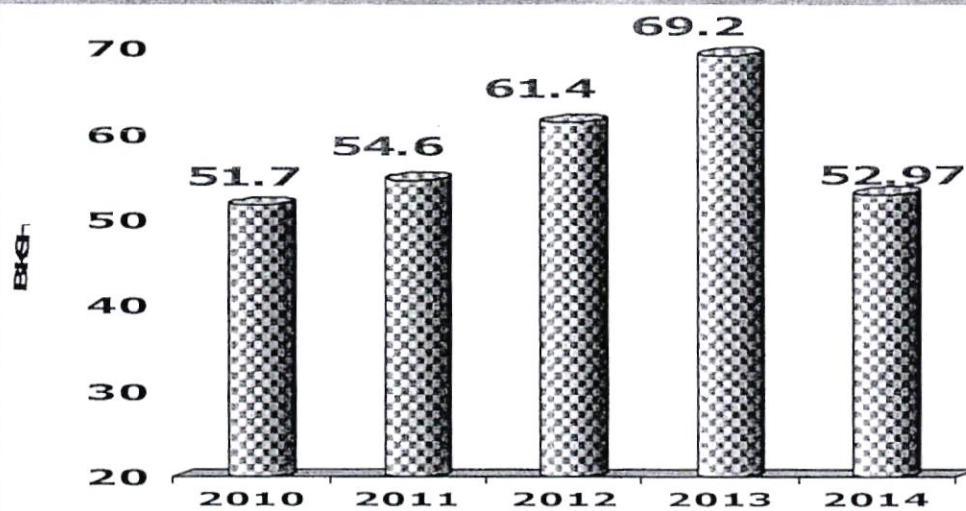




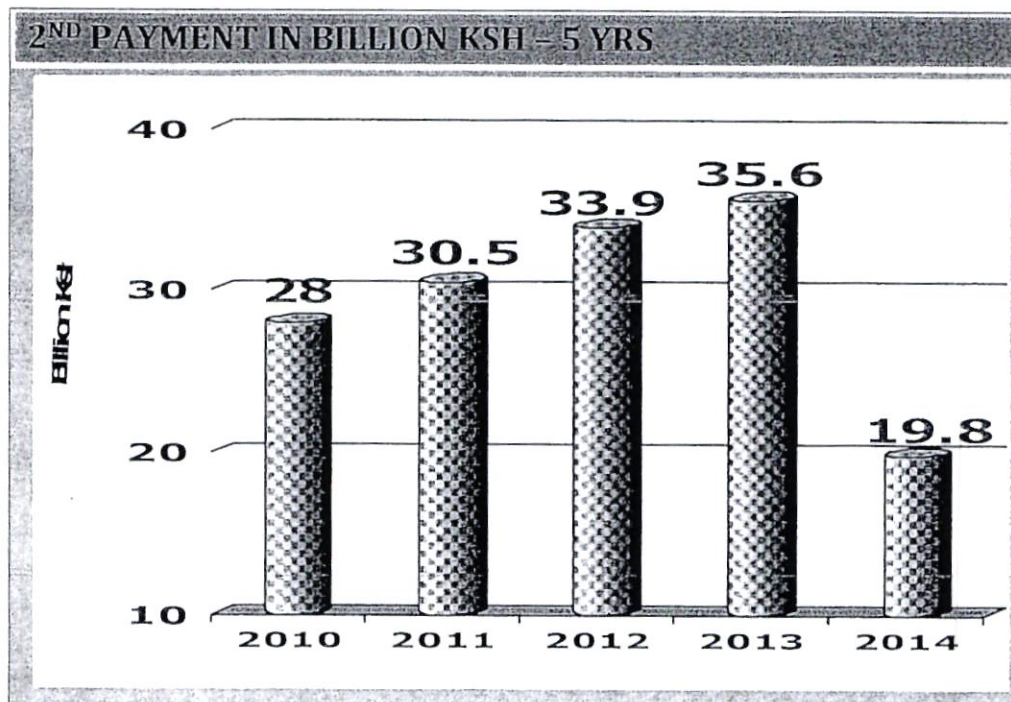
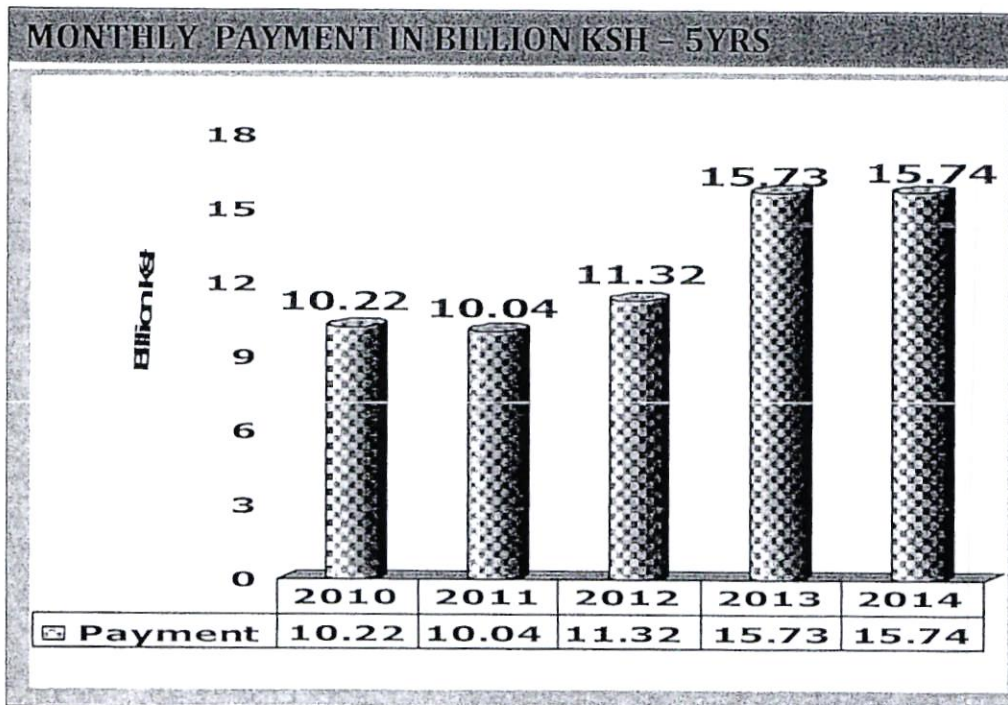
MARKET OUTLETS- SALES (B) KSH



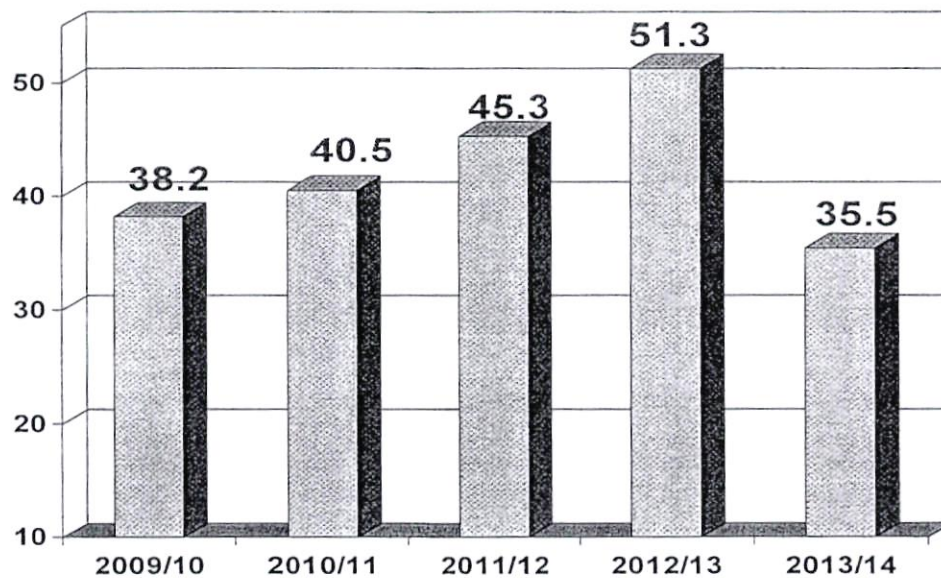
TOTAL INCOME IN BILLION KSH - 5 yrs



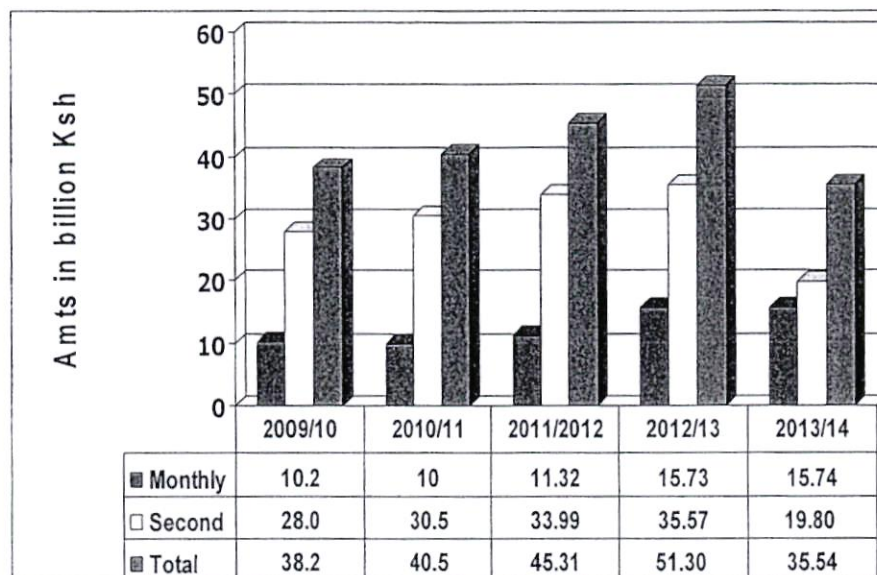
□ Total income decreased by 23%.

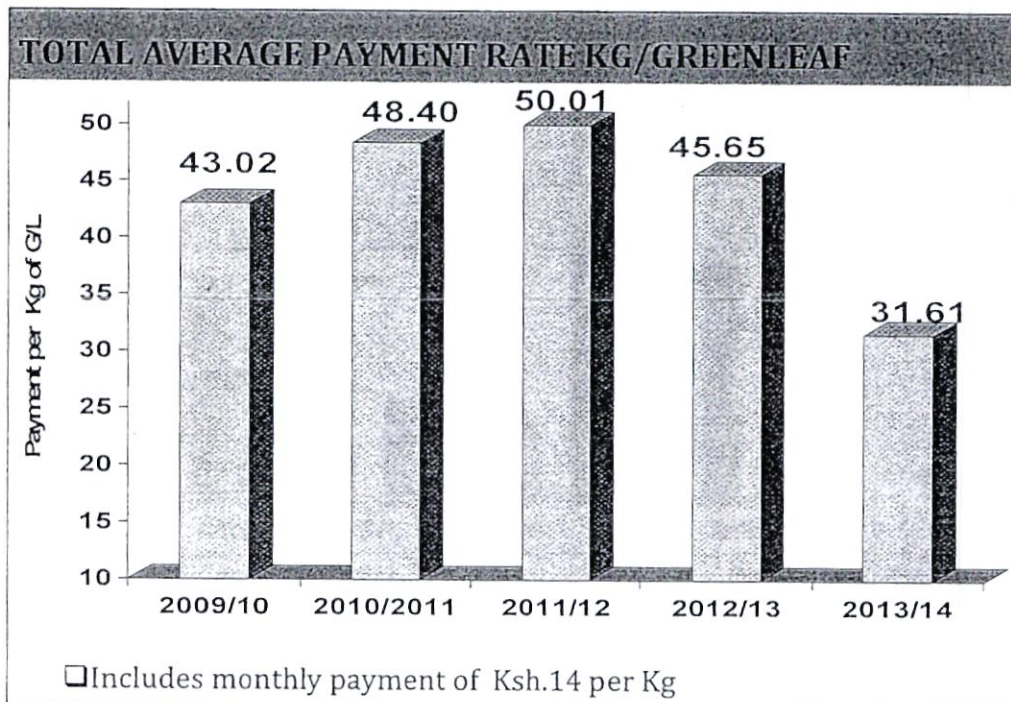
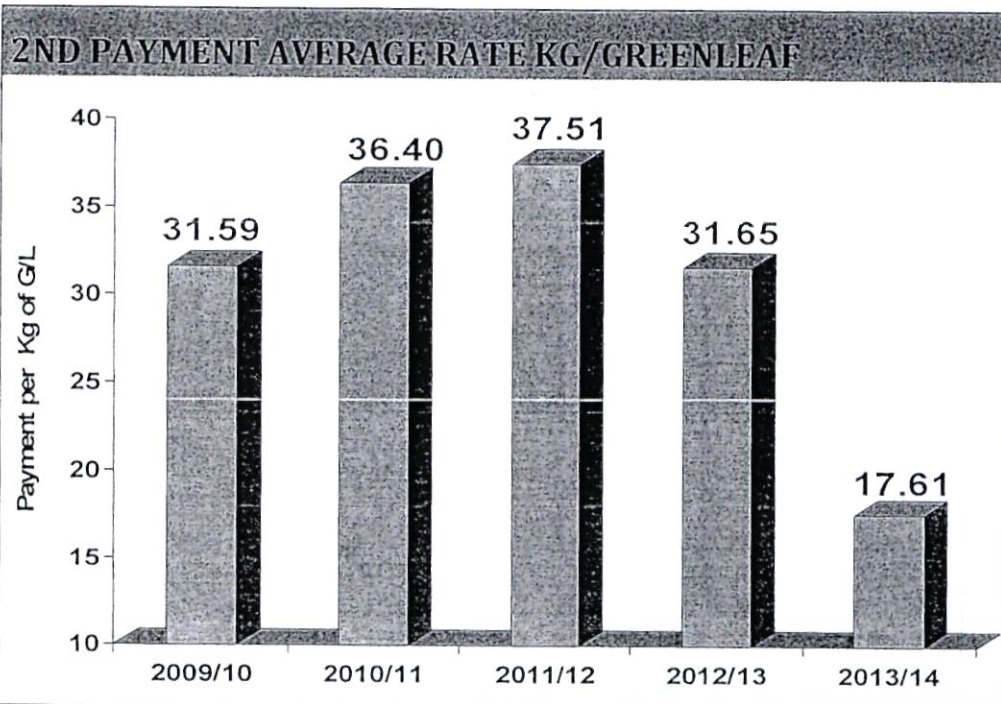


TOTAL PAYMENT IN BILLION KSH - 5 YRS



TOTAL PAYMENT 5 YRS COMPARISON IN BILLION KSH





5. Ad Valorem Levy

KTDA fully supports the memorandum on the need for a review of the tea ad valorem levy regulation and multiplicity of taxes presented by the EATTA being the body representing the interests of the tea industry in Kenya and Africa.

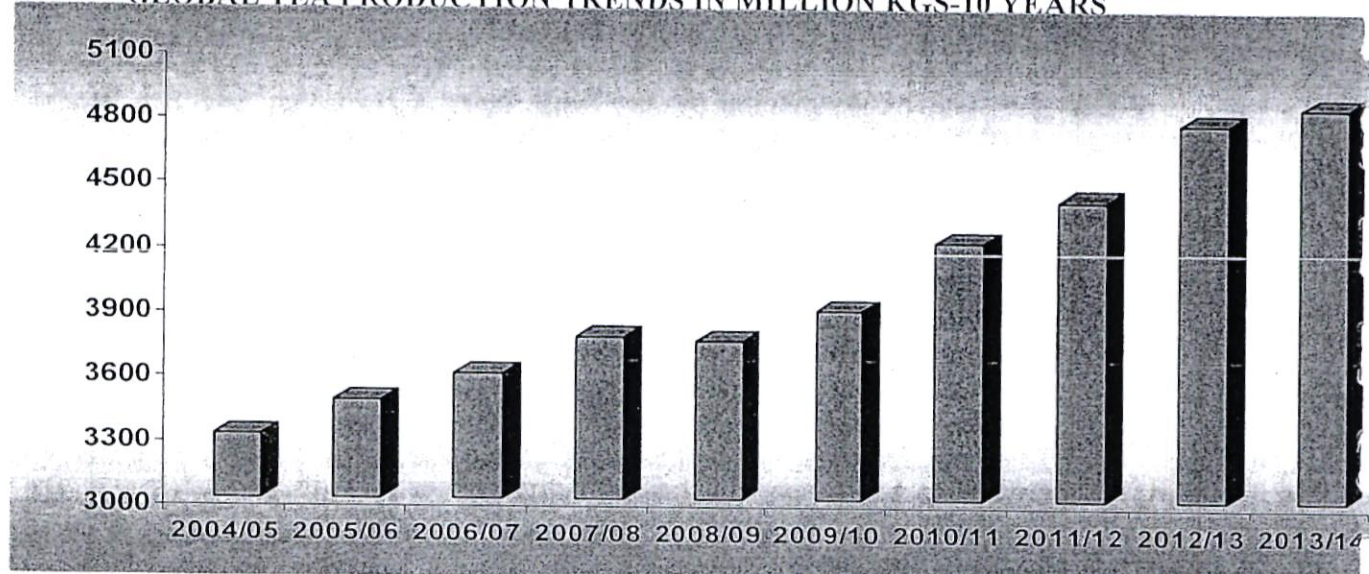
KTDA also supports the petition by the South Imenti Constituency and Tea farmers through the MP for Imenti South Hon. Kathuri Murungi. The reasons for our support are clearly enumerated in the actual EATTA petition (copy attached) and on which we made our contribution. In summary,

- a) We support the recommendation of the tea task force that a total of Kshs1.00 per Kg of made tea is levied but at factory level rather than at point of export.
- b) The amount raised from this levy is sufficient to fund research activities as well as the promotion and regulatory activities of the Tea Directorate. The amount can be reviewed as and when necessitated by inflationary pressures.
- c) Its application at the factory level will enable Kenyan teas have a level playing field at the auction with other teas from Africa. At the moment only Kenyan teas are subjected to an additional level post the hammer price making it more expensive than other African teas.
- d) Its application at the factory level will eliminate the increased paper work and documentation leading to delays in shipping.
- e) Its application will eliminate the cumbersome refund process leading to improved cash flow for buyers/exporters. We fully support the need for adequate funding of research and promotion activities in the tea industry. The manner and quantum of the levy required to do this is what is in contention; and we believe can be resolved through proper engagement and consultation.
- f) The impact of VAT on the tea industry is well documented in the EATTA document. The intervention measures are also well enumerated in order to improve the competitiveness of Kenyan tea exports. We fully support this measures in particular zero rating of VAT on tea for local consumption, timely VAT refunds and zero rating of VAT on warehouse services.
- g) The Agricultural produce cess, collected by the TBK and administered by cess committees has served tea farmers well. Otherwise impassable roads have benefitted from this cess enabling tea factories collect green leave from buying centres during rainy seasons. The cess should continue to be administered as it currently is. The County and National Government should continue to support these efforts through improvement in rural access roads.

On the multiple taxes and levies that the tea industry is subjected to; we fully support the recommendation for a single tax regime at the National and County Governments.

6. Decline in tea prices for the past 2 years and intervention measures

GLOBAL TEA PRODUCTION TRENDS IN MILLION KGS-10 YEARS

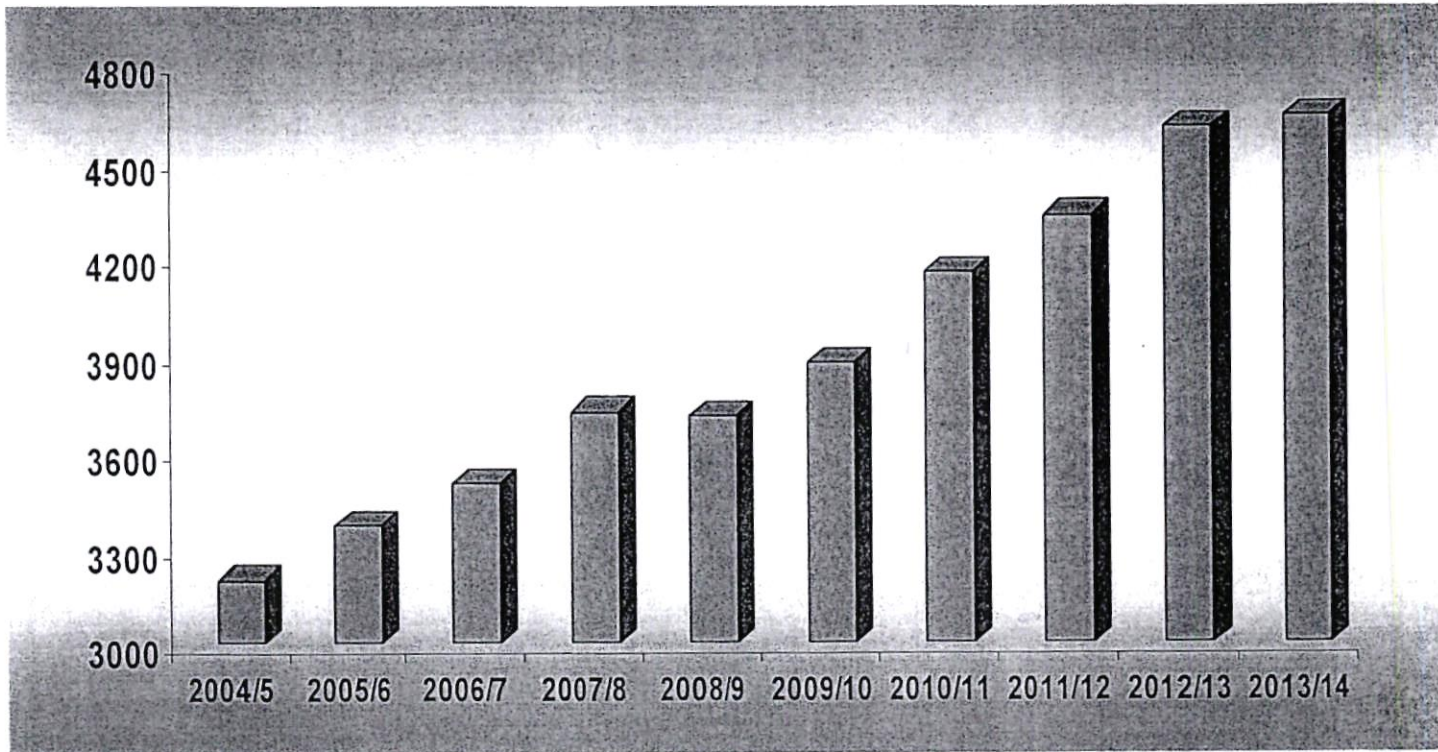


Period	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14
Volume	3301	3462	3582	3777	3738	3886	4198	4395	4755	4830

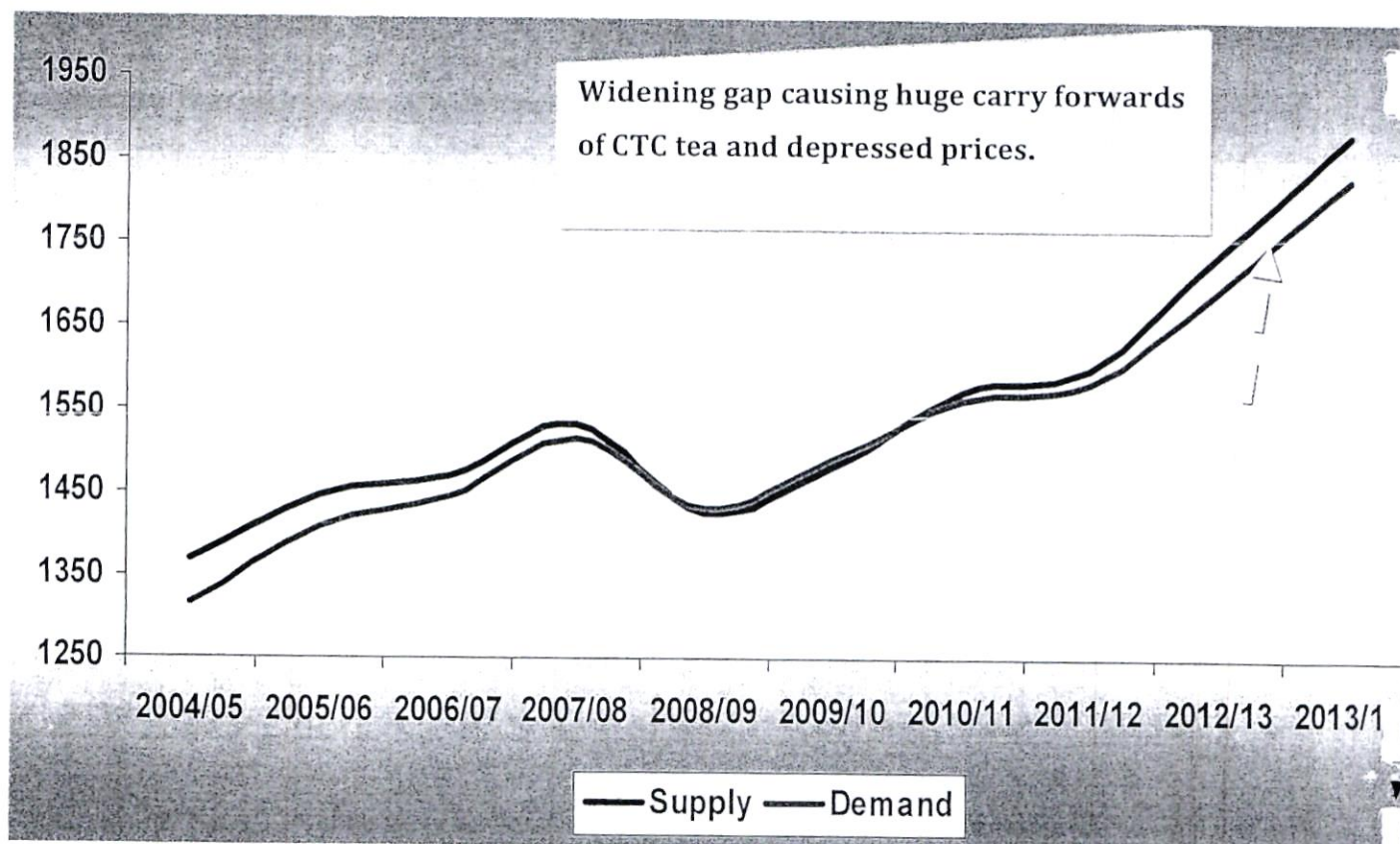
MAJOR TEA PRODUCING COUNTRIES

Producers	2012/13	% Share	2013/14	% Share	Variance (%)
China	1835	38.6	1872	38.8	2.02
India	1142	24.0	1172	24.3	2.63
Kenya	437	9.2	432	8.9	(1.14)
Sri Lanka	327	6.9	337	7.0	3.06
Viet Nam	198	4.2	199	4.1	0.51
Turkey	174	3.7	179	3.7	2.87
Indonesia	110	2.3	111	2.3	0.91
Japan	103	2.2	104	2.2	0.97
Argentina	93	2.0	90	1.9	(3.23)
Other	336	7.1	331	6.9	(1.49)
Total	4755	100.0	4827	100.0	1.58

CONSUMPTION TRENDS-MILLION KGS

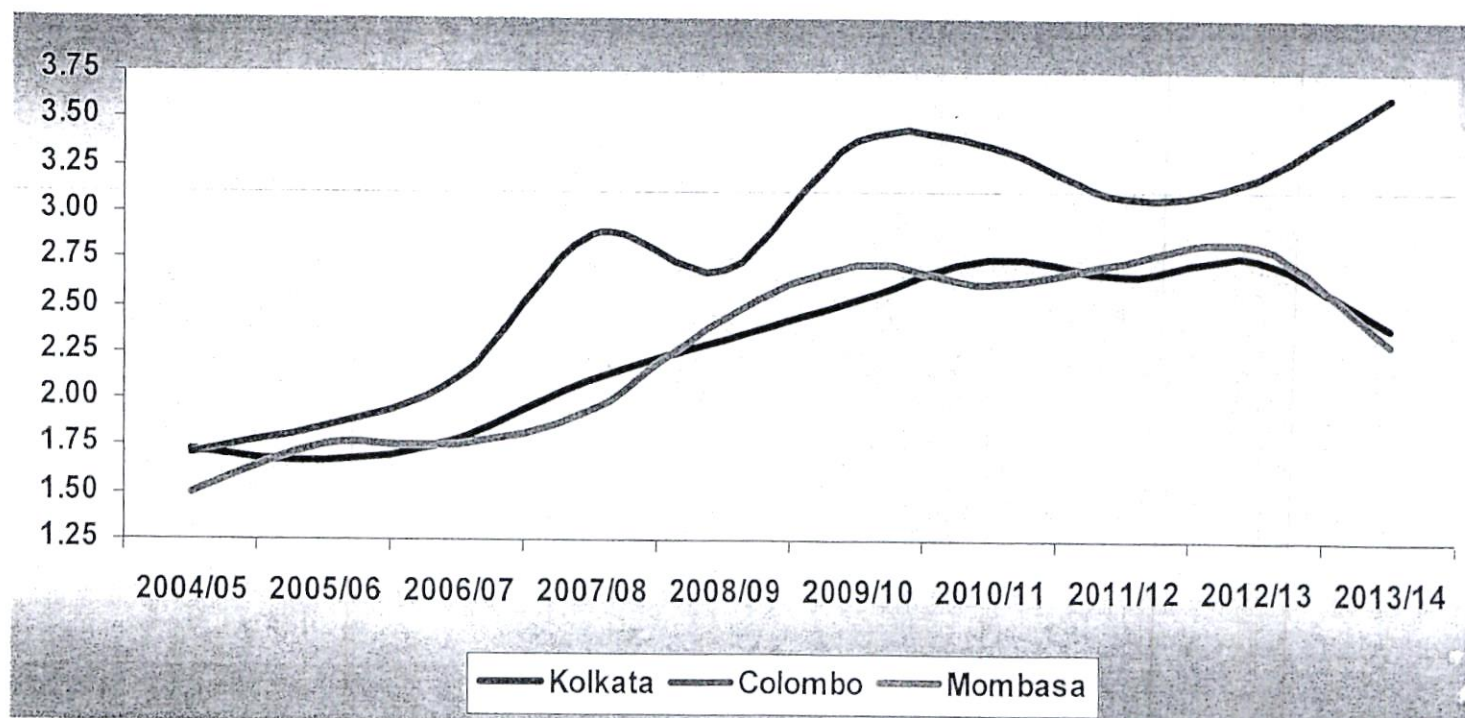


Period	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14
Demand	3199	3367	3495	3719	3707	3868	4149	4325	4596	4633

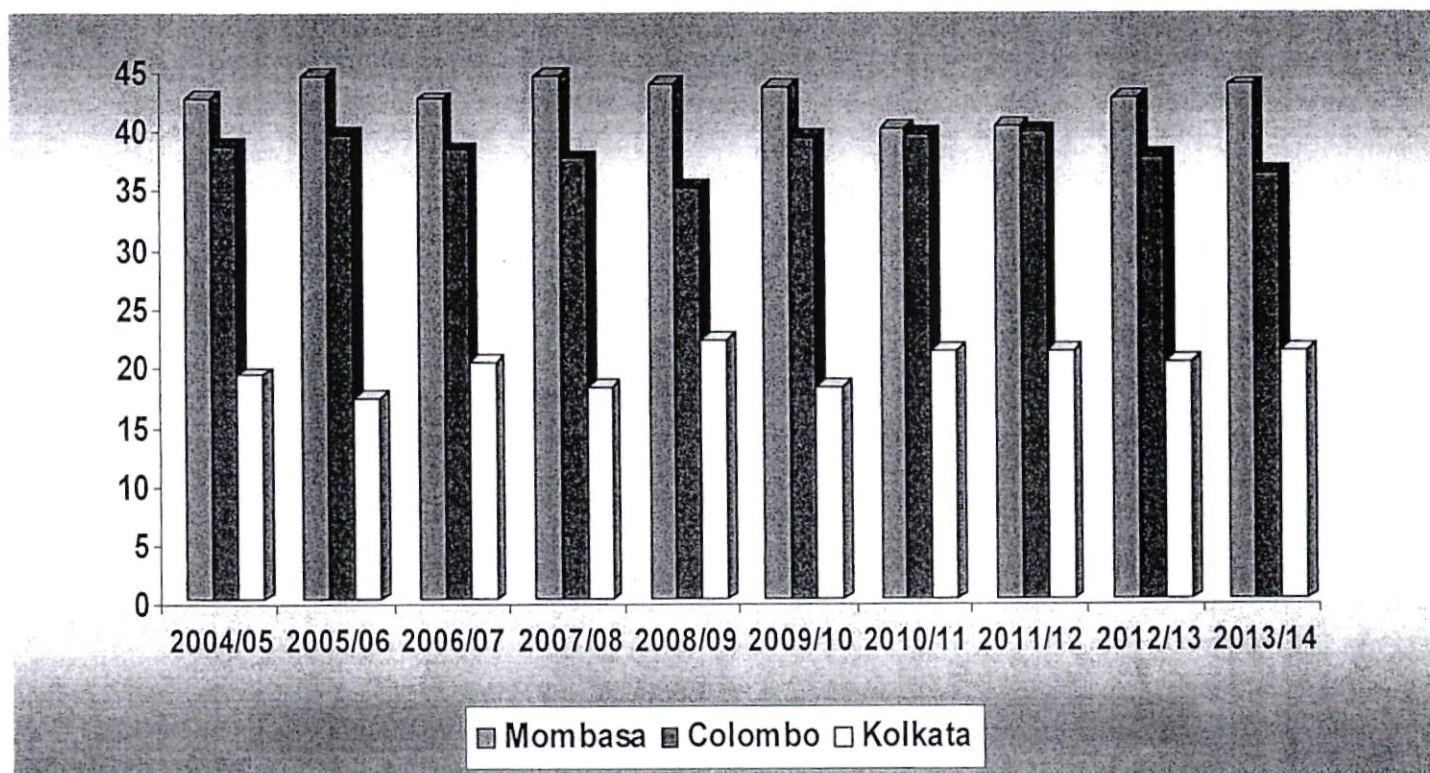


CTC Tea	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14
Surplus/Deficit	52	37	22	16	-6	-9	8	17	43	56

GLOBAL AUCTION PRICE TRENDS - KEY AUCTION TRADING CENTRES

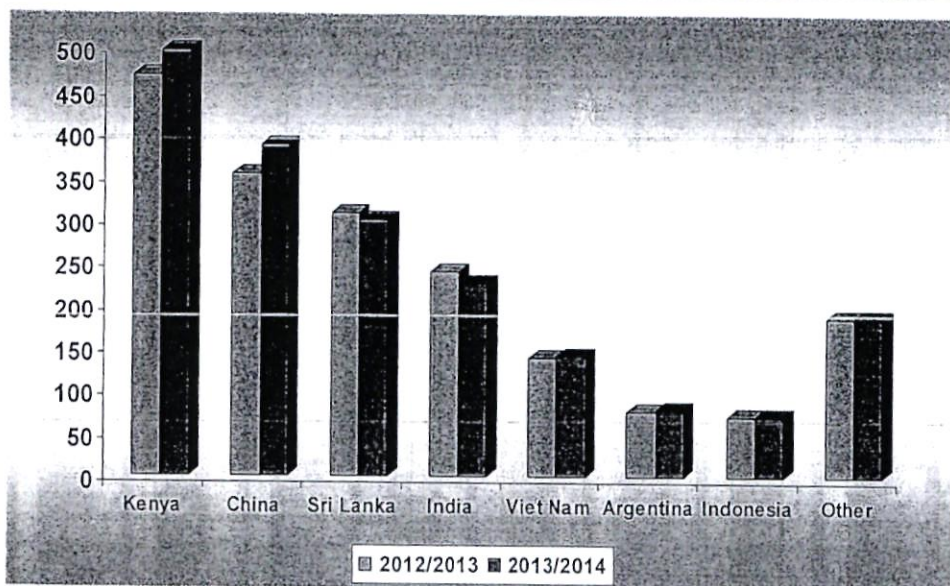


GLOBAL AUCTION % SHARE



Auction Center	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14
Mombasa	42	44	42	44	44	43	40	40	42	43
Colombo	38	39	38	37	35	39	39	39	37	36
Kolkata	20	17	20	18	22	18	21	21	21	21

MAJOR TEA EXPORTING COUNTRIES - MILLION KG



MAJOR TEA EXPORTING COUNTRIES - MILLION KG & % SHARE

Country	2012/13		2013/14	
	Export Volume	% Share	Export Volume	% Share
Kenya	468.8	25.4	497.5	26.3
China	353.5	19.2	386.7	20.3
Sri Lanka	308.6	16.7	300.3	15.9
India	239.5	13.0	226.7	12.0
Viet Nam	139.2	7.6	141.5	7.5
Argentina	76.6	4.2	77.9	4.1
Indonesia	70.9	3.8	71.4	3.8
Other	185.6	10.1	187.2	9.9
Total	1842.7	100.0	1889.2	100.0

MAJOR TEA IMPORTING COUNTRIES - MILLION KG

Key Importers	2012/13		2013/14	
	Import Volume	%	Import Volume	%
Russia	183	10.9	181	10.1
UK	144	8.6	140	7.7
Pakistan	132	7.8	131	7.3
USA	130	7.7	131	7.3
Sub-Total	589.0	35.0	583.0	34.4
Egypt	104	6.2	105	5.8
Iran	64	3.8	67	3.7
Germany	62	3.7	65	3.6
Morocco	57	3.4	63	3.5
UAE	48	2.9	49	2.7
Sub-Total	335.0	20.0	349	19.3
Other	758	45.0	865	48.1
Grand Total	1681.0	100.0	1797.0	100.0

7. Response to other Issues

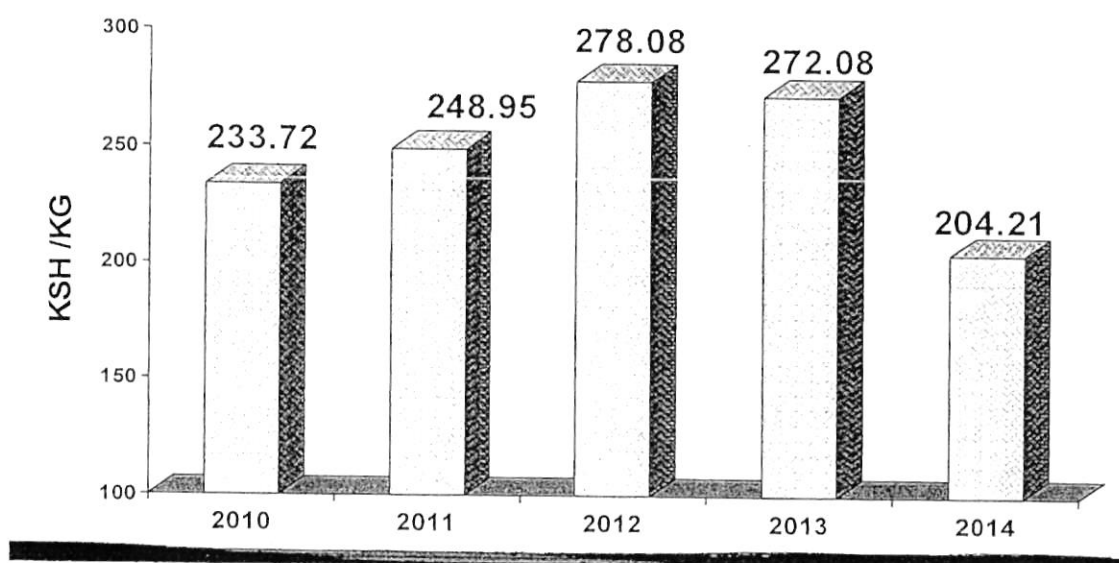
- i) How second payment is determined;
- ii) Why factories borrow to finance second payment;
- iii) Ceiling of minimum payment
- iv) Transparency and competitiveness of loans for factories construction
- v) Cost of putting up factories

How Second Payment is determined - The revenues (tea sales and other income) of the factories are netted against the cost of production, the initial payment at the rate of the Kshs 14 per Kg GL and the surplus is distributed to the farmers based on the kilos delivered. The accounts leading to second payment declaration are prepared by KTDA Management Services and audited by an independent Auditor appointed by the factory shareholders, who are also the farmers.

Why Factories borrow to finance 2nd Payment - The tea prices realized from 2010 to 2013 were favourable and such factories entered into long term capital expenditure to modernize/expand the capacities and to enhance efficiencies. With the sharp tea prices decline and high tea stocks as at June 2014 (49.68 million Kgs valued at Kshs 8.57 Billion) borrowing as

a bridging for second payment financing is a normal business cycle decision. Below is tabulation of tea prices in Kshs per Kg Made tea.

Average Net selling price trend Kg/MT - 5 yrs



Guaranteed Minimum second payment - The current KTDA model as explained above pays the entire surplus to the farmers. With the challenges of price decline, we are in the process of consultation with factory directors with a view to coming with price stabilization retentions in the near future. The Government could also assist by setting aside price stabilization funds for the tea farmers and we would appreciate if this could be expedited.

Monthly Payment- The currently monthly is Kshs14. This rate is reviewed periodically as shown below.

Period	Monthly Pay Per Kg/GL	Labour cost Per Kg/GL
May 1999 to June 2000	6.00	2.90
July 2000 to June 2003	7.50	3.60
July 2003 to September 2006	9.00	4.50
October 2006 to Nov. 2009	10.50	5.00
December 2009 to March 2012	12.00	6.00
March 2012 to date	14.00	9.00

As you can see from time there is a review of the initial monthly payment, plucking labour costs also goes up. The effective benefit of any increase in initial payment is about 50% of the increased amount. The other 50% goes to the plucking labour costs, which in some regions has gone as high as 11 per Kg Green leaf. The initial monthly payment rate substantially covers the farms costs as indicated. Majority of small scale farmers use the family labour for plucking.

10.0 FARM LEVEL COSTS-1 ACRE				
INCOME	HIGHEST	AVERAGE	LOWEST	Rate per
	PAID	PAID	PAID	Kg GL
Production (@3,500Kg GL p.a./acre)	3,500	3,500	3,500	
1st Payment Rate (Kshs per Kg GL)	14.00	14.00	14.00	
2nd Payment Rate (Kshs per Kg GL)	26.50	17.61	8.50	
Total Payment Rate (Kshs per Kg GL)	40.50	31.61	22.50	
TOTAL INCOME	141,750.00	110,635.00	78,750.00	
EXPENDITURE	KSH	KSH	KSH	
PLUCKING 3500 KG X KSH 8.00	28,000.00	28,000.00	28,000.00	8.00
PRUNNING (1/3) 1,167X KSH 3.00	3,500.00	3,500.00	3,500.00	1.00
TIPPING(1/3) 5 Md X KSHS 250	1,250.00	1,250.00	1,250.00	0.36
WEEDING 5 Md X KSH 250	1,250.00	1,250.00	1,250.00	0.36
FERTILIZER 5 BAGS X KSH 2,214	11,070.00	11,070.00	11,070.00	3.16
TEA CESS 1 %	1,417.50	1,106.35	787.50	0.32
OVERHEAD COST 7.5%	3,486.56	3,463.23	3,439.31	0.99
TOTAL EXPENDITURE	49,974.06	49,639.58	49,296.81	14.18
AVERAGE FARM COST (KSHS/KG GL)	14.28	14.18	14.08	
NET INCOME PER YEAR (KSHS)	91,775.94	60,995.42	29,453.19	
NET INCOME/KG. GL/PA.(KSHS)	26.22	17.43	8.42	

Whether procuring of loans to construct factories is a competitive and transparent process (cost of putting up factories deemed to be higher for KTDA factories than for private factories and a huge burden to farmers)

Schedule of loans attached

(a) Reasons why cost of putting up factories is high

Cost of construction of new KTDA standard tea factories have increased from approximately Kshs425 million (Mudete 1997) to Kshs562 million (Kaptumo) due to the following reasons:-

- Business variable changes:-
 - Rising Inflation
 - Labour cost escalation
 - Energy cost
 - Finance cost escalation
 - Foreign exchange fluctuations
 - Taxes, duties and levies
- Market and statutory requirements/demands necessitating additional equipments such as epoxy floors, Effluent waste treatment plants, food safety management system, dust-free yards, birds and insect proofing
- The tendering process for factory constructions is done competitively.

		DESCRIPTION	AMOUNT
	1	CIVIL WORKS	196,894,549.43
		Epoxy	3,982,860.00
		pipeline	17,000,000.00
		Timber	5,600,000.00
	2	STRUCTURAL WORKS	54,549,352.56
		Elevated tank	2,720,200.00
	3	PLUMBING, DRAINAGE WORKS	7,719,389.00
	4	Electrical works	34,100,606.00
		KPLC -connection charges	7,963,530.00
	3	Sub - Total 1	330,530,486.99
	4	Machinery Including associated Fittings	197,399,313.83
	5	Sub - Total 2	197,399,313.83
	6	Total - Sub - Total (1+2)	527,929,800.82
	7	Sub - Total 3	527,929,800.82
	8	Consultancy fees (7.5%)	34,315,437.05
	9	Grand Total Amount	562,245,237.87

Kipchabo 2 lines factory (a Nyayo Tea Zone factory) in Nandi cost Ksh 720 million.

(b) Reasons for the huge burden to farmers/shareholders

- Prior to privatization, KTDA used to construct leaf bases (about 25-30% of project cost), as part of contribution to new projects and the lenders would finance the rest of the construction cost. Through this arrangement farmers were able to get 100% loan facility for construction of new factories. The loans were payable over a period of ten years plus a two-year grace period, while the Government would provide the necessary loan guarantees. With privatization, this arrangement was no longer tenable, as lenders demanded 30% equity contribution upfront before they

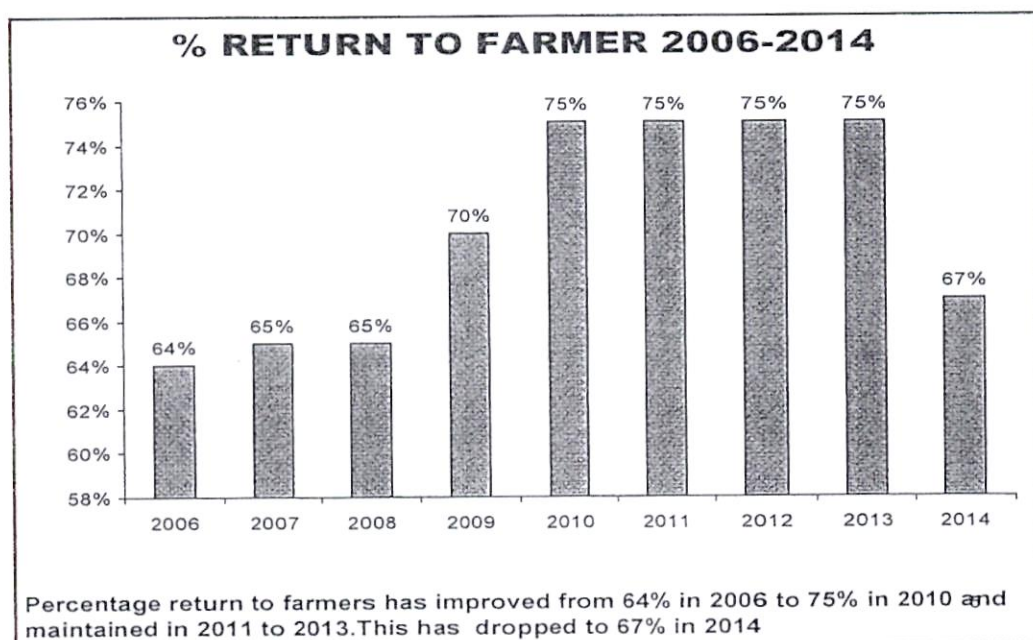
could release the loan funds. Subsequently satellite factory policy that was in line with the lenders' requirement of 30% (later revised to 50%) contribution upfront by the project beneficiaries was put in place.

- The development loans towards new satellite units are acquired by and designated to the sponsoring factory for purposes of benefiting from economies of scale and ease in debt servicing. These proposals were meant to enhance processing capacities, manage cost of putting up new tea factories and help to improve quality of made tea by reducing congestion. They also helped to ease loan repayment since the whole catchments would be involved and not only the farmers moving to the new facilities. These farmers had also participated in developing the factories they were shifting from.
- The above is in addition to change in relevant economic variables namely increased interest rates, fluctuation in exchange rates, statutory requirements etc.

The loans are sourced competitively and transparently. There are 21 Commercial banks approved by KTDA board and these banks are always asked to bid for the loans. Most of the loans are USD denominated and the interest rates ranges from 4.5% to 6%, one the best of you can in the local market.

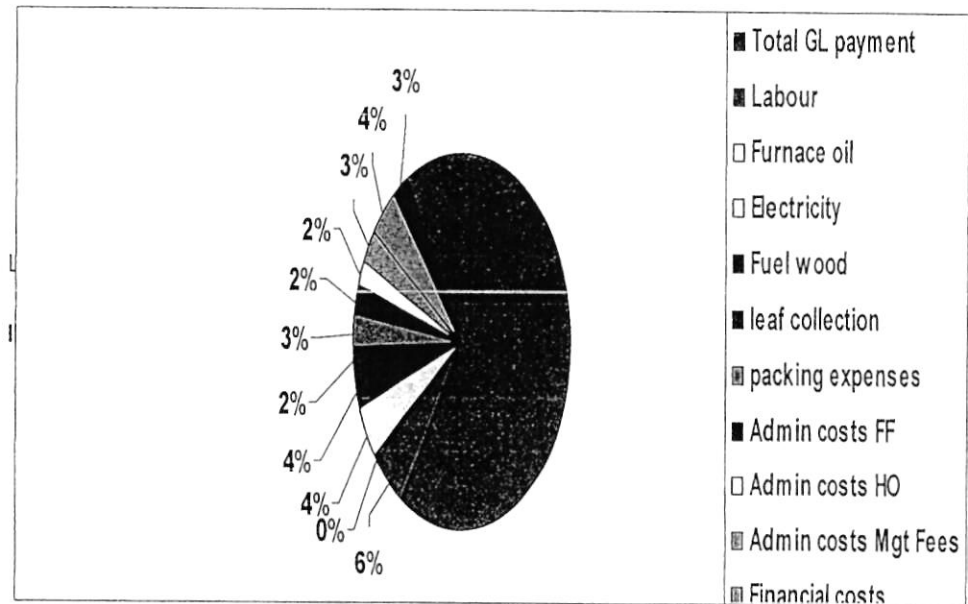
Subsidies- We fully support and welcome any subsidies from the Government for the tea farmers. The government has pledged to subsidize fertilizer at Kshs 321.35 per 50 kg bag in the current financial year

8. Efficiency of KTDA operations – leaf collection, cost control, etc



Pie chart on how revenue is shared out.

An average of 67% of the total revenue was paid to farmer in 2013/14



The factory companies have adopted the use of fuel saving fleet for the leaf collection which is able to consume 1 liter for every three kilometers and the fleet numbers have come down from 890 in the year 2002 to the current number of 408.

Improvements in leaf collection services since privatization

Leaf Collection Initiatives

Roads maintenance & Fleet modernization

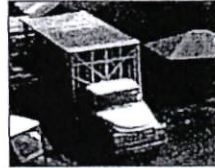
Fleet Monitoring System

Constant weight bags

Phased out Old Fleet

Bus Stop/Logistics Assistant

Output:

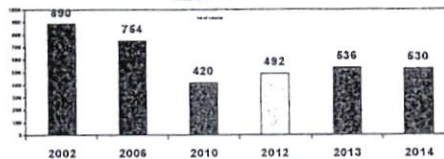


Improved Roads



Modern Fleet:

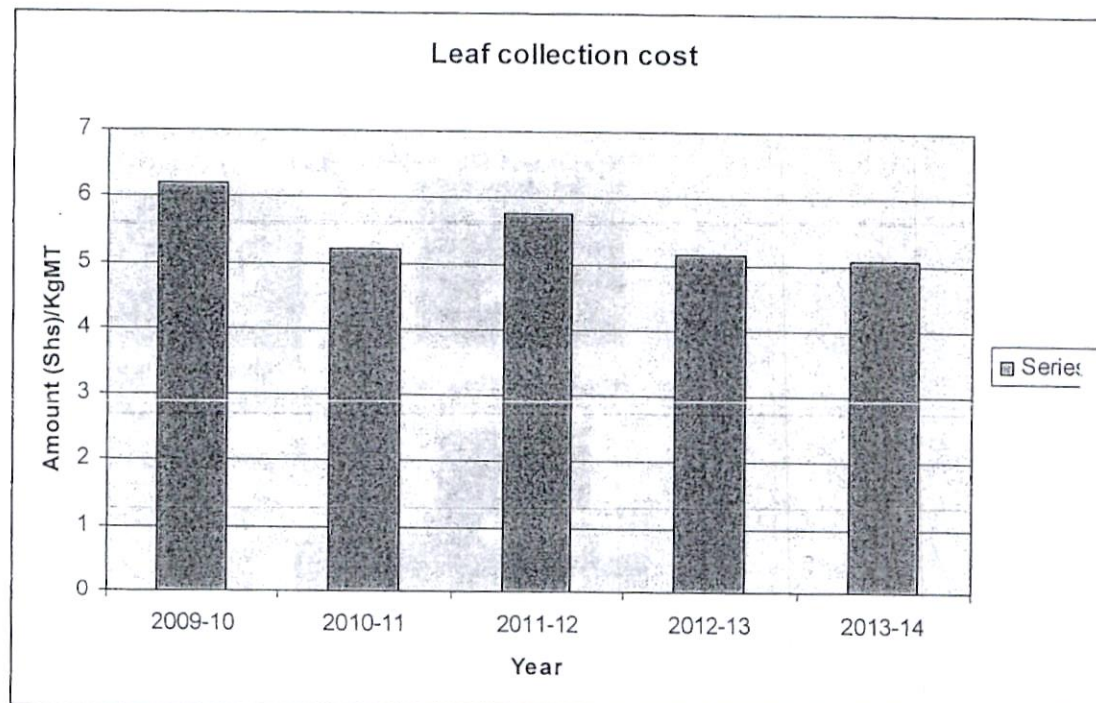
Five Year
Replacement Policy



1. Efficient Leaf collection.
 - Improved Haulage rate (from 200 to 240 bags)
 - Improved vehicle turnabout time (from 3 to 2.5Hours)
2. Cost Effectiveness.
 - Less on Maintenance (Spares)
 - Less fuel Consumption (diesel)
3. Improved quality of green Leaf.
4. Improved service delivery

Leaf collection costs consume 2% of the total value of the teas.

These initiatives have resulted to a decrease in staff numbers from 1940 to the current 544 which translates to improved profitability since the salaries and wages are reduced. The leaf collection costs have decreased from 6.20 shs per kilo of made tea to the current 5.06 shs per kilo of made tea.



PRODUCTION, AREA AND AVERAGE YIELD OF TEA (2009-2013)					
YEAR (CALENDAR YEAR)	2009	2010	2011	2012	2013
AREA ('000 Ha.)					
Smallholder.....	107.3	115.0	123.3	124.9	127.3
Estates.....	51.1	56.9	64.5	65.7	71.3
TOTAL	158.4	171.9	187.8	190.6	198.6
PRODUCTION ('000 Tonnes)					
Smallholder.....	172.6	225.0	218.6	218.5	249.8
Estates.....	141.5	174.0	159.3	150.9	182.6
TOTAL	314.1	399.0	377.9	369.4	432.4
AVERAGE YIELD(Kg/Ha)***					
Smallholder.....	1,862.0	2,291.0	2,040.0	2,036.3	2,172.0
Estates.....	2,909.0	3,412.0	3,149.0	2,953.0	3,209.1

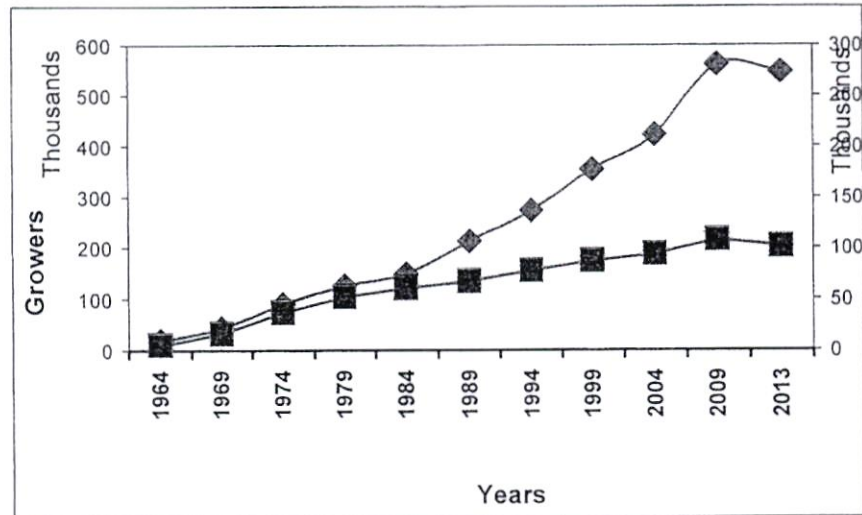
Source: Economic Survey, 2014

Area under tea has increased by 25.4%

The small holder contribution to the increase 18.6%

The area under tea has been increasing and is currently at 127.3 hectares

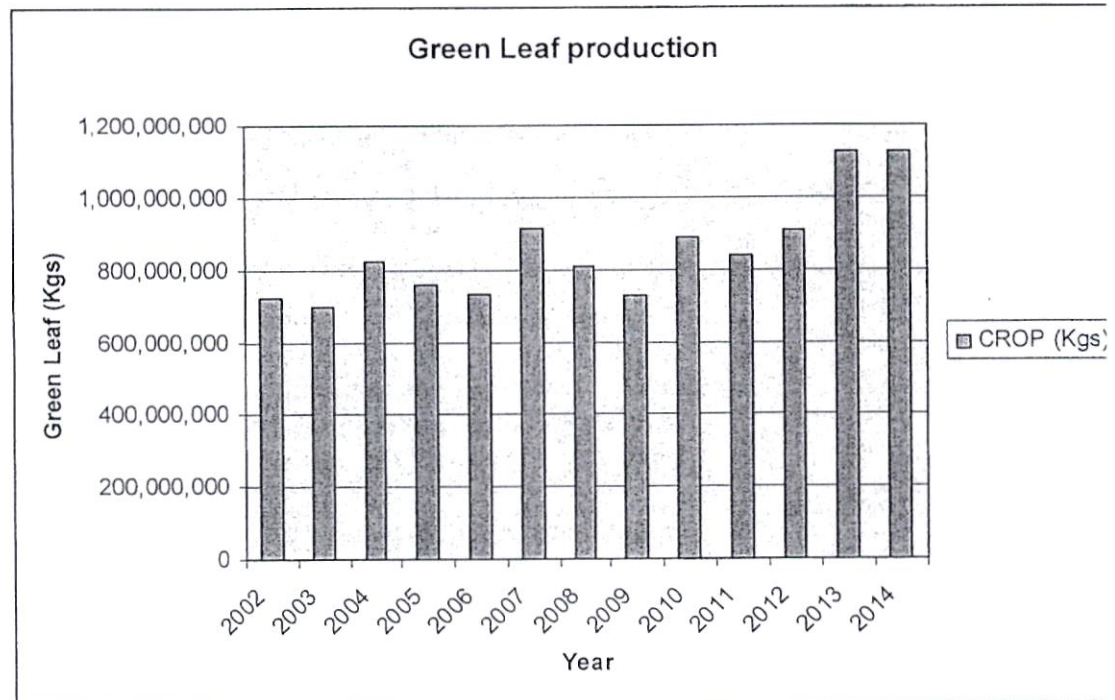
Hectarage vs No. of growers



15

The increase in number of farmers is majorly a result of land subdivision.

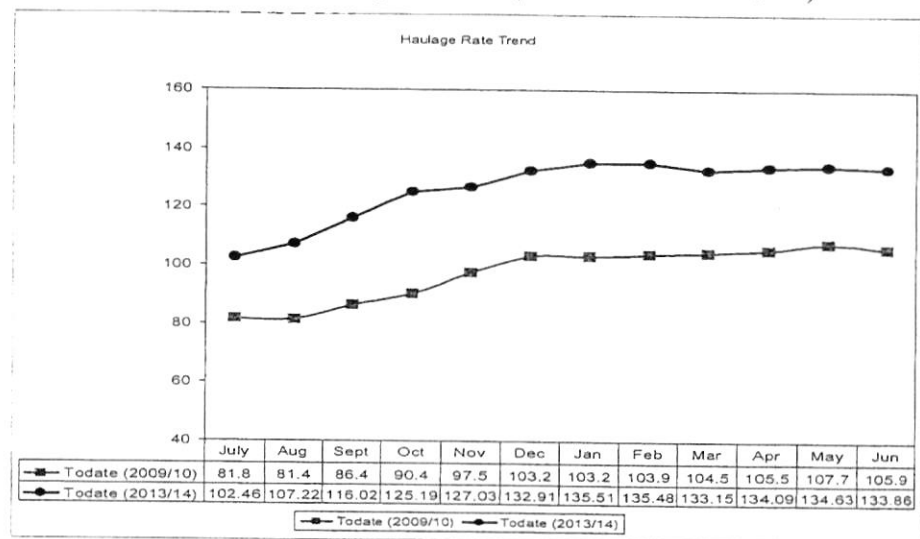
The crop received over the years has been as shown below;



The vehicle turn-around has also improved considerable from 2.62 hours to the current 2.42 hours. This is equivalent to close to 100 hours improvement in collection per run for the entire fleet.

The haulage rate (Kg/km) which means weight of green leaf carried per distance covered has improved considerable from 81kg/km to 133kg/km.

Haulage Efficiency Trend (2009/10 & 2013/14)



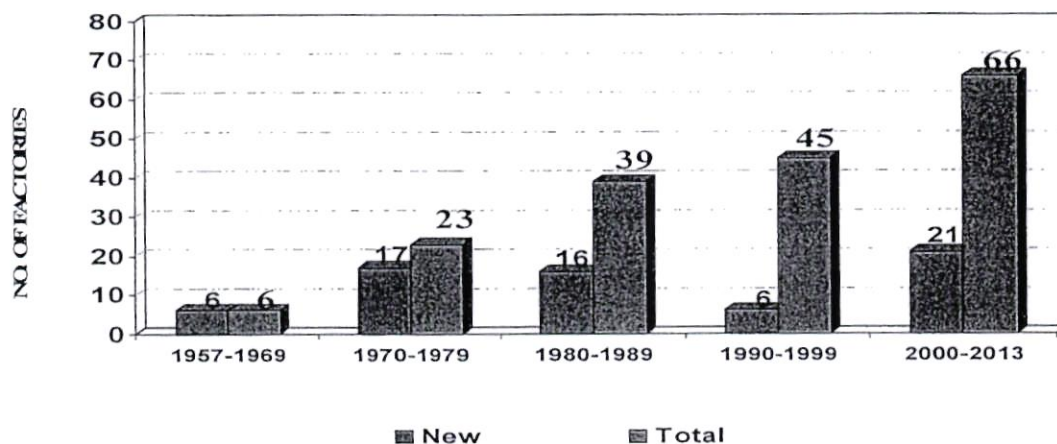
These initiatives have resulted to a decrease in staff numbers from 1940 to the current 544 which translates to improved profitability since the salaries and wages are reduced. The leaf collection costs have decreased from 6.20 shs per kilo of made tea to the current 5.06 shs per kilo of made tea.

Processing capacity improvement in since privatization.

21 new factories have been built since year 2000, raising the number of factories to 66. The processing capacity has increased from 665Mkgs to 1,410Mkgs. The cost of putting up the new factories is 10 billion.

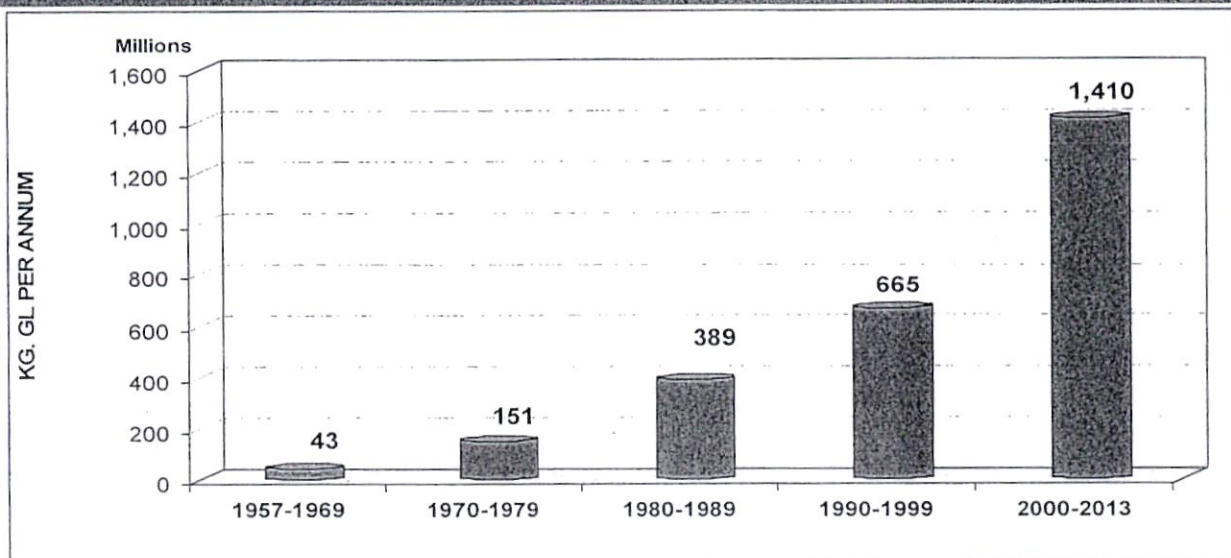
In addition old factories have been modernized and expanded to process the increasing leaf quantity.

KTDA MANAGED TEA FACTORY UNIT



In addition Boito, a satellite of Mogogosiek is under construction while others are planned in future.

TEA FACTORY CAPACITY ENHANCEMENT



Factory Green Leaf capacity has increased annually from 43M Kg in 1969 to 1,410M Kg currently.

Increased capacity has been achieved through existing factory expansion and construction of new ones.

9. Marketing of KTDA teas

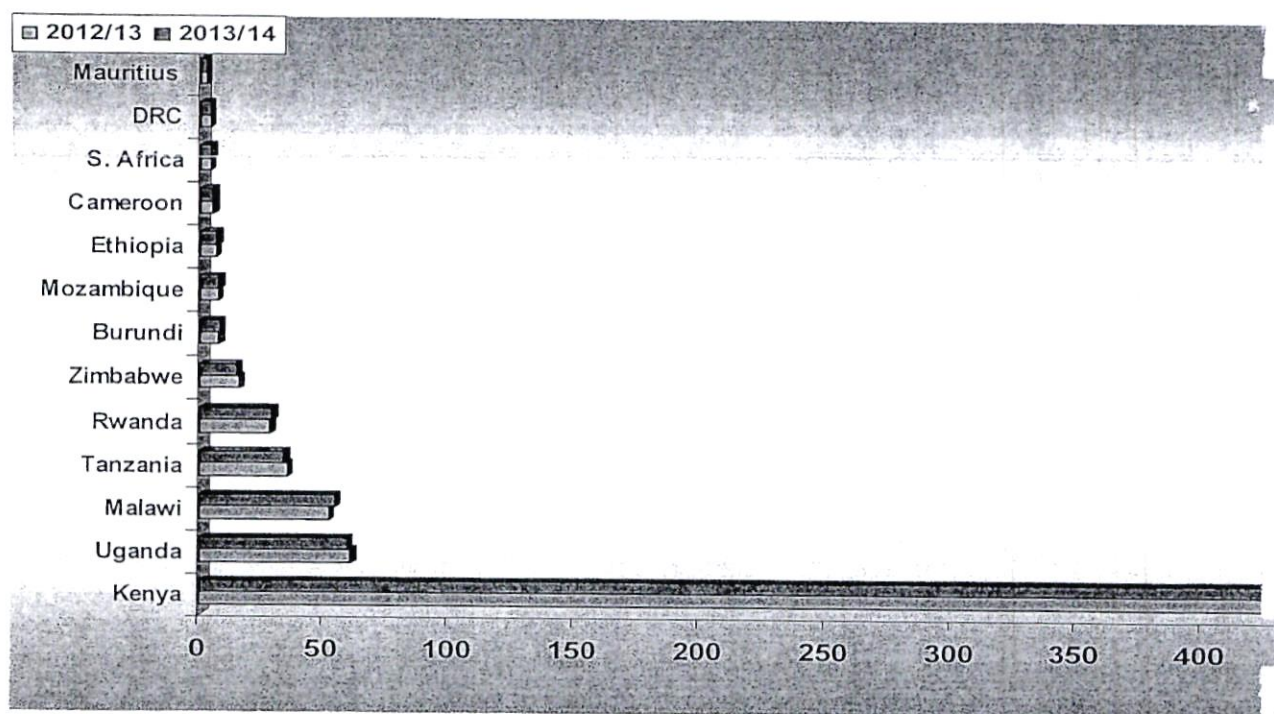
i. KTDA operates as a monopoly both in marketing of teas and operations

- i) Marketing of tea is spelt out in the Sessional paper No. 2 of 1999.
- ii) KTDA engages closely with missions abroad on mobilizing and organizing business to business meeting in tea consuming countries.
- iii) We engage with Ambassador/Trade Missions before and after postings.
- iv) We are part of the Tea Promotion Advisory Panel together with the Tea Directorate and other industry stakeholders tasked with tea promotion.
- v) It is the role of the Tea Directorate to license managing agents and currently KTDA Management Services operate under tenable managing contracts with small holder tea factories. Sessional Paper No. 2 of 1999 section 10.3.1 (sub section ii) outlined that..... factory companies may opt to contact a different managing agent to manage their operations and activities". Other licensed managing agents charge 12 per cent while KTDA charges 2.5 per cent

ii. Introduction of County Tea Auction Centres

Mombasa Auction is a regional / global centre

REGIONAL PRODUCTION



- ii. Mombasa is a multi origin/ regional auction centre. This makes it strategic to scale it up a tea hub through establishment of a Free Port

- just like Dubai. Dubai has already seen this business opportunity and has positioned itself a tea hub between producing countries and consuming nations in Asia. Kenya should not take this for granted.
- iii. Centralization of tea business in Mombasa means economies of scale in terms of warehousing, brokerage services, tea transport, banking facilities, clearing and forwarding services, pre-shipment shipping logistics and ease of enforcing Rules and regulations. Already an efficient payment platform exist that ensures farmers money is paid before clients can access tea.
 - iv. Factories can still sell tea directly as ex-factory but subject to local taxes.

10. Pay points of farmers tea proceeds

There are about 560,000 small scale tea farmers in the KTDA growers payroll. Each of these farmers independently advises us of their pay point details by filling and signing the necessary form. As such, the pay point is a farmer's personal decision. However, from the analysis below, about 57% to 62% of the amounts paid to the farmers in the financial year 2014 went through the Saccos.

PAY-POINT AMOUNT ANALYSIS

Month	BANKS	SACCOS	POSTA	TOTAL	% of thro 'Saccos
Jul-13	233,959,827	400,818,613	10,649,989	645,428,429	62.10%
Aug-13	248,979,235	418,226,470	10,035,356	677,241,062	61.75%
Sep-13	11,563,895,621	16,004,382,836	317,909,458	27,886,187,914	57.39%
Oct-13	555,411,743	844,166,800	14,178,923	1,413,757,466	59.71%
Nov-13	469,825,878	728,128,125	14,269,314	1,212,223,317	60.07%
Dec-13	569,469,297	936,263,398	17,716,288	1,523,448,984	61.46%
Jan-14	544,463,352	830,045,628	14,834,406	1,389,343,385	59.74%
Feb-14	431,734,957	670,394,421	10,223,807	1,112,353,185	60.27%
Mar-14	580,030,367	950,699,824	7,043,219	1,537,773,411	61.82%
Apr-14	520,345,123	810,734,743	14,934,851	1,346,014,717	60.23%
May-14	849,380,830	1,118,593,782	14,261,902	1,982,236,514	56.43%
Jun-14	378,722,699	605,281,598	11,511,476	995,515,773	60.80%
TOTAL	16,946,218,929	24,317,736,239	457,568,989	41,721,524,157	58.29%

11. New technology in KTDA tea factories

a. New clones

Farmers are encouraged to plant the high yielding clones of 371/3 and 430/90. KTDA managed factories booked 3,538,600 cuttings from Tea Research Foundation (TRFK) and

have received 705,700 cuttings. The next supply is expected to be ready from September to May 2015

b. Pruning machines

The farmers and factories have been encouraged to start using pruning machines which replaces the use of pruning knife. This has greatly reduced the pruning labor, cost and time. 6,692 pruners have been trained and 65 pruning machines procured.

c. Constant weight bags

These bags maintain a standard weight regardless of the weather and all the factories are currently using these bags. The bags were introduced to harmonize the tare weights. Their introduction has led to increased farmers confidence and higher crop levels

d. EWS (Electronic Weighing Solution)

This was introduced to replace manual weighment of green leaf and it has been implemented in all the KTDA managed factories. The farmer is given a receipt when the green leaf is weighed and the weight received is sent to the factory. The introduction of EWS has increased farmers confidence as farmers get accurate weight and this has reduced green leaf falsification

e. Vehicle tracking

This was introduced to check the fuel use efficiency and after a successful pilot where savings were realized, the project has started being rolled out to 26 factories so far. This has resulted to improved vehicle turnabout, fewer accidents due to monitoring and fuel consumption has decreased significantly by about 12% whereas in some instances where the distance covered was more by 20%

f. Fleet type

From Bedford J6 & J2s, tractors, to higher fuel efficiency models

Initially the fleet maintained was old and would incur high costs in running and maintenance but currently using a fleet with a replacement policy of 7 years. The new models are efficient in fuel consumption averaging 3.0km/L from 2.4Km/L by the earlier fleet. The carrying capacity has increased from 200 bags to between 240-260 bags

g. Continous Fermenting Units (CFUs), Weigh-feeders, Vibro-Fluid Bed Driers.

All factories have one line CFU installed and operational, 60 factories have procured/installed second CFU. All factories have a weigh feeder.

37 factories have procured and installed VFBDs driers. These are the latest in tea drying technology.

Benefits.

- Savings of labour cost.
- Consistence in terms of product quality
- Minimization of product handling by human

h. ICT capability

All factories are linked to Head Office through an ICT infrastructure. Investment in various ERP system i.e. chaipro for GL processing, infomix for finance and treasury

i. Fibre connectivity

All factories are on a fibre network with a bespoke and microwave on at the last mile.

j. Electronic Bill Board

The EBB handles all proceeds from the sale of tea at the auction. This is an enhanced online payment settlement system that facilitates direct transmission of proceeds to individual factory bank accounts.

Factory Focused Initiatives by KTDA

In its bid to provide efficient management services to the tea factories and its farmers, KTDA has undertaken several initiatives that have proven to be of immense benefit to the farmers. These initiatives are undertaken to not only benefit the farmers but to ensure that the KTDA teas retain their leading position as producers of quality tea.

They include:-

- ❖ Fertilizer credit scheme – KTDA through its subsidiary KTDA Ms Ltd procures top grade fertilizer at subsidized rates annually for the farmers through credit which the farmer repays in monthly installments throughout the year;
- ❖ Farmers' training – KTDA has scaled up farmers' training through the Farmer Field Schools (FFS) that ensure knowledge on good agricultural practices is shared and widely disseminated. In addition KTDA provides agricultural extension services by highly trained personnel located in the tea catchment areas to ensure best crop husbandry and production of high quality green leaves;
- ❖ Factory construction and expansion- KTDA has overseen the growth of the number of factories from 45 at privatization in 2000 to 66 in 2014 and at the same time expansion of existing ones. This has indeed been a major boost for the factories' production capacities;
- ❖ Modernization and automation of factories – the factories have benefited from the automation of the manufacturing process through the introduction of Continuous Fermentation Units (CFU) and other new technologies in tea manufacture leading to management of production costs and increased efficiency;

- ❖ Energy initiatives – KTDA has undertaken energy generating projects. For instance, the pilot Imenti Small Hydro power plant produces 1MW of electricity out of which the factory consumes around 0.5 MW and sells the surplus power to the national grid through a power purchase agreement with Kenya Power.

KTDA is also through its subsidiary, KTDA power company developing 12 other small hydro power plants across the tea growing which will generate more than 20 MW of electricity. This will benefit the factories first by providing energy and secondly by granting them extra income from the surplus that would be sold to Kenya Power;

- ❖ Electronic Weighing Solution – KTDA has introduced a revolutionary electronic weighing solution (EWS) in all the 66 factories. The EWS has seen leaf collection centers shift from the manual weighing scales and paper receipts used to record green leaf delivery and payment to the wireless solution that uses mobile applications and devices to record, store and relay growers production and payment data;

Constant weight bags – KTDA has rolled out constant weight bags for weighing and carrying of green leaf from the collection centers to factories which has replaced the sisal bags that had variable weight due to weather changes. The use of these bags has assisted in faster and efficient weighing of green leaf.

Subsidy of fertilizers by GoK

We are still awaiting GoK contribution towards fertilizer subsidy. There has not been any GoK subsidy since privatization. Before privatization, farmers used to get GoK guarantees.

12.Role of tea brokers in the tea value chain

The role of each player including brokers is provided for in the sessional paper no.2 of 1999 on the liberalization and restructuring of tea industry. They are independent players operating under the EATTA rules which sets trading rules for all the regional players.

Amendment 14 Section 20.1.1

- (Tea Factory Company will appoint own tea brokers in consultation with Managing agent) – Attached session paper
- Brokerage charges from producers and buyers are provided for under the EATTA rules and regulations whose membership is drawn from : Kenya, Uganda, Rwanda, Burundi, Democratic Republic of Congo, Tanzania, Mozambique, Madagascar, Zambia, Malawi, Zimbabwe and Ethiopia.

- The brokerage charge from both the Producers and the Buyers are 0.75% and 0.50% respectively. This was reduced from 1% - 0.75%. These Brokerage charges vary from time to time as prescribed by the EATTA Board. EATTA Board is composed of Producer representative, Buyer representatives, warehouse representatives, and Packer representatives.
- EATTA producer members which KTDA is a member is exploring further reduction.

13. Transport of made tea to warehouses in Mombasa

Made teas remains the property of the factories until they are sold at the Auction or directly and paid off. As such transport costs are borne by the factory to the point of sale. Sessional Paper No. 2 of 1999 requires that EATTA sets the auction rules and the rules state that teas are only auctioned when they are available at the warehouses in Mombasa.

14. Governance Issues

All KTDA managed Factory Companies are incorporated under the Companies Act (Cap 486 Laws of Kenya). The respective Companies have rules known as Articles of Association, which govern how the shareholders run their company. The Articles of Association provide for the mechanism for election of Directors and voting

▪ Number of Directors

The Articles of Association and provisions of the Companies Act form the basis for determination of the number of Directors of each factory company. The Articles provide that the factory company shall create Electoral Areas in its catchments to ensure equitable distribution of Directorship. However, the shareholders have the final say in the number of directors over and above the requirements of the Companies Act and the Articles of Association.

▪ Voting by shares

Voting in any company must comply with the statute, which states that the shares of a shareholder determine his/her voting power.

15. Conclusion

KTDA is a robust organization that has been practical in its service to its shareholders, the small scale tea farmers. The small scale farmers continue getting good returns from KTDA both as suppliers of green leaf and as shareholders. Farmers in KTDA model working together significantly reduce operations costs as efficiency is realized through economies of scale and scope. Prices are major determinants of returns to the farmer and fluctuate depending on market forces.

MEMORANDUM ON THE NEED FOR A REVIEW OF THE TEA AD VALOREM LEVY REGULATION AND THE MULTIPLICITY OF TAXES

1.0 Introduction

East Africa Tea Trade Association (EATTA) is a voluntary, non-profit umbrella body representing the interests of the tea industry in Africa. EATTA has 180 members drawn from 9 countries (Kenya, Uganda, Tanzania, Rwanda, Burundi Democratic Republic of Congo, Malawi, Madagascar and Mozambique) all actively engaged in growing, buying, broking and warehousing of tea. 90% of the members are based in Kenya.

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

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

It is important to note that most tea traders sell multi origin teas as blends to meet the taste and preferences of various tea consuming countries. Every country has its dominant characteristic likings in particular teas. It is therefore the work of a trader to match same satisfactorily or else due to global market competition, some of the markets would turn to Dubai as a source of multi origin and consequently divert interest from Mombasa. In future, we should strive to make Mombasa the single sourcing hub for all world teas and more so home value addition.

Although the teas on sale can at first appear similar, differences can in fact be significant. Even if teas have the same 'grade' (e.g. PF1), this is a nominal way of categorizing teas and the grades themselves have no strict definitions. Two teas graded PF1 can easily have very different taste characteristics and even a different leaf size and appearance. Tea picked from the same bush can easily have a huge variation in quality based on the time of the year or the manufacturing process.

The attributes such as leaf appearance, taste and liquor will determine the asking price for a particular tea. More broadly factors affecting the price movements include tea supply, buying activity in import markets, world auction prices, availability of cash and currency fluctuations.

The Mombasa Auction has more than, seventy buyers reflecting the Kenya export volume into the key markets of Pakistan, Egypt, UK, Sudan Yemen and UAE among many others. The market is very competitive, with some client contracts changing hands for a few cents difference in price. The job of the buyer is to meet his clients' requirements as efficiently as possible, or risk losing clients to competing buyers. A broker's job is to sell the tea at the highest possible price or risk losing the business to another broker. They earn their commission as a percentage of the value of the tea sold.

The interests of the broker and the buyer are not aligned so they will not have an opportunity to collude. The issue of collusion is therefore a wrong perception and not the reality.

The article specifically mentioned the declining average price for PF1. What it neglected to mention is that BP1 has actually declined more than the rate of PF1's decline.

If we take January 2013 as a base period compared to the average for May 2014 then you will note that the four grades namely BP1, PF1, PD and DUST1, have declined by 42%, 40%, 31% and, 30%, respectively.

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

1.1 Performance of the Tea industry in Kenya

The performance of the tea industry is vital to the Kenyan economy. Tea is the largest foreign exchange earner in Kenya contributing over Kshs 114 billion in 2013. The tea industry contributes about 4% to the GDP and more than 20% of the foreign exchange. More than 650,000 Kenyans directly earn a living from tea. More than 4 million Kenyans directly or indirectly earn a living from tea.

Tea is grown in 15 counties and is therefore an effective catalyst for development. Tea is also the only cash crop grown widely in geographically dispersed areas in Kenya. The small scale tea farmers' account for over 60% of Kenya's production through 66 KTDA managed tea factories with the rest being produced by the medium and large size tea estates.

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

The Table in Annex 1 shows the top ten export markets for Kenyan tea and the amount earned from them. Tea generates 4% to the Kenya GDP.

Tea accounts for approximately 26% of Kenya's export earnings and is the leading foreign exchange earner with leading buyers being Pakistan, Egypt, United Kingdom, Afghanistan and Sudan.

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

Tea has assisted to fund maintenance of rural roads through tea cess and voluntarily provides health and education facilities to rural populations.

Kenya experienced very high production which started towards the fourth quarter of 2013. The situation was exacerbated by overstocking towards the run-up to the March 4th General Election in anticipation of supply disruptions by possible political violence.

It has been stated by industry stakeholders that whenever there is an unprecedented increase in tea production in Kenya, auction prices usually experiences a big slump as recorded in the year 1995, 1999, 2001, 2007, and 2013. The converse was also observed when higher prices were recorded in 1997, 2000, 2006, 2008, 2009, 2011 and 2012 when there was lower production.

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

It is worthwhile to note that there are more than 41 taxes and levies charged in the tea industry in Kenya. Despite the more than a billion shillings of the ad valorem levy that continues to be paid annually there has been no Board of Directors at the Tea Board of Kenya for more than 30 months.

2.0 Tea Task force and Ad Valorem Levy

In 2006, a task force to look into the challenges facing the tea industry recommended, among other issues, an introduction of a tea promotion levy to fund Tea Board of Kenya's marketing activities. The levy was to paid at the export point at the rate of Kshs 0.54 per kilogram of made tea. This was to be in addition to the Kshs 0.44 collected from tea producers as manufacturing cess. On 27th January, 2012 the Minister of Agriculture gazzetted the amended Tea (Ad Valorem Levy) Regulations, 2012 introducing a levy to be charged at 1% of customs value at the point of export. Producers and buyers have complained that there should have been consultations prior to implementation of this levy as it is exorbitantly high.

The average price of Kenya tea in sale 16 of 16th April was \$3.11 upto the shipment point (FOB), the point the levy is charged. one percent of \$ 3.11 is US cents 3 which is equivalent to Kshs 2.50, up from the Kshs 0.46 cents the farmers have been paying. This is an increase of slightly over 500%.

While the Government has insisted that stakeholders are represented in the Tea Board through elected representatives, stakeholders feel that such fundamental decisions that can have serious implications to the trade ought to have been given wider consultation.

2.1 Eroding importers Confidence

Although Kenya is the third largest producer of tea after India and China, it is the largest exporter of tea in the world, having an advantage that tea grows all year round. With the calls by producers to boycott plucking due to this added levy, the confidence that

overseas buyers have on the continued availability of Kenya tea may start being eroded. These overseas packers sign annual supply contracts with producers and such threats like boycotting plucking will make them look elsewhere. Moreover, if the Western consumer organizations such 'Fair-trade' or 'Rainforest Alliance' who are paying additional cash premiums for Kenya teas could easily cancel these premiums if they feel that the Government is overtaxing the farmers. In the last two months the levy has been in force, prices of good quality non Kenya teas sold through the auction have risen substantially while those from Kenya have stagnated. The levy is discriminative as it targets only Kenya teas and not those from the neighboring countries.

2.2 Distribution and Uses of Ad valorem Levy

According to the Tea (Amendment) Act 2010, The Tea Board of Kenya receives 50% of the Levy amount, Tea Research Foundation of Kenya 40%, while 10% is to be used for infrastructure development in tea industry.

In the period 2014-2015, the allocation is anticipated to be as follows subject to price and quantity of export:

- Tea Board of Kenya- Kshs. 500 million
- Tea Research Foundation - Kshs. 430 million
- Infrastructure funds – Kshs. 105 million

In view of the implementation of the AFFA Act, 2013, Crops Act, 2013 and KALRO Act, 2013, there is concern on the distribution and utilization of the Ad Valorem levy once these Acts come into full operation.

2.3 A Case for the Review of the Ad Valorem Levy

Tea Task Force of 2006

In 2006, a task force was formed by the Minister for Agriculture to look into the challenges facing the tea industry and to offer solutions to the same. The task force among other recommendations proposed to introduce a tea promotion levy to fund the Tea Board of Kenya marketing activity. The levy was to be pegged at 54 cts per kilogram of made tea. This levy was to be added onto the already existing manufacturing cess charged at 46cts per kilogram of made tea

EATTA is of the opinion that the levy will hurt the

Tea industry for the following reasons

a) Ad Valorem Levy is a regressive tax

The ad valorem levy penalizes the higher priced finely picked quality tea produced by the small scale farmer. The result of the levy is to discourage the producer who produces quality tea for the producer who does not. This will have the unintended consequence of damaging the image of Kenya as a producer of premium quality tea that is in high demand worldwide for blending with lower quality teas.

b) Escalating costs of factor inputs

The tea industry is grappling with increased costs of factor inputs, for example labour costs have gone up an average of **173%** between 2001 and 2011. The cost of oil based fertilizer has gone up **146%** in that period. The cost of electricity has gone up **92%** and the cost of diesel has gone up **345%**. In that period the tea industry has benefited from a surge in average price of **175%** from the \$ **1.62** average price in 2001. Calculations reveal that if the average price of tea were to decline to \$ **1.80** based on the prevailing costs of production, most tea producers would have to close down as the business model would not be able to sustain the costs. The ad valorem levy is a punitive tax on an already overburdened sector.

c) Increased bureaucracy

In view of the many shipping instructions that an exporter processes, daily payments of the ad valorem levy will mean a lot of man hours are used making payments and following up with documentation. Also related to this Tea Board has to approve the export documentation before they are presented to Customs and Port Officials. These two work on 24 hour cycles while Tea Board of Kenya is still on an 8 hour work cycle. This discrepancy will result in exporters experiencing delays in loading their tea on vessels for export.

d) Inequitable treatment of Kenya teas

The enactment of the East Africa Community Common Markets Protocol in July 2010 paved the way for free movements of the factors of production across the five EAC signatories. The Partner States agreed to eliminate tariff, non-tariff and technical barriers to trade; harmonize and mutually recognize standards and implement a common trade policy for the Community. The Mombasa auction is a multi origin auction that has tea from 9 countries being bought weekly. The fact that the levy is specifically on Kenya tea goes against the objectives of the EAC Common market to widen and deepen cooperation among the Partner States in the economic and social fields for the benefit of the Partner States and their citizens.

e) Increased regulation

Vision 2030 states that Kenya will raise incomes in agriculture through **commercially oriented** and modern agriculture. The emphasis on commercially oriented is assumed to refer to private sector driven. The tea industry in East Africa is primarily driven by the private sector. Experience has shown that when properly regulated and operating under competitive market conditions, the private sector can generally achieve more than the public sector. It is unfortunate that in some cases licenses and levies are not used as a means to regulate business entry and activities in areas where business activities may have security, health or safety implications but are used as a mechanism to raise revenue for the regulatory authority.

f) Inadequate consultation

Tea Board of Kenya states that the ad valorem levy was introduced "following consultations with industry stakeholders" and that "a series of consultations were held with representatives of the East African Tea Traders Association (EATTA), Kenya Tea

Growers Association(KTGA) and the Kenya Tea Development Agency (KTDA) Ltd. The reality is that the only consultation was a meeting in August 2011 where the subject of ad valorem was raised and briefly discussed before the meeting moved onto other subjects. TBK's statement is contradicted by the sequence of events of the legislative process and timing of the Tea (Amendment) Bill and the Tea Amendment Act which preceded the August 2011 meeting.

If there was any will or wish by the TBK to open up the proposal of ad valorem to "stakeholder consultations" it should and would have been done prior to the relevant legislation being enacted- not after.

g) Departure from task force report recommendations

The Tea Task Force Report recommended a review of Section 18 (1) of the Act : " to provide for a Tea Promotion levy at an initial rate of Kshs 0.54 of made tea, to be charged at the point of sale and collected by the Kenya Revenue Authority. This will be in addition to the existing Manufacturing Cess of Kshs .0.46 per Kg charged to producers. According to the Task Force this would increase funding for the two operations from sh140 million per annum to sh340 million per annum- an increase of 143%.

Tea Board of Kenya has instead changed the calculation from being a fixed amount per kilo to one percent of the value of tea. At the prevailing prices in the auction in sale 34 of 21st August 2012 where the average price for 1 Kg of Kenya tea is \$ 3.43, one percent is Kshs 2.92 per kilo of made tea. This is an astronomical **520%** of the **46 cts** manufacturing cess. It only takes **4 months** to accumulate the Kshs 340 million envisaged as the annual collection of the promotion levy in the 2006 Task Force Report.

Instead of raising Kshs. 340 million based on production on an annual basis, Tea Board of Kenya stands to fetch an astronomical Kshs. 1 billion (based on 1% of the over Kshs. 100 billion of the value of tea exported in 2011.). It is not clear to the tea industry stakeholders how Tea Board of Kenya shall utilize the anticipated excess Kshs.660 million.

2.4 Impact of the Ad valorem Levy to the tea industry

There are several challenges arising from the introduction of Ad valorem levy on the tea industry in Kenya. The most affected in the value chain have been the producers and buyers of tea as follows;

Impact on the producer

- a) Impact on Kenyan teas: The introduction of the levy which is charged on Kenyan tea at the rate of 1% of customs value at the point of export means that the buyers in the auction prefer to buy non Kenya East Africa teas. The decrease in demand for Kenya teas has resulted in the Kenyan tea being discounted and directly affects farmers' earnings not only because of the payment of the levy but also because of the discounting by the buyers.

- b) Punitive to high quality teas: The ad valorem levy is charged as a percentage so that the higher the auction prices and the high levy charged and this discourages the producer of good quality tea and also makes Kenya tea less competitive.
- c) Reduced purchases: There is increased level of out lots as buyers are reducing their purchases during the auction.
- d) Bureaucracy and delays: The documentation required to process the payment of the levy gives rise to bureaucracy and delays. An important principal of any taxation levy or license is to ensure that payment process is simplified administratively.
- e) Cumbersome refund mechanism: The exporters pay the levy at customs value and refunded the difference between the customs value and the auction price.

Impact on the buyer (exporter)

- a) Cash flow: The levy has an impact on the exporter's business cash flow because most sale transactions are on 90 day credit. Many exporters obtain trade financing to cover their expenses. The fact that they have to pay for the levy upfront will impact on their cash flow.
- b) Cumbersome payment process: Daily payments of the Ad valorem levy take a lot of time used in making payments and follow up the documentation.
- c) Delay obtaining Commercial invoice: currently commercial invoice is required as part of the document of the levy to be charged. However, in the absence of the commercial invoice then a proforma invoice is used as basis of payment as long as the commercial invoice is produced within 7 days after release of the teas.
- d) Impact on the Mombasa Auction Centre: The levy is likely to discourage buyers from buying tea in the Mombasa auction which will make other tea auctions benefit. It will also encourage tea stakeholders such Dubai Tea Trade Centre set up a tea auction centre.

2.5 EATTA's Policy Position

Studies carried out the world over have shown that Governments that want to improve economic activity and growth prefer to create an enabling environment by facilitating the bottlenecks that businesses are exposed to. An example of what Tea Board of Kenya can do is harmonize the payments made by the tea industry to various bodies i.e. create a single window payment system. The government should be doing everything it can to reduce regulation. This is essential if growth, productivity and employment are to be the economic goals.

In relation to ad valorem levy we request that:

- a) The levy needs to be reviewed so that instead of being a percentage of the value of the tea it becomes a fixed amount per kilogram of tea as proposed in the 2006 Tea Task Force Report.
- b) The fixed amount should not exceed Kshs 1 per kilogram of made tea.
- c) The levy should be collected at the producer level just as was the case with the manufacturing cess and not at the point of export.
- d) The frequency of collection should be restored to monthly collection in arrears not in advance.
- e) There should be adequate representation of the stakeholders in the utilization of the levy, with clear cut budgetary provisions backed by prioritized activities that require implementation.

2.6 Interventions

In order to address the challenges on Ad Valorem, the following are proposed;

- a) **Level of payment:** There are four (4) options proposed to address the impact of Ad valorem levy besides the existing system as indicated below:
 - i. The levy could be withdrawn altogether and this implies that the Government fully funds the mandates of the Tea Board (TBK) and Tea Research Foundation of Kenya (TRFK).
 - ii. If the levy cannot be withdrawn altogether, review the levy payment and charge it at a fixed amount /kg of made tea at the factory. The fixed amount should not exceed Kshs. 1 /kg. A levy at Kshs.1 /kg, the tea industry would contribute Kshs. 432,452,700 in 2013.
- b) **Representation:** There should be adequate representation of the stakeholders in the utilization of the levy, with clear cut budgetary provisions backed by prioritized activities that require implementation. The Promotion component under the Tea Board of Kenya should be managed by a committee comprising of stakeholders.
- c) **Collection:** The definition of auction price should be included in the customs schedule and it should be taken as ex warehouse. That means that the levy should be collected at ex- warehouse value as opposed to customs value.
- d) **Ring fencing:** The levy should be ring fenced so that it is not utilized by other crops or directorates under AFFA Act 2013, Crops Acts, 2013 and KALRO Act, 2013 and the same applies to the assets of TBK and TRFK.
- e) **Rebranding:** The levy should be renamed to be tea levy or manufacturing cess and not ad valorem as is the case currently.

3.0 Value Added Tax (VAT) on the Tea Industry

3.1 Background

In Kenya, VAT was first introduced in 1988 and has since become the most important source of state finance, accounting for nearly 30% of state revenues. For the tea industry, business firms buy items which qualify for VAT payment. These items include; furnace oil, plant and equipment, vehicles and packaging materials.

The Mombasa Tea Auction Centre sells teas from Kenya, and other 11 countries in the region. The Auction centre is zero rated for VAT; approximately 95% of the Kenyan tea bought in the auction is destined for export while 5% is sold locally to tea packers. However, exporters buying directly from Kenyan tea producers through private sales are required to pay 16% VAT that is claimable.

Services rendered to tea in transit such as warehousing, blending and documents handling is currently subject to VAT. The same services rendered to tea owned by a Kenyan company whether bought in an auction or outside an auction is also subjected to VAT.

Under the VAT Act Cap 576, tea is currently classified as a trade item and therefore subjected to VAT and other levies that make it very expensive and unaffordable locally.

Currently there is a precedence set in the Kenya dairy industry, where all inputs to the dairy industry including feeds are zero rated. In addition in Tanzania, locally consumed teas are zero rated.

3.2 The Effect of VAT on Tea Industry.

There are various challenges emanating from levying of VAT across the value chain. The challenges are enumerated as below:

a) Tea Producers

The effect suppresses direct enquiries from local traders for private sales ex-warehouse Mombasa due to VAT payment and hence tea producers are not able to take as much an advantage of local demand as would otherwise be possible.

The application of VAT for locally packed teas effectively denies producers direct access to local tea markets.

b) Local Exporters

Application of VAT to directly sourced made teas denies the local exporter the ability to source additional volume for export from the local producers. Where buyers are not able to fulfill their orders, this leads to delays in shipments, which frequently result in cancellation of orders or additional costs

c) Application of VAT to directly sourced teas has disadvantaged the local exporter in relation to the offshore buyers.

The current tax regime restricts exporter-exporter trading. The trade between exporters enables those exporters with inadequate stocks to fulfill their export orders and ensure prompt shipments.

d) Local Private Sales

The imposition of VAT translates into high supply chain costs, which are ultimately borne by the farmers.

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

e) Local Tea Consumption

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

3.3 Interventions

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

- a) **Zero rating of tea:** In view of the insignificant VAT revenue generated from tea and considering the significant real and opportunity costs, tea should be zero-rated under Part B of the Fifth Schedule to the VAT Act.
- b) **Classify tea as a Food crop:** Tea is a beverage and forms part of the staple diet for most households like other food stuffs such as maize flour, rice, wheat flour. However, since most of the tea produced is exported, it would be advisable to zero-rated, rather than exempt it from VAT.
- c) **Warehouses service VAT waived:** Tea packing, repacking, mixing, blending and similar processes are carried out to enhance the quality of tea for export. The definition of manufacturer in the VAT Act considered such activities to constitute manufacture. It is recommended that such processes as carried out by tea warehouses be zero-rated to minimize unnecessary incidence of VAT.
- d) **Timely VAT Refunds:** Timely VAT refund and adopt a reverse VAT regime whereby businesses recover any refund claim before making their payments.
- e) **Exemption of VAT on packing material and machineries for value addition:** Government is to consider the removal of VAT charged on packing materials and machineries in order to encourage value addition initiatives.

4.0 Agricultural Produce Cess (APC) on Tea for road maintenance

4.1 Historical Background and the Role of APC

The condition of rural access roads is crucial to the tea producers as they determine the speed and efficiency with which green tea leaf is collected especially during the wet seasons.

The APC on tea is levied at one per cent on the value of tea produce. Eighty percent of all monies collected as Cess is used in maintaining roads and other services, in the tea catchment areas, while the remaining twenty percent is remitted to the County Government for general use.

The Tea Board of Kenya is the appointed collecting Agent for Agricultural Produce as per legal notice No. 339 and remits the same to the then councils. This framework is likely to change following the implementation of the new Constitution and Crops Act, 2013, as rural access roads have been devolved to the county governments. At the same time, the Kenya Rural Roads Authority has, since 2007 taken over the management of rural tea roads.

4.2 Current Status

Following the coming into effect of the new constitution the legal framework for the Local Governments and the Agriculture sector has changed with the repealing of the Agriculture Act and the Local Government Act which have been replaced with the Agriculture Fisheries and Food authority Act, the Crops Act 2013 and the County Governments Act, respectively.

The Tea Board of Kenya organized a forum for Tea Industry stakeholders to consult on the way forward regarding the Agricultural produce cess and develop a framework for collection, disbursement, evaluation and monitoring. The framework aimed at ensuring there is a streamlined collection, disbursement and evaluation and monitoring mechanisms for an accountable, transparent and efficient management of APC on tea. This is in line with the provisions in the Financial Management Act, 2012 and the Public Audit Act.

4.3 Interventions

- a) Retain the current status quo on Agricultural Produce Cess (APC) with respect to collection, disbursement and utilization of the funds. However, there is need to anchor this arrangement in law.
- b) There is also need to ensure coordination, monitoring and evaluation of the funds to enhance transparency and accountability
- c) There is need for national reclassification of roads and the roles of all parties in the maintenance of the road network. These parties include Kenya Rural Access

Roads (KERA), Kenya Urban Roads Authority (KURA), County government, Tea cess committees and tea factory companies.

- d) There is need to involve all stakeholders; farmers, county governments and national government to address the potential conflict between the two arms of government and ensure sustainability of agriculture under the devolved government environment. This will ensure solutions geared towards cushioning farmers against multiple taxation/levy regimes amongst other challenges facing them are found.

5.0 Multiplicity of taxes and levies

There are more than 41 taxes and levies affecting the tea industry in Kenya.

5.1 Intervention for the Multiplicity of taxes and levies

- a. **Use of a Single Industry Licensing Regulation for a Single Tax Regime per Base for the Tea Industry** : It is recommended that the tea industry should consider adopting the use of smart regulation which entails the use of one tax regime per base and simple tax administration. A single tax base regime is applicable when all other levies other than income tax are lumped together and charged as one. Under such a regime, levies like National social security, NHIF, NEMA, KEBs, fuel levy, land rents and rates, and training and business permits fees are lumped together and charged as one levy.
- b. **Review the KEPHIS charges in Legal Notice No 48 of 3rd April 2009:** KEPHIS gazetted new charges of tea grading and inspection under Legal Notice No 48 of 3rd April 2009 that increased levies by up to 500%). The new charges took effect from 1st June 2010 and industry stakeholders were not adequately consulted before their gazettment. Upon industry consultation with the management team at KEPHIS on 28/05/2010, it was resolved that the charges for multiple custom entries be reduced to Kshs 10,000 from Kshs 20,000. This agreement has however not been formalized legally to date.
- c. **Policy Framework for an Incentive Scheme for the Tea Industry.**

The industry recommends an incentive scheme that is favorable and grants the industry special fiscal tax and concessionary financing incentives.

Annexes

1. TOP TEN DESTINATIONS FOR KENYAN TEA IN 2013

Country	Export Volume
Egypt	95,536,630
Pakistan	95,055,555
United Kingdom	63,373,909
Afghanistan	61,975,587
Sudan	30,253,269
United Arab Emirates	28,059,046
Russia	21,736,794
Yemen	18,438,063
Kazakhstan	14,196,852
Iran	10,400,419

2. COMPARATIVE ANALYSIS OF THE IMPACT OF THE TEA LEVY

Based on Per Kilogram Rate against 1% on Value

Year	Quantity of tea (Kgs)	Manufacturing cess 0.46 cts per Kg (Kshs)	Value of Teas in Kshs	New levy if charged at 1% on value in Kshs
2007	369,606,176	170,018,840	43,146,406,584	431,464,066
2008	345,816,830	159,075,741	62,199,689,001	621,996,890
2009	314,198,371	144,531,250	69,603,265,870	696,032,659
2010	399,006,377	183,542,933	97,740,139,239	977,401,392
2011	377,912,178	173,839,601	109,408,775,996	1,094,087,760
2012	369,561,924	169,998,485	112,255,886,576	1,122,558,865
2013	432,227,727	198,824,754	114,408,328,090	1,144,083,280

ANNEXES

ANNEX 3. KENYA GOVERNMENT LEVIES AND TAXES CHARGED ON TEA INDUSTRY

	ITEM	Type	Payee	Rate of payment	Frequency	Impact-National or tea sector
Government Taxes						
1	Corporate Tax	Tax	KRA	30 % on profit	Paid in installments	National
2	Value Added Tax	Tax	KRA	16% on Vatable products	Monthly	Tea sector
3	Import Declaration Fee	Tax	KRA	2.75 % of Value	At point of export	National
4	Furnace Oil import tax	Tax	KRA	Kshs 0.6/litre	Daily	National
5	Vehicle advance tax	Tax	KRA	1500/ ton of commercial vehicle	Annually	National
6	Motor Vehicle Inspection Booking Fee	Tax	KRA	1000/ per commercial vehicle	Annually	National
7	Withholding Tax	Tax	KRA	5% of dividends	Annually	National
8	Fuel for agric operations	Duty	KRA	Kshs 10,305 per Cbm	Daily	National
Registration fees						
9	Buyers at Tea Auction	Fees	TBK	10,000	Annual	Tea sector
10	Tea producer	Fees	TBK	10,000	Annual	Tea sector
11	Tea Auction Organizers	Fees	TBK	10,000	Annual	Tea sector
12	Tea Packers	Fees	TBK	2,000	Annual	Tea sector
13	Management agent	Fees	TBK		Annual	Tea sector

Memorandum on the need for a Review of the Tea Ad Valorem Levy Regulation and Multiplicity of taxes

Levies						Tea sector
			TBK	1% customs value of tea	For each consignment	
14	Ad valorem levy					Tea sector
15	Green Leaf Cess	Levy	County Council	1% of gross value of green leaf	Monthly	Tea sector
16	Mombasa Municipal Port Health Charges	Levy	County council	Kshs 5,000	Annual	National
17	Mombasa Municipal Annual License Fee	Levy	County council	Kshs 10,000	Annual	National
18	Land Rates	Levy	County Council	0.3-0.75% percent of undeveloped value	Annually	National
19	Inspection and Grading Fee (KEPHIS)	Levy	KEPHIS	5,000/= per single consignment & 10,000/= per multiple consignment to one consignee inspected	Weekly	National
20	KEPHIS SPS Certificate	Levy	KEPHIS	Kshs 1000	Weekly	National
21	KEBS Product Conformity	Levy	KEBS	0.2% of value of made tea ≤ Kshs 400,000	Annually	National
22	KeBS Quality Standard	Levy	KeBS	0.2% of value of made tea ≤ Kshs 400,000	Quarterly	National
23	Waste Water Regulations	License	NEMA	Kshs 100,000	Annually	National
24	NEMA Environmental audit	Levy	NEMA	0.1% of investment costs	Annual	National

Memorandum on the need for a Review of the Tea Ad Valorem Levy Regulation and Multiplicity of taxes

25	K.P.A Port Charges (40 feet Container)	Levy	Ports Authority	Kshs 9,000	At time of loading	National
26	K.P.A Port Terminal Handling Charges (20Feet Container)	Levy	Ports Authority	Kshs 2000	At time of loading	National
27	Directorate of Industry Training Levy (DIT)	Levy	DIT	Kshs 50 per employee	Monthly	National
28	MSS FEE	Levy	MSS	Kshs 10 per tonne	Annual	National
29	Chamber of Commerce Certificate of Origin	Levy	Chamber of Commerce	0.025 % of the gross value tea sold	Annual	National
	Cess					
30	APC					Tea sector
	Licenses					
31	Fuel wood Movement	License	County Council	300 per vehicle trip	Daily	National
32	Department of Occupational Health & Safety license	License	DOHS	Kshs 2,060	Annually	National
33	Seizure of scales	License	Weights & Measures	Kshs 2,010	Annually	National
34	Water Permit	License	Water Resources Board	Kshs 4,600	Annually	National
35	Underground Water Tank license	License	Ministry of Health	Kshs 1000	Annually	National

Memorandum on the need for a Review of the Tea Ad Valorem Levy Regulation and Multiplicity of taxes

36	Food & Drugs	License	F&D Board	Kshs 1000	Annually	National
37	Mombasa Municipal Parking Ticket per truck	Levy	County council	Kshs 1,700 per day	Annually	National
38	Management Fees					
	KTDA			2.5%		Tea sector
	Williamson Tea					Tea sector
	EPK					Tea sector
39	Member subscriptions					
	EATTA					Tea sector
	KTGA					Tea sector
	Fees					
40	Tea Brokers			0.75% Producers and 0.5% Buyers		Tea sector
41	Other taxes levied by other Countries			As per Table No		

Source: Tea Task Force Compilation

ANNEX 4. COMPARISON OF TAXES APPLIED ON TEA INDUSTRY IN DIFFERENT COUNTRIES

INTERNAL TAXES						IMPORTS	
No.	Country	Tax Type & Rate	Tax Type & Rate	Tax Type & Rate	Tax Type & Rate	Tax Type & Rate	Tax Type & Rate

Memorandum on the need for a Review of the Tea Ad Valorem Levy Regulation and Multiplicity of taxes

1.	India	Tea cess - 50 paise per kg produced 1 Paise is 100 th of 1 Rupee 1 Rupee is 0.016 US\$				Import duty – basic duty of 100% CIF value; countervailing (CV) duty Re.1 /- per kg; cess on CV 3%; Educational cess- 3% (basic + cess on CV); Special additional duty -4% (Assessable value + basic +CV + cess on CV + educational). Nil when imported for re-export under duty exemption scheme and /or export oriented Unit(EOU) Special economic rate of 7.5 % basic duty plus other surcharges apply to imports from Sri Lanka up to 15000 MT per calendar year; imports from Nepal do not attract import duty under the Indo –Nepal treaty but tea cess is applicable. Instant tea 30%	
2.	Sri Lanka	Tea Cess 0.0035 cents per kg	Value added teas cess Rs.4 per kg	Bulk tea w.e.f march 2013 Rs. 10 per kg or 2.5 % of the auction average price (during the previous 3 months period, whichever is higher	Promotional and marketing levy Rs.3.50 per kg	Import duty 28% subject to approval by Tea Board; imports for re-exports are exempt from duty	
3.	Kenya	VAT- 16% on local sales	Ad Valorem levy - 1% of customs value (with exemption of imported tea for blending for re-export as well as made tea packed in accordance with KS 1927:2005 Tea	Agricultural Produce cess at 1% of Gross income to the farmer		Import duty 25% per kg; instant tea 25%; Mate 25% per kg NB: imports from COMESA and EAC Group are free of duty	

Memorandum on the need for a Review of the Tea Ad Valorem Levy Regulation and Multiplicity of taxes

			Packers and containers specifications and on other value added teas				
4.	Bangladesh	VAT – 15% of Auction price of tea (for internal consumption)	Cess- 1% Ad Valorem Auction price				
5.	China	VAT -13% VAT(on exports) 13%	Export duty 4%	Other taxes – educational & local development funds 3%		Import duty 15% (from countries with MFN status with further concession of 50% for imports from APTA member countries) and 30% for others	VAT on imports 13%
6.	Indonesia	VAT 10% on local sales of jasmine tea				Import duty 5%	
7.	Tanzania		Tea cess on imports us\$ cents 1.25 per kg from EAC countries				
8.	Malawi	VAT 17.5 % on domestic sales	Cess charged at US\$ 0.0135 (Malawi kwacha) per kg of made tea	Surtax 10% on domestic sales;		Charged ad valorem- 10% on green tea, other green tea ; 50% for black tea not exceeding 3kg and 50% for other black tea	
9.	Pakistan	-Sales tax 16% -Attestation fee 1 % per consignment	Ad valorem 10% on black teas	Income tax 5%	Infrastructure fee @0.8% on c& F value		
10.	UK	Nil					

ANNEX 5: TEA LEVY – BASED ON KILOGRAMMES AND VALUE OF EXPORTS AND IMPORTS

		2009	2010	2011	2012	2013	2014
Production in Kilogrammes	Cess/Ad Valorem Scenario	314,198,371	399,006,377	377,912,178	369,561,924	432,452,700	410,000,000
	K.shs. 0.46	144,531,251	183,542,933	173,839,602	169,998,485	198,928,242	188,600,000
	Kshs. 1	314,198,371	399,006,377	377,912,178	369,561,924	432,452,700	410,000,000
	Kshs. 1.50	471,297,557	598,509,566	566,868,267	554,342,886	648,679,050	615,000,000
	Kshs. 2	628,396,742	798,012,754	755,824,356	739,123,848	864,905,400	820,000,000
	Kshs. 2.5	785,495,928	997,515,943	944,780,445	923,904,810	1,081,131,750	1,025,000,000
	Kshs. 3	942,595,113	1,197,019,131	1,133,736,534	1,108,685,772	1,297,358,100	1,230,000,000
Exports in Value (K.sh)	Cess/Ad Valorem Scenario	69,603,265,870	97,740,139,239	109,408,775,996	112,255,886,576	114,408,328,090	108,687,911,685
	0%	-	-	-	-	-	0
	0.50%	348,016,329	488,700,696	547,043,880	561,279,433	572,041,640	543,439,558
	0.75%	522,024,494	733,051,044	820,565,820	841,919,149	858,062,461	815,159,338
	1.00%	696,032,659	977,401,392	1,094,087,760	1,122,558,866	1,144,083,281	1,086,879,117
	1.50%	1,044,048,988	1,466,102,088	1,641,131,640	1,683,838,300	1,716,124,921	1,630,318,675
	2.00%	1,392,065,317	1,954,802,785	2,188,175,520	2,245,117,732	2,288,166,562	2,173,758,234
	4.00%	2,784,130,635	3,909,605,570	4,376,351,040	4,490,235,463	4,576,333,124	4,347,516,467



REPUBLIC OF KENYA

MINISTRY OF AGRICULTURE

Sessional Paper No. 2 of 1999

ON THE

**LIBERALIZATION AND RESTRUCTURING
OF THE TEA INDUSTRY**

REFORMS IN THE TEA BOARD OF KENYA

AND

PRIVATIZATION OF THE KENYA TEA
DEVELOPMENT AUTHORITY

MARCH, 1999

MINISTRY OF AGRICULTURE

SESSIONAL PAPER ON THE LIBERALIZATION AND
RESTRUCTURING OF THE TEA INDUSTRY

Reforms in the Tea Board of Kenya and
Privatization of the Kenya Tea Development
Authority

March, 1999

1.0 INTRODUCTION AND HISTORICAL BACKGROUND

Tea was introduced in Kenya in 1903 when a few tea plants were planted at Limuru in Kiambu District by the white settlers for experimental purposes. Pursuant to the annexation of the land policies through the Registration of Documents Ordinance of 1901 and the Crown Lands Ordinance of 1915, the European agricultural settlement schemes in the Kenyan highlands started. The European agricultural settlement schemes were re-affirmed when the European Agricultural Settlement Ordinance was enacted and by 1924 tea cultivation had attained commercial production level.

The first legal instrument to govern the production of tea was enacted as the Tea Ordinance, 1934 (No 46 of 1934). This Ordinance was revised by the Tea Ordinance, 1948 (No. 52 of 1948) which became effective on 25th August, 1948. The objectives of the Tea Ordinance, 1948 were to provide for the control of the production of tea in the Colony. The institution of the Directorate of Agriculture was responsible for controlling the production of tea by issuing licences and permits to farmers until 1950 when the Tea Board of Kenya was established to regulate the industry.

Following the agitation for independence from 1947 onwards, a study of the african agriculture was made and the Swynnerton Plan of 1954 was drawn up to be implemented by the Government to help improve the african agriculture. By 1960, the European Agricultural Settlement Ordinance, 1955 (No. 38 of 1955) was repealed and the Agriculture Ordinance (No.8 of 1955) was amended by the Ordinance No. 47 of 1960 in order to reflect the new changes in the agricultural sector. At that time the European farmers were already experienced in the cultivation of tea but African farmers were only beginning to grow tea. They started planting tea, among other cash crops, between 1956 and 1959.

To promote the cultivation of cash crops the Special Crops Development Authority (SCDA) was formed under the Agriculture Act in 1960. This body was replaced by the KTDA in 1964 when the Kenya Tea Development Order 1964 was promulgated. At the time of independence in December 1963, the tea estates and the few smallscale farms had 21,448 hectares of planted tea. The area planted has increased over the years to stand at 113,892 hectares by 1997.

The Tea Ordinance, 1948 was repealed by the Tea Act of 1960 (No.61 of 1960). Since then, the legal framework has been used without major amendments. While great strides have been made in the development of the tea industry, especially under the small holder sub-sector under the KTDA, the relevant institutions, the policy and legal framework need to be reviewed particularly now under a liberalized economy. The substantial growth and structural changes experienced by the industry over the last 34 years is evidently due to the

very conducive policy environment that has encouraged continued investment in the estates sub-sector and the smallholder sub-sector.

Kenya is famous the world over for its production of high quality tea. The Government recognizes the important role of agriculture as the major sector in the Kenyan economy in terms of feeding the nation, creating employment, generating increased income and foreign exchange and providing raw materials for industry. To effectively manage and enhance the ability of the sector to play this important role, the Government has undertaken significant structural adjustment reform measures such as liberalization and privatization of the various agricultural sub-sectors. In view of accelerating this process within the tea sub-sector, the Government has developed a detailed action plan on the structural reforms within the tea industry, and in particular the privatization of the Kenya Tea Development Authority (KTDA) which has been managing the tea activities in the smallholder sub-sector and modalities to strengthen the Tea Board of Kenya to enable it undertake its mandated role as the main regulatory body of the industry.

2.0 OVERVIEW OF THE TEA INDUSTRY

Tea is currently the leading agricultural foreign exchange earner for the country. In 1998 tea accounted for 20% of total exports earnings followed by coffee which accounted for 15% and horticultural produce which accounted for 9%. In terms of world ranking, Kenya is the third largest producer of black tea after India and Sri Lanka and for some time now Kenya has been the second largest exporter of black tea after Sri Lanka, having overtaken India in 1993. Though India is the leading producer it consumes much of its produce due to high domestic demand.

- 2.1 Tea production and the planted area has expanded rapidly since independence as made evident by the fact that production rose from 18,032 metric tonnes in 1963 to 257,000 metric tonnes in 1996 before dropping to 220,722 metric tonnes in 1997 due to drought. The 1998 projected production will surpass the Government targeted production of 264,000 metric tonnes by the year 2000, in the Sessional Paper No.1 of 1986 on Economic Management and Renewed Growth. The planted area at the time of independence was 21,448 hectares and this had increased to 113,890 hectares in 1997. Tea exports volume grew from 15,917 metric tonnes in 1963 to 244,500 metric tonnes in 1996 before dropping to 209,682 metric tonnes in 1997. The respective values for those years were KShs. 100 million, KShs. 18.0 billion and KShs. 20.0 billion.
- 2.2 The substantial growth and structural change experienced by the industry over the last 34 years is evidently due to the very conducive policy environment that has encouraged continued investment in the estates sub-sector which is managed on private basis and the smallholder sub-sector under the management of the Government through the Kenya Tea Development Authority (KTDA).

- 2.3 Due to the rapid increase in area expansion and the high rate of tea production, the Government has invested heavily on infrastructural development particularly in the rural areas where the industry is based. The industry has 83 tea factories for the manufacture of tea spread out in the growing districts and served by numerous buying centres and tea leaf bases.
- 2.4 The tea industry is also a major employer with current estimates of over 2 million people in direct tea farming, manufacturing, marketing and indirectly in retail outlets and transportation.

✓3.0 MAJOR OBJECTIVES PURSUED IN THE TEA INDUSTRY

- 3.1 To maintain its forward momentum as the best organized establishment in the world for tea which is the most widely consumed non-alcoholic refreshment.
- 3.2 To attain adequate processing capacity, particularly for smallholder tea farmers estates and to bridge the gap between the takings of smallholder and large estates at farm level.
- 3.3 To generate financing required to expand tea processing capacity and for the maintenance of tea roads, warehousing and farmers logistics to enable efficient leaf transportation.
- 3.4 To generate higher levels of value-added tea through enhanced technological application in order to improve farm level incomes and ultimately foreign exchange earnings from tea.
- 3.5 To expand the international market for Kenya tea through aggressive strategic marketing within the various regional economic blocks (e.g. Common Markets for Eastern and Southern Africa, Economic Commission for West Africa States, South African Development Co-operation among others), South East Asia, the Middle East, Eastern Europe, Americas and Kenya's traditional West European markets.
- 3.6 To improve the management of tea factories by allowing farmers to play their rightful role in decision making.

✓4.0 LIBERALIZATION/PRIVATIZATION MEASURES IN THE TEA INDUSTRY

- 4.1 Prior to liberalization initiatives, the Ministry was charged with the role of decision making in agriculture and its functions spanned the entire sector, leaving little, if any, individual entrepreneurial decision making in the hands of farmers, especially for scheduled crops. While this arrangement was useful in those times, with the globalization of the economies, it has become necessary to restructure some of the economic sectors with a view to enhancing the private sector involvement.

- 4.2 The process to liberalize the tea industry started in 1992 when the Government of Kenya (GOK) and the World Bank (IDA) signed an agreement under the Public Enterprise Reform Programme covering five (5) major parastatals. Kenya Tea Development Authority (KTDA) was included among the five strategic parastatals earmarked for liberalization and restructuring under the programme.
- 4.3 Currently, the Government has agreed that the process of liberalization of KTDA and smallholder sub-sector should result into incorporation of KTDA under the Companies Act (Cap 486) as an independent and private tea enterprise, owned by smallholder tea farmers through their respective tea factory companies
- 4.4 The Ministry of Agriculture in conjunction with other stakeholders in the tea industry has consequently developed a detailed restructuring strategy for the tea industry that defines the roles of the various actors in the industry such as the Tea Board of Kenya and the Tea Research Foundation as regulatory and research development agencies, the Kenya Tea Development Authority (KTDA), the Nyayo Tea Zones Development Authority and the large estates as self-regulatory apex bodies and the tea factory companies and farm units as private entities in their own capacities. The thrust of this strategy is to restructure and eventually privatize the entire tea industry.

5.0 ROLE AND FUNCTIONS OF THE TEA BOARD

The Tea Board of Kenya was established on 13th June 1950 with the mandate to regulate the tea industry to the best interests of the stakeholders. In discharging its responsibility the Board acts in accordance with general or specific directions given to it by the Minister for Agriculture.

- 5.1 The functions of the Board in particular, but without prejudice to the generality of the foregoing include:-
- (a) the licensing of tea growers;
 - (b) the licensing of tea factories;
 - (c) the regulation, control and improvement of the cultivation and processing of tea;
 - (d) the control of pests and diseases;
 - (e) the control of the marketing of tea;
 - (f) the investigation of and research into all matters relating to the tea industry;

- (g) advertising the Kenya tea and increasing its sale by efforts to extend existing markets and exploiting new markets, and matters incidental thereon;
- (h) the promotion of exhibitions for the display of tea and the processes for manufacture thereof and the provision of the facilities thereto;
- (i) the collection and dissemination of statistics and other information relating to tea and its production, distribution and consumption.

5.2 To finance the activities outlined above, the Board levies cess on area planted with tea and on manufactured tea delivered for sale to the market. In order to strengthen the Board and ensure that it lives up to its expectations, the following measures would be undertaken :-

- 5.2.1 the Board will licence tea growers to ensure that tea is grown only in suitable areas, and ensure that growers have manufacturing facilities for their tea once it matures.
- 5.2.2 the Board will licence tea manufacturing factories to ensure that new tea factories have sufficient leaf from their own estates and would not create over-capacity in a given area or interfere with any established system by "poaching" farmers who may already be delivering leaf to an already established factory in the same area;
- 5.2.3 the Board will regulate and control tea cultivation, processing, pests and diseases and to carry out investigation of and research into all matters relating to the tea industry;
- 5.2.4 the Mombasa auction will be for export only. The Board will only register tea sales whether for the domestic or export market so as to maintain proper national statistics on tea trade;
- 5.2.5 the Board will place more emphasis on its role of advertising Kenya tea and increasing its sale by efforts to extend existing markets and exploiting new markets, and matters incidental thereon;
- 5.2.6 to encourage consumption of tea in the domestic market and to educate the general public, the Board will enhance its effort of promotion of exhibitions for the display of tea and the process for manufacture thereof and the provision of the facilities thereto.
- 5.2.7 the Board will collect and disseminate statistics and other information relating to tea and its production, distribution consumption and exports.

6.0 MEMBERSHIP OF THE TEA BOARD OF KENYA

For the Board to meet the challenges of a free economy, the following measures will be put in place :-

- (i) the membership of the Board will be increased from 16 to 18 members.
- (ii) the Chairman of the Board will be appointed by the Minister from among the tea producer members of the Board;
- (iii) the Permanent Secretary, Ministry of Agriculture be appointed under a substantive section of the Tea Act and not under Section 3(f) as in the past;
- (iv) those appointed to the Board must be people with extensive knowledge and experience in tea matters;
- (v) the Chief Executive of Tea Board of Kenya will be elevated to full membership of the Board.
- (vi) Government representatives to the Board will be senior officers not below the level of Deputy Secretary and should be familiar with Government policies on tea;
- (vii) the Board derives its income from cess levied on growers and as such growers need to be well represented. The smallholder sub-sector, having more area under tea and producing more tea than the estate sub-sector should have one extra member over the estate sub-sector;
- (viii) the Chairman and all members of the Board other than the ex-official members will be appointed for a period of three years, and would be eligible for reappointment. Previously, only the Chairman, four members representing KTDA, and the member representing EATTA were required to conform to this provision;

6.2 Consequently the membership of the Board will be:-

- (a) the Chairman, who will be elected by the members of the Board and appointed by the Minister from among the tea producer members of the Board;
- (b) the Permanent Secretary, Ministry of Agriculture;
- (c) the Director of Agriculture;
- (d) one Member appointed by the Minister to represent tea trade sector;

- (e) six members appointed by the Minister after consultation with the organization representing smallholder tea growers;
 - (f) five members appointed by the Minister after consultation with the organization representing plantation tea growers;
 - (g) the Chief Executive, Tea board of Kenya;
 - (h) one member appointed by the Minister to represent Nyayo Tea Zones Development Corporation.
 - (i) not more than two members to be appointed by the Minister with advice from the Board from amongst persons who, possess knowledge and experience likely to be of benefit to the Board;
- 6.3 The membership in the Tea Board of Kenya will be based on democratic, fair and equitable representation of the stakeholders in the tea industry.

The Board may co-opt to serve on it any person or persons whose assistance or advice it may require, but a person so co-opted shall not be entitled to vote at any meeting of the Board or be counted as a member for the purpose of forming a quorum.

7.0 STAFF OF THE TEA BOARD OF KENYA

An adequate and effective Secretariat headed by a Chief Executive who will also be the Secretary to the Board at the level of Managing Director, will be constituted to discharge the responsibility bestowed upon the Board. The Board will be called upon to set staffing levels in the light of its duties and work-plan and in line with the restructured industry. In view of this and in order to be able to retain highly qualified personnel and take timely decisions, the Board will be exempted from the provisions of the State Corporations Act with the exemption of provisions relating to the auditing aspects of its accounts.

✓8.0 OVERVIEW OF THE SMALL-SCALE TEA SUB-SECTOR AND KENYA TEA DEVELOPMENT AUTHORITY (KTDA)

- 8.1 KTDA was established in January 1964 with the objective of fostering and promoting the country's tea growing by the smallholder tea farmers. In order to realize its goals and objectives, the Authority developed centralized operational and administrative systems extending from the headquarters in Nairobi to the tea growing areas. KTDA has made the small-holder tea sub-sector one of the most successful agricultural ventures in the developing world. Since its formation the Authority has achieved over 73,000 ha. The total number of small tea producers involved under KTDA umbrella is about 300,000 and process

their tea through 45 tea factories. KTDA and the smallholder tea factories are fully owned by the smallholder tea growers.

- 8.2 KTDA has been rendering managerial, production, transportation and marketing services which includes among others management of tea factories, green leaf transportation, procurement of production goods, marketing and payment of tea proceeds to the small scale tea growers. This was as provided by the KTDA Order under the Agriculture Act (Cap.318).
- 8.3 The Government has been assisting the smallholder tea sub-sector by providing guarantees on external loans borrowed by KTDA for smallholder tea development and giving the Authority special status so that it is exempted from payment of taxes. The surpluses realized from its operations were supposed to be ploughed back to improve smallholder tea sub-sector. In addition the Government has been paying salaries and allowances of the tea extension staff assigned to perform extension service under KTDA.

9.0 PRIVATIZATION/LIBERALIZATION OF KENYA TEA DEVELOPMENT AUTHORITY (KTDA)

- 9.1 The liberalization/privatization and restructuring of KTDA will be handled carefully in a smooth manner in order to ensure that the necessary changes do not disrupt the operations of the Kenya Tea Development Authority (KTDA) and the small-holder tea sub-sector as a whole.
- 9.2 KTDA is 'de facto' owned by all small-holder farmers who now number about 300,000 and it is 'de jure' owned by the Government since it was established under the Agriculture Act Cap. 318. It is therefore correct to state that all the small-holder tea farmers would be entitled to a share of the net assets of KTDA in the event that the Authority were to be liquidated. Modalities will be worked out between the Government, KTDA and small-holder tea farmers on the best method of transferring ownership of KTDA to the farmers with the privatization and incorporation of KTDA under the companies Act.
- 9.3 The major steps already taken in the direction of a privatized Kenya Tea Development Authority (KTDA) are:-
 - 9.3.1 exemption of the Authority from provisions of the State Corporations Act Cap.446.
 - 9.3.2 divestiture of the KTDA from the tea factory companies through the following measures:-
 - i) election by farmers of 6 directors (majority) out of the maximum 9 directors in each Factory Company Board.

- ii) transfer of chairmanship of factory company boards from the KTDA to elected tea farmers' representatives.
- iii) direct participation by elected directors in management decisions regarding procurement of goods and services by each factory company.
- iv) direct participation by elected directors in recruitment of factory company employees.
- v) direct participation by elected directors in formulation of annual budgets and monitoring of financial expenditures.
- vi) transfer of green tea leaf collection and payment to farmers from the KTDA to the individual factory companies.
- vii) sales of KTDA equity in factory companies to the tea farmers.
- viii) empowerment of the tea farmers through their elected company directors who are now responsible for governance and policy making in their respective factory companies.
- ix) allotment of ownership shares to all small-holder tea growers in their respective tea factory companies.
- x) strict information and data disclosure by the KTDA to factory companies regarding marketing of tea by the Authority.

9.3.3 repeal of all previous Kenya Tea Development Authority (KTDA) Orders and replacement with Legal Notices No.109 to 112 of 1997. The new legal Notice No.109 of 1997 effectively placed control of the KTDA Board under the farmers elected representatives who number 12 out of a total KTDA Board membership of 17 including the Managing Director.

9.3.4 removal of provisions in the Kenya Tea Development Authority Orders which in the past required the Board to seek the Minister's approval before making important investment decisions.

✓10.0 PRIVATIZATION AND TRANSFER OF OWNERSHIP OF KTDA TO SMALL-HOLDER TEA FARMERS

10.1 Despite the above mentioned measures which have resulted in greater empowerment of farmers, major restructuring of the KTDA will be undertaken to enable the Authority to fully

face the challenges of new international financial lending requirements, modern management techniques and the increasingly more competitive international tea market place.

10.2 KTDA will be incorporated under the Companies Act. This means that the KTDA will be removed from, the auspices of the Agriculture Act and be established under the Companies Act as a public company with limited liability.

10.3 The structure of a privatized KTDA will be as follows:-

10.3.1 Incorporation and Shareholding

- i) KTDA will be incorporated under the Companies Act (Cap 486) as an independent and private tea enterprise, owned by all smallholder tea farmers through their respective factory companies. The company's shareholding will therefore be held indirectly by individual tea farmers through their tea factory companies.
- ii) The name of the new company will be "Kenya Tea Development Agency (KTDA) Limited". The new KTDA limited will offer management services to the individual factory companies and the latter as an independent company may opt if it wishes to contract any other management agent to manage their operations/activities. Under the new arrangement, KTDA will charge a competitive management fee based on minimal percentage of the net value of the proceeds.
- iii) The constitution of shareholding will be based on the current valuation of the assets of KTDA, allotted in accordance with the contribution of each factory company in creation of the KTDA assets.
- iv) The net worth of KTDA will therefore be distributed to the tea factory companies relative to their contribution in form of management fees from the 1983/84 to 1996/97 period. This is the period during which relevant annual financial accounts of the Authority have continuously reflected positive annual surpluses. Prior to that period, the development account of the Authority was in deficit but has remained in surplus since then.

10.3.2 Governance

The small-holder tea farmers will be real owners of the KTDA Limited but their influence will be exercised through their factory companies. The KTDA Board of Directors will comprise of a minimum of 13 and a maximum of 19 directors. 12 will be elected by the shareholders and the Managing Director of the Company. The Permanent Secretary, Treasury will be co-opted as a member of the Board in view

of the Government loan guarantees. They will be responsible for policy and management but the factory companies will be in control as the shareholders and owners of the company. The KTDA Board will direct the work of the management and other staff of the Company.

The Board of the company will elect its own chairman from amongst the elected directors. Elections of the new directors will be carried out within a period of six months after the repeal of the KTDA order by around January, 2000. The new directors will be elected on the following basis :-

- i) Small-holder tea growing areas will be divided into zones;
- ii) each zone will comprise a minimum of three factory companies but special provision will be given to zone xii until a third factory is built in the area. The zone will therefore comprise two factory companies i.e. Chebut and Mudete.
- iii) each zone comprising between three and five factories will elect one director of the KTDA Limited.
- iv) a zone with more than five but less than ten factories will elect two directors of KTDA Limited.
- v) Maximum number of directors representing a single zone will be two directors.
- vi) KTDA Limited will work detailed modalities of how the directors will be elected.

The envisaged date for the full privatization of KTDA would give sufficient time to enable a smooth transition from KTDA authority to a limited company.

10.3.3 Action Plan/Implementation.

The process towards full privatization of KTDA will be implemented as follows:-

- a) the on-going liberalization and restructuring of the small-holder tea sub-sector and the KTDA will be finalized by January, 2000.
- b) repeal of the Kenya Tea Development Authority (KTDA) Orders and any other legislative amendments will be undertaken and effected by January, 2000.

10.3.5 Associated Companies

Companies closely associated with the KTDA Limited will include:-

- i) all the current 45 smallholder factory companies and any future ones managed by the KTDA Limited;
- ii) the Majani Insurance Brokers Limited which is a private company wholly owned by the KTDA;
- iii) the KTDA Farmer's Company Limited whose shares are held directly by smallholder tea farmers. The company owns the "KTDA Farmers Building" while the KTDA owns the "KTDA Plaza" formerly known as Rahmutulla Trust Building and Diamond Trust Building. The two buildings house the KTDA Headquarters;
- iv) the (Chai) Warehousing Limited (in formation) to be located in Mombasa;
- v) the Kenya Tea Packers (KETEP) Limited.

These KTDA associated companies will therefore constitute a large tea development, management and marketing conglomerate. In due course, the proposed value adding tea factory company will join the KTDA group of companies. This will indeed be a useful addition to what will have already become a formidable economic and commercial entity both locally and internationally.

11.0 EMPLOYMENT OF TEA EXTENSION STAFF

With the privatization of KTDA, the Government will not employ the extension staff as was the case in the past in the small scale tea growing areas. The KTDA and the smallholder tea factory companies will recruit staff to undertake the extension service. The field extension service will be an integral part of the KTDA and the smallholder tea factory companies. In future the tea extension personnel would be located only in the KTDA Limited headquarters and at the factory companies.

- 11.1 KTDA will absorb 47 tea officers and 188 technical assistants. Tea officers and technical assistants should have a degree and an agricultural certificate respectively. In view of this a committee composed of officers from the personnel departments of KTDA and the Ministry of agriculture will be constituted to work out the necessary personnel service transition modalities.

- 11.2 Tea officers will serve under the respective factory companies on secondment from the

KTDA. All Tea Technical Assistants will however be directly employed by the tea factory companies. The Government will continue financing extension service to smallholder tea sub-sector until June, 2000.

- 11.3 KTDA serves the farmers, who will, indirectly, employ the extension staff that will guide them to produce tea leaf. In case of another management agent, it will be expected that the agent would provide the full services to smallholder tea farmers as KTDA has been doing in the past.

12.0 LEAF BASES WITHOUT SISTER PROCESSING FACTORIES

In future the leaf base and the tea processing factory will constitute one entity. The KTDA Limited will not acquire any new leaf bases but will retain and operate the existing ones. At present, the leaf bases in Cherangani and Olenguruone have no sister processing factories. The affected tea growers will therefore become shareholders of the Chebut and Kapkoros respectively when the process of allotment of factory company shares to all growers is completed. The growers will therefore exercise influence over KTDA Limited through the two factory companies as will be the case in other areas. As regards the subsidies to the two leaf bases and the affected tea growers, these will be terminated by June, 2000. By that date, full fledged leaf base facilities will have been constructed at both Cherangani and Olenguruone.

The KTDA Limited will however continue to operate the two leaf bases even after that date but the affected tea growers will meet the full cost of these leaf bases through normal deductions by the KTDA Limited.

13.0 FINANCING OF NEW TEA FACTORY COMPANIES

The financing of construction of new tea manufacturing factories has become difficult since the prospective and traditional lenders have put tough lending conditions. Previously lenders provided loans on basis of Government Guarantees and without requiring any mortgage agreements and without any equity contribution by the smallscale farmers. In future, the KTDA Limited, in consultation with the farmers, will provide guarantees for these loans on behalf of the farmers. The Government, without directly being involved in the utilization of the funds even in cases where it is a guarantor, will encourage joint ventures between farmers and the private investors towards construction of new tea factories. It is noted that some investors are willing to invest in new tea factories without Government guarantees while others may require the Government guarantees.

The requirement for small-holder farmers to provide equity as part of the financing arrangement for new factory companies is another constraint. Even with the proposed sale of shares by farmers transferring to a new factory company, the amount raised will not be sufficient. The KTDA Limited will temporarily acquire the shares and pay for them in an effort to provide part of the equity requirement. Currently, there are nine proposed tea factories in the small scale subsector.

In future the following measures will be taken:-

- KTDA will provide necessary guarantees for loans;
- Government and KTDA Limited will look for alternative lenders.
- the minimum 30 percent equity required from the smallholder tea farmers in advance will be provided by KTDA Limited through temporary acquisition of the shares.
- assets of the new factory companies will be mortgaged to cover the factory construction finance loans.

In view of the agreement to incorporate a private KTDA, KTDA Limited will re-open negotiations with the prospective lenders with regard to the issue of equity requirement.

✓14.0 EXISTING LOANS AND GUARANTEES

With a privatized KTDA, additional changes especially in the area of loan financing will arise as explained here below:-

The Kenya Government currently provides guarantees on external loans borrowed by KTDA for its development programmes. As at 31st December, 1997 the balance of the external loans where the Government had given guarantees was about Kshs.1 billion. This facility is now not easily available to parastatals. Consequently some other form of security will be put in place to replace the Government guarantees for future factory development projects. The existing Government guarantees will however not be affected by the privatization of KTDA. These (guarantees) will remain in force until the subject loans are repaid in full.

Likewise KTDA limited will continue to service existing loans on the old terms until the same are fully repaid. As per the financial agreements, KTDA will be managing agents for those factories that have outstanding loans. Because of this arrangement it is expected that no lender will deem it necessary to exercise their right to demand repayment of the loan in full before the due date.

Where KTDA has guaranteed loans borrowed locally by the factory companies for the expansion programme, that obligation will remain as long as the loans are outstanding. Any factory that may decide to do away with KTDA's management agency will be required to repay the loan in full.

15.0 TAX IMPLICATIONS OF PRIVATIZATION OF KTDA

KTDA is a non-profit making organization. Any surplus realized from its operations is supposed to be ploughed back to improve the smallholder tea sub-sector. Because of this special status KTDA was exempted from paying tax since 1964 and therefore does not pay taxes to the Government. This has been a major boost to the development of the smallholder tea sub-sector.

However, according to the Finance Bill, 1998, as stated in the Budget Speech of 11th June, 1998, KTDA shall be required to pay corporation tax with effect from January, 1999. This means that KTDA has now to budget for corporate tax amounting to over Kshs. 70 million a year which otherwise would have been ploughed back to the development of the smallholder sub-sector. The taxation has been effected even before the privatization of KTDA. It may be desirable that the implementation of the decision be deferred until KTDA is fully privatized. It is however not clear why KTDA has been singled out while public bodies dealing with other crops are not taxed.

Once privatized KTDA will lose that status and will therefore pay taxes just like any other company operating under the Companies Act.

The following taxes will become payable:-

- i) Stamp Duties
- ii) Corporation Tax/withholding tax

The effect of the above taxes will be a reduction of the surplus (profit) by as much as 35%. It will therefore be necessary to introduce cost-cutting measures in order to break even.

16.0 GROWING OF TEA

The regulatory functions dealing with licensing of tea planting shall remain in the Tea Act and the Board will continue issuing group licences to tea factory companies on behalf of the smallholder growers. The tea factory companies will then be required to maintain a register of growers falling under them on behalf of the Board. The individual small tea plantations associated or being served by tea factories owned by other organizations and the large tea

estates will be issued with individual licences directly by the Tea Board of Kenya. Whereas the Board's Inspectorate Department will be monitoring to ensure the holders of the group licences do comply with the set rules by its members, they will also be acting as the Board's agents in this regard. In order to encourage new tea factory companies coming up and establishing their own catchment areas the licence issued will not specify the area to be planted with tea.

In future therefore, the smallholder tea growers supplying green tea leaf to smallholder tea factory companies will not be required to obtain licences as individuals.

The planting licence will be assessed on the following criteria:-

- (a) the area being suitable for tea growing;
- (b) adequate processing arrangement being ascertained by the Tea Board of Kenya.

Licence holder will make an annual return to the Board indicating the total area planted and the number of tea farmers and also pay an annual fee which will be based on the current Regulations on planting tea. The fee to be charged will be determined by the Board.

The Board will liaise with tea manufacturing companies in verifying the area planted by individual growers delivering tea to the factory for the purpose of maintaining correct statistics on area planted nationally.

17.0 MANUFACTURE OF TEA

Manufacturing of high quality Kenya tea whether by sun-drying or otherwise will be Tea Board's primary objective. While licensing a new tea manufacturing factory, Tea Board will ensure that adequate tea leaf is available corresponding to the proposed tea factory processing capacity.

To ensure that no person manufactures tea for sale, whether by sun-drying or otherwise, other than according to the rules and regulations set, the tea manufacturing company will be issued with an annual licence by Tea Board of Kenya. The licence will attract a manufacturing cess which would be set by the Board in consultation with the Minister. The foregoing will be achieved through the following stringent measures :-

- i) when licensing a new manufacturing factory due consideration will be taken to ensure that processing over-capacity is not created in a given local area or zone. In case of a private investor, Tea Board would arbitrate to decide how the farmers are distributed between the existing and the new factory before issuing a licence. A licence for a new factory will only

be issued to companies who satisfy the Board that they have sufficient leaf to process with regard to factory capacity;

- ii) the Board in consultation with the Minister may cancel, vary or suspend any licence issued to a company if any company fails to abide with the terms and conditions of the licence;
- iii) the duration by which the tea manufacturing factories are to submit their returns with the monthly cess will be extended to 14 days and a payment of interest on outstanding arrears after the 14th day of the following month at bank interest rates will be charged.
- iv) Manufacturing licence may be suspended where a manufacturing licensee without any good reason acceptable to the Board continues to default on manufacturing Cess payments beyond a period of 21 days of the following month. The Board is at liberty to use its powers under (ii), above or could recover the same amount as a civil debt.

18.0 AGRICULTURAL PRODUCE CESS ON TEA

The agricultural produce cess is collected by the Local Authorities under the powers conferred to them under sections 201 to 211 of the Local Government Act Cap.265. The Local Authorities are empowered to make adoptive by-laws after the Minister has made subsidiary legislation in consultation with the Minister for Agriculture as provided in Section 192A of the Agriculture Act.

The Minister for Local Government issued a Legal Notice No. 202 of 20th May, 1988(L.N. 202/1988) and amended the same through Legal Notice No. 339 of 4th August, 1988(L.N.339/1988) and L.N 165/1989 under Section 210 of the Local Government Act effectively empowering the Local Authorities to make Adoptive By-laws to collect the agricultural produce cess on tea and other ten crops.

According to the Agriculture Act, the revenue realized form part of the general revenue of the respective Local Authorities. The Local Authorities did not utilize the cess funds in the maintenance of roads as originally intended. This prompted the Government in 1990 to intervene and developed modalities of cess utilization towards the improvement of the tea roads. The District Tea Cess Committees were formed by the Government to maintain the tea roads and their activities were monitored by the National Tea Roads Monitoring Committee. However, the District Tea Cess Committees were not very successful in maintaining the tea roads. The Government then directed that the cess funds for tea and coffee be channelled through the respective farmers' organizations to maintain the roads. However, the law needs to be amended to regularize the position. Tea and coffee are grown in the same agro-ecological zones and transitional areas.

There is a need to amend the relevant legal provisions in the Local Government Act and the Agriculture Act together with the relevant legislation to place the collection and utilization of the agricultural produce cess entirely under the auspices of the Agriculture Act Cap.318;

Policies and guidelines pertaining to the collection and utilization of cess funds should be harmonized for their effectiveness.

District Tea Cess committees and the National Tea Roads Monitoring Committee should be abolished since the cess funds are now channelled to the respective farmers' organizations.

✓ 19.0 **MARKETING OF TEA**

As Kenya continues to increase its share of the world tea market which is currently about 22% compared to Sri Lanka's 21.0% and India's 14.0% the key role and function of the Board will be in tea market promotion. Tea Board will provide the necessary leadership in the industry by laying more emphasis on marketing and promotion of tea without compromising on production and quality. This will be achieved through :-

- i) allowing tea manufacturers to sell part of their tea directly to overseas markets.
- ii making Mombasa auction an export market only.
- iii. ensuring all tea exporters, whether manufacturers, buyers, brokers or packers make a return on their exports on a newly designed registration form to the Tea Board to enable the Government collect statistics on tea exports,.
- iv) ensuring that transparency plays its rightful role in the industry by harmonizing all the rules and regulations of the various sub-sectors for the greater interest of the stakeholders.
- v) monitoring of tea sales through registration of buyers, brokers and packers.
- vi) adopting a more aggressive promotion strategy with more emphasis being focused on uni-national tea promotion and value added teas from Kenya;
- vii) encouraging all stakeholders in the industry to undertake promotion activities independently to supplement Government's effort.
- viii) laying more emphasis on promotion strategy focused to developing countries of Asia, Middle East, Africa and in Eastern Europe where projections show consumption is on the increase and is expected to rise in future while maintaining our share in our traditional

markets,

- (x) liaising with other relevant Government bodies especially the Export Promotion Council involved in promotion of Kenya's products abroad to market Kenya tea through their regular trade fairs and exhibitions and through commercial representation in Kenya Missions abroad.
- x) collaborating with other tea producer countries and specialized international agencies for generic promotion of tea globally;
- xi) encouraging production of high quality tea in order to capture new export markets and maintain the traditional markets. Towards this end the Kenya bureau of standards will be more active in enforcing standards on tea for both the domestic and export markets.

20.0 OTHER TEA SUB-SECTOR INSTITUTIONS/ORGANIZATIONS

20.1 Tea Research Foundation of Kenya (TRFK)

TRFK was established in 1980 as a company limited by guarantee with guarantors being the Ministry of Agriculture and Tea Board of Kenya to carry out the investigation of and research into all matters relating to the tea industry. It was a successor to the Research Institute of East Africa.

Since then the Foundation has obtained funding for its research activities almost entirely from the tea industry through the Tea Board of Kenya. The Foundation receives about Kshs. 52 million annually for its research activities from the Tea Board of Kenya.

For a long time the Foundation has operated under the Tea Board of Kenya and its parent Ministry of Agriculture until 1988- when it shifted to the Ministry of Research and Technology.

According to the Tea Act, one of the core functions of the Tea Board of Kenya is to carry out research on tea through its technical arm the Tea Research Foundation of Kenya.

To enable the Foundation advise producers through the Tea Board on the best clone selection to suit the various ecological zones and how to care for their tea in order to improve production and attain the best quality for their tea, Tea Research Foundation of Kenya (TRFK) will be transferred back to the Ministry of Agriculture from the Ministry of Research and Technology so that it can now report to Ministry through the Tea Board of Kenya. This will remove the communication bottleneck as policy guidelines on the operations of TRFK will only emanate from Ministry of Agriculture which is charged with responsibility of all agricultural crops. The Board will also be able to follow the activities of TRFK and advise

the Foundation accordingly for the benefit of the tea farmers who are the financiers of the Foundation through the Tea Board of Kenya.

Efforts will be made to assist Tea Research Foundation of Kenya (TRFK) in establishing its own tea research factory together with the required research equipment and facilities to facilitate the carrying out of more research in tea manufacturing and related aspects by the foundation. In addition the foundation will be encouraged to formulate their own proposals and plans for attracting money from both external and internal sources for training fellowships, research activities and other development activities.

There is need to exempt Tea Research Foundation of Kenya (TRFK) from the provisions of the State Corporations Act to enable it set salary scales and other benefits to its staff provided the TRFK is not exempted from the provisions related to auditing of accounts.

20.2 Nyayo Tea Zones Development Corporations (NTZDC)

The major objective of NTZDC was to protect and conserve gazetted high altitude forests against human encroachment. The Nyayo Tea Zones belts provides physical a buffer to forest reserves. Other than meeting the intended purpose the Zones also generate revenue and create employment to Kenyans in addition to providing infrastructure to rural areas.

Due to their geographical spread and absence of a processing facility, the Corporation will sign agreements with smallholder tea companies or KTGA member companies to process its green tea leaf. Management of some estates will be leased out to smallholder tea companies or to individual private tea companies until such a time that the Corporation will be able to take over these functions effectively

20.3 Kenya Tea Growers Association (KTGA)

Kenya Tea Growers Association (KTGA) is a private, voluntary association whose role is to promote the interests of large and medium private tea growers in Kenya. Some of the leading members of KTGA have been active in the development of the Kenya tea industry for over 50 years. Members of KTGA are also very active not only in tea production but in tea trade through the East African Tea Trade Association (EATTA) and the Mombasa Auctions. The Association accounts for over 40% of tea production with the other balance of 60% coming from smallholder farmers.

The government will encourage Kenya Tea Development Authority (KTDA) and Kenya Tea Growers Association (KTGA) to work closely to assist smallholder farmers willing to transfer to KTGA managed tea factories or in cases where the KTDA managed tea factory companies does not have adequate processing capacity. This will be done through agreements between individual smallholder tea factory companies and KTGA member

companies.

✓20.4 Kenya Small Scale Tea Growers= Association (KSSTGA)

The Kenya Small Scale Tea Growers' Association (KSSTGA) was registered in 1998. The membership is open to all elected members of the 47 leaf bases and all farmers. The leaf bases pay Kshs. 500,000/= while the farmers pay annual subscription of Kshs.10/=. KTDA, like the leaf bases, is a member of the Association. All 312,000 smallscale tea farmers are eligible to be members of the Association. In future the KTDA and KSSTGA will strive to promote the interests of the smallholders in the tea industry. Some of the objectives of the Association include:

- ♦ taking over all functions associated with the tea buying centre, tea base and zonal committees;
- ♦ promote and represent common interests of all smallscale tea growers and their factories;
- ♦ regulate and improve relations among members of the association and employees;
- ♦ recommend rules and regulations for the maintenance of tea cultivation, manufacturing, packaging, transportation and warehousing standards;
- ♦ set tea plucking rates in smallscale areas;
- ♦ collect, collate and circulate statistics;
- ♦ negotiate on behalf of members;
- ♦ cooperate with other similar associations;
- ♦ establish and maintain funds to further the objects of the Association.

Currently, KSSTGA office holders are not members of the Tea Board of Kenya. In future the KSSTGA and KTDA will collaborate in providing the representation of the smallholder tea farmers in the Tea Board of Kenya.

✓20.5 The East African Tea Trade Association (EATTA)

The East African Tea Trade Association is a voluntary Association whose rules and regulations would facilitate free trade in tea. The association comprises of tea producers, buyers, brokers and other interested tea traders in Eastern Africa. To achieve the foregoing objective the association will :-

- i) run the Mombasa Auctions which is the third largest in the world after Calcutta in India and Colombo in Sri Lanka;
- ii) ensure that representation at the association Management Committee is equitable and special consideration is accorded to large single producers like KTDA who represent all the smallholder in Kenya;
- iii) ensure that the sale of tea at the auctions and other operations of the trade is fair, efficient and transparent;
- iv) ensure that tea producers determines the currency of sale depending on whether the tea is for local or export sale.
- v) ensure that Payment of the tea sold at the auction is made within ten days.

The membership of the East African Tea Trade Association consists of tea producers, buyers, brokers; packers and warehousemen in Eastern Africa. There are about 300 corporate members of EATTA who come from Kenya, Uganda, Tanzania, Rwanda, Burundi and Malawi. The entrance fees and annual subscriptions are as follows:

- ♦ brokers produce banker's guarantees that they are good for Kshs. ten (10) million, pay entrance fee of Kshs. 365,000/- and Kshs 35,000/= annual subscription each;
- ♦ producer member's entrance fee is Kshs. 20,000/- and annual subscription is graduated as Kshs. 25,000/-, Kshs 55,000/=-, Kshs.82,000/=-, Kshs.93,000/=- Kshs. 165,000/- and Kshs. 440,000/= depending on the amount of tea produced
- ♦ buyer's entrance fee is Kshs. 65,000 and annual subscription of Kshs. 25,000/- to Kshs 50,000/= based on the amount of tea bought annually;
- ♦ packer's entrance fee is Kshs. 10,000/- and annual the subscription of Kshs. 25,000/=
- ♦ warehousemen pay Kshs.10,000/= entrance fee and Kshs. 50,000/= annual subscription

- ♦ associate members join after paying Kshs. 10,000/- and annual subscription fee of Kshs. 15,000/=.

EATTA will remain a voluntary association while the representation of producers at the management committee level should be fair and equitable.

KTDA will in future re-examine how best the small scale tea growers can be represented in EATTA while taking cognisance that KTDA has currently only one vote in EATTA and yet it represents over 312,000 tea farmers owning 45 tea factory companies and also producing over 60% of the Kenyan tea. The rules and regulations of the EATTA should facilitate free trade without restrictive practices and should not conflict with the rules and regulations governing the tea industry in Kenya.

20.6.1 Tea Brokers

The tea brokers are appointed by the tea producers and buyers. The broker guarantees the sale of tea by negotiating between the producers and the members of the tea trade who are buyers. The tea broker's functions include receiving tea from producers and selling it at the best possible price, negotiating sales by private contract on behalf of the producers, receiving tea samples from producers, tasting, valuing, and distributing samples to potential buyers, preparing and printing catalogue and effecting payment to the producer among others. Brokers taste tea for purposes of ascertaining the price of tea in the auction and visit the tea factories informing the factory management on the quality of their tea. The tea brokers are not quality controllers, since quality sustenance is an in-built process in tea production and manufacturing.

There are currently eleven tea brokerage firms operating at the Mombasa auction. These are Combok Tea Brokers Ltd, African Tea Brokers Ltd, Tea Brokers of East Africa Ltd, Anjeli Tea Brokers Ltd, Venus Tea Brokers, Union Tea Brokers Ltd, Choice Tea Brokers, Bicorn Tea Brokers, Prudential Tea Brokers, Centre Line Tea Brokers, and Victory Tea Brokers. By 1990, each brokerage firm was serving between seven and eight tea factories. Currently, out of the eleven brokers, three brokers control 45% of the business while the other eight serve KTDA which is a producer. There should be strong criteria to be used to assess the brokers

before registering them. The tea brokers are members of the East African Tea Trade Association and they operate under the EATTA regulations. In future all tea brokers operating at the Mombasa auction shall be required to register with the Tea Board of Kenya.

The KTDA as a managing and marketing agent will continue to appoint brokers in consultation with individual Tea Factory Companies on competitive basis at 3-4 tea factories per broker.

In future the Tea Board will be involved in the registration of tea brokers. Currently, EATTA demands letters of appointment from the producers before licencing a tea broker in addition to checking the applicant's financial and management capability positions including physical facilities. Under the revised Tea Act, the Tea Board will have powers to register or deregister tea brokers who do not abide with the set rules and regulations. The Tea Board will also ensure that rules and regulations of any organisation dealing in or involved in tea trade, including EATTA and their activities are in harmony with the provisions of the Tea Act and the interests of the tea industry.

20.6.2 Tea Brokerage Commissions or Fees.

The brokerage charges have been 1% commission on gross sales value of tea paid by producers and a further 0.5% commission on gross sales value of the same paid by the buyers. In addition, the broker receives a further Kshs.30 per Alot@ in form of catalogue printing expenses. One Alot@ is a garden (factory) invoice of 20, 40, 60, 80 or 100 packages (57 kg to 78 kg each depending on grade) which is counted as a single line in the catalogue. Some catalogues, may have 30, or 40 lots or as many as 1000 lots depending on the amount of tea offered. The payment may add up to about Kshs. 1000/- or 1500/- or even 30,000/- per catalogue each week depending on the amount of tea offered. In total, the broker gets more than 1.5% of the gross sales value of tea he sells at the auction.

The current rates of commission were developed in the 1960s by EATTA. At the time, the volume of made tea was very low. There has been no review of these rates whereas all these costs are being borne by tea producers and the electronic trading in tea is yet to be adopted at the auction. In 1997/98, the brokers sold through the Mombasa auction system 243,566,481 kilograms of made tea at an average price of US\$1.89 per kilogramme. Out of this total, Kenyan crop was 212,619,990 kilograms at an average price of US\$1.97 per kilogramme. The total value of Kenya tea through the auction was US \$418,861,380 or Kshs. 25,969,405,578/=. Brokers' commission at 1.5%, amounted to Kshs.389,541,082/= for all eleven brokers. On average each broker received about Kshs.35.4 million. In general, a tea broker's organization has a small staff compliment. The costs associated with tea brokerage cover personnel costs, office maintenance costs and the capital costs depreciated every five years. This is approximately Kshs..25.8 million showing a gross profit to the broker of Kshs..9.6 million per year.

The Tea Board will review the tea brokerage rates and recommend the best appropriate rates for the brokers in their role as marketeers of tea in the tea trade. This is also expected to reflect a positive gain to the farmers in the tea industry.

✓20.7 Tea Packers

The tea packers in Kenya are yet to be organized as an association. Currently, the single largest packer in the local market is the Kenya Tea Packers Limited (KETEPA). Prior to October 1992, KETEPA had the monopoly of tea packing and distribution in the domestic market. With the repeal of the Price Control Act and the complete liberalization of tea trading, there are over 60 registered tea packers who are free to blend and pack tea for local as well as the export markets.

Local packers will be encouraged and assisted where necessary to develop the value added tea market.

Packers should use high quality packaging material to be able to capture the export market for value added tea and policies on the packaging of the value added tea for export should be developed by the Tea Board in liaison with the Government.

In order to capture a bigger segment of the market packers have to aggressively promote their own tea brands both locally and internationally.

All tea blended and packed in Kenya will contain 70 percent of the Kenya's produced tea.

All tea packers based in Kenya will be required to register with the Tea Board of Kenya.

21.0 TRAINING AND HUMAN RESOURCE DEVELOPMENT IN TEA INDUSTRY

Training and human resource development is the key to scientific, technical know-how and break-through in all sectors of the economy. To cater for the agricultural sector, there are public universities and agricultural training institutions offering general courses in agriculture among others. The tea sub-sector draws its manpower from these institutions.

It is proposed that Tea Board of Kenya will liaise with institutions of higher learning and other training institutions in order to develop a training manual and curriculum on various aspects of tea. The objective will be to train the under graduate and post-graduate students and officers and, eventually the training of farmers and other stakeholders. The Board in this way, will develop the technical knowledge and expertise required to steer forward the tea industry.

The Tea Board will also undertake a study on the human resource needs in the tea industry with a view to developing the training plans and projections. A training Committee consisting of all stakeholders to examine all training issues and facilities in the various institutions will be constituted under the auspices of the Tea Board of Kenya.

The current training activities being undertaken in the tea industry will also be intensified especially through tea field days at the factory level and the extension services.

The estates have been conducting in-house training for their workers and officers whereas the smallholder sub sector has been undertaking its training activities at the existing Farmers Training Centres spread across the country and at the Kagochi Farm and Training School which was established in 1950. Kagochi school is situated near Ragati Tea Factory at a place 11 km from Karatina Town in Mathira Division, Nyeri District, Central Province. There is a tea demonstration farm on tea husbandry and a training school. The main objectives were to train farmers on management and maintenance of tea farms, introduce better cultural and

crop husbandry aspects on tea planting and farm management practices within the smallholder sub sector. The farm has a total area of 67.3 hectares of which 42.5 hectares are under mature tea bushes. The farm finances its activities from the sale of its green tea leaf and from the sale of other farm products e.g the sale of milk among others.

The training of small scale tea growers on tea planting and husbandry started in 1960 at Kagochi. With the formation of KTDA in 1964, Kagochi farm and the institute were taken over by KTDA. The training of the farmers continued on regular basis up to 1976. With the introduction of new training systems in the agricultural extension service in 1976, training of farmers at Kagochi was stopped. However, refresher courses as well as some upgrading courses for technical staff in tea extension service continued to be undertaken at Kagochi. It has also been training clerks, farmers and tea workers from the smallholder tea farms. There has not been any major review of the training programmes and also no major infrastructural development has been undertaken at Kagochi since its establishment.

Kenya Tea Development Authority (KTDA) plans to develop and fully finance a modern training institute at Kagochi to replace the existing school which is old and dilapidated. The school will be rehabilitated and upgraded to a national institute which will cater for the training needs of farmers as well as the lower and middle level personnel in both the smallholder and the estates sub sectors.

The rehabilitation work is estimated to cost KShs. 210 million which will be financed solely by KTDA from its reserves. The works have been tendered and are expected to be completed within a period of fifty six (56) weeks. Although there will be no contributions from the Tea Factory Companies and also no direct deductions from the farmers' proceeds for this project, it is and it will remain one of the smallholders' assets. The training school will jointly be owned by KTDA and the smallholders.

The institute's operational costs will be financed through cost recovery and it will be self-financing. It will be a national tea training institute that will undertake training programmes in liaison with the Tea Research Foundation of Kenya (TRFK).

The Tea Research Foundation of Kenya is situated at Timbilil, 12 km from Kericho Town, in Kericho District, Rift Valley Province. In addition to undertaking research as its primary

function, TRFK will also be providing specialized training courses for senior managers and high level personnel as a secondary function under the auspices of the Tea Board of Kenya.

Currently, there is a small training unit at TRFK. The unit supports the training of smallholder tea growers and the estates sub sectors. The unit consists of a twelve hostel capacity, a guest wing and a training hall. There is a need to improve these facilities so that the unit can carry out the specialised training activities more effectively. However, to ensure effective use of the available training facilities and also avoid wastage of resources, the Board will liaise with the respective training institutions to ensure that the training being undertaken at Kagochi is not duplicated at TRFK.

TRFK will carry out more research in tea manufacturing and other related aspects. In this regard the Government will assist TRFK to establish its own tea research factory and a major workshop. The workshop will be fabricating the machinery needed in the tea factory companies which are currently imported. The construction of the tea factory and the workshop was estimated at Kshs.300 million and Kshs.50 million respectively. The Government will finance the construction of these facilities either from its own resources or through soliciting donor support or co-financing it with the tea industry.

✓22.0 CONCLUSION

The various programmes and plan of action in this Sessional Paper, after their implementation, will result in efficient and effective operations of the institutions in the industry. The existing constraints, problems and challenges will be addressed through the new policies. The new decision-making framework will empower the stakeholders to be involved in the industry. The Government will continue to support the industry through the existing institutions to enable the various actors and stakeholders to fully play their rightful roles under an enabling environment in the liberalized tea industry.

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REPUBLIC OF KENYA

MINISTRY OF AGRICULTURE

Corrigenda/Addenda To The Sessional Paper No.2 of 1999

ON THE

LIBELARIZATION AND RESTRUCTURING
OF THE TEA INDUSTRY

REFORMS IN THE TEA BOARD OF KENYA

AND

*PRIVATIZATION OF THE KENYA TEA
DEVELOPMENT AUTHORITY*

JULY, 1999

The Sessional Paper No.2 of 1999 on the LIBERALIZATION AND RESTRUCTURING OF THE TEA INDUSTRY, REFORMS IN THE TEA BOARD OF KENYA AND PRIVATIZATION OF THE KENYA TEA DEVELOPMENT AUTHORITY was tabled in Parliament on 8th April, 1999. It was debated up to 9th June, 1999. During the debate, the members made valuable comments and raised some issues which were pertinent. The Departmental Committee on Agriculture, Land and Natural Resources also commented on the Paper and made suggestions on the same.

The Sessional Paper No.2 of 1999 and Tea (Amendment) Bill, 1999 have been harmonized and the corrections to both the Sessional Paper and some clauses in the Bill have been made. The following are the corrigenda and addenda to the Sessional Paper No.2 of 1999 with respect to various sections or chapters of the Sessional Paper :-

1. Section 3.0 Major Objectives

Section 3.0 is amended by inserting a new paragraph, 3.7-

"3.7 To re-emphasize that tea farmers/growers are the owners of green tea leaf and also the owners of made tea until it is sold and they are paid for it."

2. Section 4.0 Liberalization/Privatization Measures

Section 4.0 is amended by inserting a new paragraph, 4.5-

"4.5 The Government will encourage private investors to set up new tea factories as joint ventures with tea farmers/growers."

3. Section 5.0 Role and Functions of the Tea Board

Paragraph 5.1 is amended by deleting the first phrase and replacing it with the following-

"5.1 The current functions of the Board include the following:-"

Paragraph 5.2 is amended by deleting "5.2" and renumbering it to read "j" and amending it further to read as follows-

"j" To finance the activities outlined above, the Board levies cess on area planted with tea and on manufactured tea delivered for sale to the market."

"5.2 In order to strengthen the Board and ensure that it lives up to its expectations, the following measures will be undertaken:-"

Paragraph 5.2.1 is amended by deleting the words "licence tea growers to ensure that tea is grown" and replacing them with the words "register tea growers that plant tea"

Paragraph 5.2.4 is amended by deleting the words "the Mombasa auction will be for export only."

4. Section 6.0 Membership of the Tea Board

Section 6.0 is amended in -

- (i) by deleting the words "increased from 16 to 18" and inserting the words "decreased from 16 to 15"
- (ii) by deleting the words "appointed by the Minister" and inserting the words "elected by the members of the Board"
- (v) by deleting the words "elevated to full membership of the Board" and inserting the words "an ex-officio member of the Board"

Paragraph 6.2 is amended in -

- (d) by deleting the words "appointed by the Minister" and inserting the words "nominated by the tea trade"
- (e) by deleting the words "appointed by the Minister after consultation with the organization representing smallholder tea growers" and inserting the words "elected by the directors of the tea factory companies at a meeting convened by the Minister, to represent;"
- (f) by deleting the words "five members appointed by the Minister after consultations with" and inserting the words "four members nominated by"
- (g) by inserting the words "who will be an ex-officio" immediately after the word "Kenya"
- (h) by deleting paragraph (h) altogether and inserting the new paragraph (h) by renumbering paragraph (i) as (h) and amending -

by deleting the words "appointed by the Minister with the advice of the Board" and inserting the words "nominated by the Board"

8. Section 13.0 Financing new Tea Factories

Section 13 is amended by inserting a new paragraph at the end of the section-

"However, considering the importance of tea in the economy, the Government will continue to guarantee loans for the construction of the tea factories where it is in the public interest."

9. Section 16.0 Growing of Tea

Section 16.0 is amended by deleting the 1st, 2nd and 3rd paragraphs and inserting the following three paragraphs-

"The Tea Board of Kenya will now register tea growers directly or indirectly. The licensed tea manufacturing factories managed by the respective tea factory companies will be required to maintain registers of growers falling under them on behalf of the Board. The individual tea growers served by tea factories owned by the tea estates and the large tea plantations will be registered directly by the Tea Board of Kenya. Whereas the Board's Inspectorate Department will be monitoring to ensure that the licensed tea factories under the tea factory companies comply with the set rules by its registered grower members, they will also be acting as the Board's agents in this regard.

In future therefore, the smallholder tea growers supplying green tea leaf to smallholder tea factory companies and the large scale tea growers will not be required to obtain licences to grow tea. In addition the tea growers will no longer be required to pay cess on area planted with tea.

The licensed tea factory companies will make annual returns to the Board indicating the total area planted with tea and the number of tea farmers registered with them."

10. Section 18.0 Agricultural Produce Cess

Section 18.0 is amended by inserting the following new paragraph at the end of the section-

"In view of the importance of tea in the economy, the Government will supplement the produce cess funds to maintain the tea roads."

11. Section 19.0 Marketing of Tea

Section 19.0 is amended in section 19 (ii) by deleting the words "making Mombasa auction an export market only" and inserting the words "removal of the requirement for tea export licence"

PARLIAMENT OF KENYA



23 APR 2015

THE NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – THIRD SESSION



THE DEPARTMENTAL COMMITTEE ON AGRICULTURE,
LIVESTOCK AND CO-OPERATIVES

REPORT ON THE PETITION BY HON. KATHURI MURUNGI, M.P
SOUTH IMENTI CONSTITUENCY ON BEHALF OF SOUTH IMENTI TEA
FARMERS REGARDING DECLINE IN TEA PRICES AND EFFECTS OF THE
AD VALOREM LEVY

Clerk's Chambers
Parliament Buildings

April, 2015

TABLE OF CONTENTS

TABLE OF CONTENTS	i
PREFACE	iii
ACKNOWLEDGEMENTS	vi
1.0 BACKGROUND	1
2.0 EVIDENCE AND SUBMISSIONS FROM WITNESSES	2
2.1 SUBMISSIONS BY THE HON. KATHURI MURUNGI M.P, SOUTH IMENTI CONSTITUENCY	2
2.2 SUBMISSIONS BY THE PRINCIPAL SECRETARY, NATIONAL TREASURY:	2
2.3 SUBMISSIONS BY THE PUBLIC FROM TEA GROWING AREAS:	3
2.4 SUBMISSION BY THE MANAGEMENT OF KENYA TEA DEVELOPMENT AGENCY (KTDA):	5
2.5 SUBMISSION BY THE CABINET SECRETARY, MINISTRY OF AGRICULTURE, LIVESTOCK AND FISHERIES	5
Challenges in the Tea Industry and proposed interventions	6
1. Over supply of black CTC - Tea	6
2. Decline of tea prices	7
3. Low product diversification and value addition	7
4. High cost of production (labour, fertilizers and energy)	7
5. Low productivity at the farm level.	7
6. Low domestic consumption	7
7. Adulteration and counterfeiting of teas	8
INTERVENTION BY THE MINISTRY:	8
2.7 SUBMISSIONS BY EAST AFRICA TEA TRADE ASSOCIATION (EATTA) OFFICIALS:	8
Impact of the Ad valorem Levy to the tea industry	9
Impact on the producer	9
Impact on the buyer (exporter)	10
Multiplicity of taxes and levies	10
Intervention for the Multiplicity of taxes and levies	10
1. Use of a Single Industry Licensing Regulation for a Single Tax Regime per Base for the Tea Industry :	10
2. Review the KEPHIS charges in Legal Notice No 48 of 3rd April 2009:	11
3. Policy Framework for an Incentive Scheme for the Tea Industry.	11

2.8 SUBMISSIONS BY THE TEA DIRECTORATE IN AFFA	11
Government Interventions	11
Proposal on reducing/ reviewing the Taxes, fees and levies applied to the Tea Industry in Kenya;	12
Interventions by AFFA	12
RECOMMENDATIONS.....	15

PREFACE

The Departmental Committee on Agriculture, Livestock and Co-operatives is established pursuant to provisions of Standing Order 216. Under the provisions of Standing Order 216 (5) the Committee is mandated to:-

- (a). investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
- (b). study the Programme and policy objectives of the Ministries and departments and the effectiveness of the implementation;*
- (c). study and review all legislation referred to it;*
- (d). study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
- (e). investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
- (f). vet and report on all appointments where the Constitution or any other law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments); and*
- (g). make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.*

The Committee is also mandated to scrutinize the budget of line Ministries and Departments as provided under Standing Order No. 235.

Section 124 of the Constitution of Kenya (2010) also provide for the establishment of the Committees by Parliament.

The Departmental Committee on Agriculture, Livestock and Co-operatives oversees the performance of the following Ministries and Government department:-

- (i) Agriculture,
- (ii) Livestock,
- (iii) Irrigation,

- (iv) Fisheries development,
- (v) Co-operatives development, and
- (vi) Production and marketing.

Under the above Ministries, the Committee covers the following subjects;

- (i) Agriculture policy
- (ii) Livestock policy
- (iii) Fisheries policy
- (iv) Cooperative societies

Membership

The Committee comprises the following Members:-

- | | | |
|---|---|---------------|
| 1. The Hon. Adan Mohamed Nooru, M.P. | - | Chairman |
| 2. The Hon. Japhet M. KarekeMbiuki, M.P. | - | Vice Chairman |
| 3. The Hon. Mary Wambui, M.P. | | |
| 4. The Hon. KabandoWaKabando, M.P. | | |
| 5. The Hon. Raphael Letimalo, M.P. | | |
| 6. The Hon. Patrick Wangamati, M.P. | | |
| 7. The Hon. Francis MunyuaWaititu, M.P. | | |
| 8. The Hon. Peter NjugunaGitau, M.P. | | |
| 9. The Hon. Maison Leshoomo, M.P. | | |
| 10. The Hon. Anthony Kimani Ichung'wah, M.P. | | |
| 11. The Hon. Alfred Kiptoo Keter, M.P. | | |
| 12. The Hon. Ayub Savula Angatia, M.P. | | |
| 13. The Hon. Justice Kemei, M.P. | | |
| 14. The Hon. Philip L. R. Rotino, M.P. | | |
| 15. The Hon. Korei Ole Lemein, M.P. | | |
| 16. The Hon. Silas Tiren, M.P. | | |
| 17. The Hon. Benjamin Jomo Washiali, M.P. | | |
| 18. The Hon. (Dr.) Victor Kioko Munyaka, M.P. | | |
| 19. The Hon. John Bomett Serut, M.P. | | |
| 20. The Hon. Millie Odhiambo, M.P. | | |
| 21. The Hon. Fredrick Outa, M.P. | | |
| 22. The Hon. Maanzo, Daniel Kitonga, M.P. | | |
| 23. The Hon. James Opiyo Wandayi, M.P. | | |
| 24. The Hon. Ferdinand Kevin Wanyonyi, M.P. | | |
| 25. The Hon. Paul Simba Arati, M.P. | | |

26. The Hon. Florence Mwikali Mutua, M.P.
27. The Hon. Hezron Bollo Awiti, M.P.
28. The Hon. John Kobado, M.P.
29. The Hon. Zuleikha Hassan Juma, M.P.

ACKNOWLEDGEMENTS

Mr. Speaker Sir,

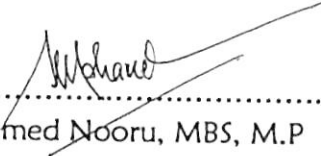
May I take this opportunity to thank the Members of the Committee for their patience, contributions and hard work despite their other commitments and tight schedules, in their endeavour to deliberate on this petition.

I also wish to sincerely thank the Office of the Speaker and the Clerk of the National Assembly for the support to the Committee, and the Parliamentary staff for their technical support and services extended to the Committee to enable it execute its mandate.

Mr. Speaker Sir,

It is my honour and pleasure on behalf of the Departmental Committee on Agriculture, Livestock and Co-operatives, to present this Report on the petition by South Imenti Tea farmers regarding the decline in Tea prices and the effects of the *Ad Valorem* Levy with Recommendations to the House for consideration and adoption.

Thank You.

Signed 

Hon. Adan Mohamed Nooru, MBS, M.P
Chairperson

Date.....

ADOPTION OF THE REPORT OF THE COMMITTEE ON A PETITION BY SOUTH
IMENTI TEA FARMERS REGARDING THE DECLINE IN TEA PRICES AND THE
EFFECTS OF THE *AD VALOREM* LEVY

1) The Hon. Adan Mohamed Nooru, MBS, M.P.– Chairman

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.....

2) The Hon. Kareke Mbiuki, M.P - Vice Chairman

.....
.....

3) The Hon. Kabando Wa Kabando, M.P.....

4) The Hon. Benjamin Washiali, M.P.....

5) The Hon. Fred Outa, M.P.....

6) The Hon. Raphael Letimalo, M.P.....

7) The Hon Mary Wambui Munene, M.P.....

8) The Hon. Francis Munyua Waititu, M.P.....

9) The Hon. Peter Njuguna Gitau, M.P.....

10) The Hon. Maison Leshoomo, M.P.....

11) The Hon. (Dr.) Victor Kioko Munyaka, M.P.....

12) The Hon. Kimani Ichung'wah, M.P.....

13) The Hon. Alfred Kiptoo Keter, M.P.....

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18) The Hon. Silas Tiren, M.P.....

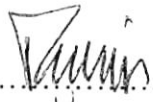
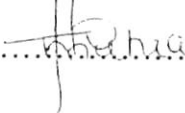
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- 24) The Hon. Ferdinand Kevin Wanyonyi, M.P.....
- 25) The Hon. Florence Mutua Mwikali, M.P.....
- 26) The Hon. Zuleikha Hassan Juma, M.P.....
- 27) The Hon. John Onyango Kobado, M.P.....
- 28) The Hon. Paul Simba Arati, M.P.....
- 29) The Hon. Hezron Awiti Bolo, M.P.....

CHAPTER 1

PETITION BY HON.KATHURI MURUNGI, M.P SOUTH IMENTI CONSTITUENCY, ON BEHALF OF SOUTH IMENTI TEA FARMERS ON DECLINE IN TEA PRICES AND EFFECTS OF THE *AD VALOREM LEVY*.

1.0 BACKGROUND

Tea accounts for approximately 26% of Kenya's export earnings and is the second largest foreign exchange earner in Kenya. Tea contributed over Kshs 116 billion in the year 2012 and consistently contributes to about 4% of GDP. Of late, Tea prices have been declining internationally and farmers have become disillusioned to an extent that the traditional growers are abandoning the crop to grow other crops that are internationally competitive and yield better prices.

Stakeholders delved into the matter to determine the underlying factors that cause constant decline of the Tea prices. They found out that among other things, the farmers in Kenya are burdened with a levy known as *Ad Valorem* levied at 1% of the total Tea value. On these grounds, they petitioned Parliament with the view of the levy being scrapped or reviewed downwards.

On the 25th of February 2014, Hon. Kathuri Murungi, M.P South Imenti Constituency on behalf of South Imenti Tea farmers presented a petition before the House on the decline in Tea prices and the effects of the *Ad Valorem* levy on the Tea industry. The petition was committed to the Departmental Committee on Agriculture, Livestock and Co-operatives.

The Committee deliberated on the matter before it and invited the Hon. Kathuri Murungi M.P, South Imenti Constituency to prosecute the petition on behalf of the farmers before inviting other relevant witnesses and stakeholders with a view of resolving the matter and reporting back to the House on the same.

CHAPTER 2

2.0 EVIDENCE AND SUBMISSIONS FROM WITNESSES

2.1 SUBMISSIONS BY THE HON. KATHURI MURUNGI M.P, SOUTH IMENTI CONSTITUENCY:

On 9th July 2014, Hon Kathuri Murungi, M.P South Imenti Constituency appeared before the Committee to elucidate the effects the *Ad Valorem* levy has on Tea prices and why it should be reviewed downwards. He informed the Committee that;

- a) The Government should review the *Ad Valorem* levy downwards not on the percentage of the value of tea but a fixed amount per kilogram of tea as proposed in the 2006 tea taskforce report as the farmers were heavily burdened by the various taxes and levies imposed on them by the Government.
- b) The Government immediately reconstitutes the Tea Board of Kenya in order to ensure oversight of the levy.
- c) The Government introduce a buffer fund to cushion farmers on the price when the prices of Tea are below than the cost of production. Cost of production in Kenya is very high and many a times farmers find that the prices in the international markets are equal to or even lower than the cost of production. In such scenarios, the Government should bail out the Tea farmers to make the production of Tea alive and its prices globally competitive.
- d) The Government waive the Value Added Tax (V.A.T) on locally produced Tea to enhance higher consumption. (*Annex 2, minutes of the 89th sitting*)

2.2 SUBMISSIONS BY THE PRINCIPAL SECRETARY, NATIONAL TREASURY:

On the 16th of July 2014, the Permanent Secretary, National Treasury appeared before the Committee and informed the Members that;

- (i) For optimal and efficient revenue collection, there was need for streamlining of the original Tea Act of 1961. As a result, the Crops Act (2013) was introduced and passed.
- (ii) Tax regime in the Tea sector had not changed and the Tea prices had gone down due to other factors in the market.
- (iii) Zero-rating tea products will not make prices go down, rather the Government stands to lose revenue that is used to address issues affecting the Agricultural sector. (*Annex 4; minutes of the 94th sitting*) An income duty of 25% is levied on imported Tea while there is no tax that is applicable to Tea that is imported for blending with Kenyan Tea.

- (iv) There is 16% Value Addition Tax that is imposed on processed tea while just like all unprocessed products, unprocessed green Tea does not attract any tax.
- (v) The low prices in the market were attributed to decline in demand in the traditional export markets (such as Egypt, Pakistan, Iran etc.), competition from other countries and locally, increased demand for other beverages like Coffee, and Cocoa.
- (vi) The decline in Tea prices was a cycle that is usually experienced in the Tea sector and the prices are bound to go up once again.
- (vii) The tax is necessary for the Government to raise funds to finance other development projects, *See (annex 4, minutes of the 94th sitting and minutes of the 104th sitting).*

2.3 SUBMISSIONS BY THE PUBLIC FROM TEA GROWING AREAS:

The Committee after undertaking visits to Eastern and South Rift/ Nyanza regions, received the following submissions from the public:-

- a) Kenya Tea Development Agency (KTDA) works with tea factories to manage costs enhance efficiency in farm and production processes and invest prudently in order to secure the farmers' financial future.
- b) But of late, farmers feel aggrieved that KTDA has abdicated its role as a pioneer agency to champion for the welfare of farmers and instead metamorphosed into a tool of self-enrichment for the Directors at the expense of the farmers where they reel in abject poverty.
- c) The farmers feel that KTDA has done the following wrongs and request the Committee to speedily come into the salvation of the peasant farmers lest they wither into oblivion.
- d) Undertaking Investments without following due diligence and the necessary consultations – farmers argue that KTDA has undertaken massive investments in mega projects without the consultations of the farmers who are supposed shareholders of the agency. Albeit undertaking numerous investments on behalf of the farmers, they claim that they are not paid dividends that accrue from their shares. Farmers opine that this is a scheme to siphon their hard earned money and enrich the Directors who have been at the helm of the agency since time immemorial.
- e) Poor mode of tea collection – farmers lament that KTDA has made them susceptible to illness such as pneumonia, arthritis and related illnesses by making them spend cold nights at the collection centres waiting for the KTDA Lorries to come pick their tea.
- f) Acquisition of farmers land irregularly – KTDA has acquired Title Deeds in its name on all the lands that belong to farmers without the knowledge and consent of the farmers. The farmers request the

Committee to take it upon itself to ensure that the title deeds are reversed back to the community that own the said parcels of land.

- g) Greenland Fedha Limited –a subsidiary of KTDA, Greenland Fedha limited provides affordable credit to farmers. The farmers have critiqued its establishment claiming that it should be abolished since KTDA is the custodian of farmers' money hence causes conflict of interest.
- h) Policies to be formulated to enable each factory market and sell its tea on its own directly without the involvement of KTDA and other brokers. Farmers lament that KTDA is doing a disservice to small scale farmers and they stand a better chance if they be allowed to market and sell their produce directly to the international markets.
- i) There should be a fixed minimum tea price factoring in cost of production and transportation costs as opposed to the current scenario whereby the buyer determines the buying price without any considerations to the above.
- j) Kenya Union of Small Scale Tea Owners (KUSSTO) should be recognised as an association that represent tea farmers at the grassroot level since its best placed to aptly articulate the plights and advance the grievances of small scale tea farmers effectively.
- k) Factories should be compelled to use furnace oil as opposed to the use of firewood since the later leads to the reduction of forest cover hence desertification.
- l) The laws that require fifty three (53) factories to approve the cancellation of the contract of KTDA as a managing agency for small scale tea farmers be amended since its practically untenable hence leaving small scale farmers disadvantaged.
- m) Agencies should pay quarterly bonuses to farmers as opposed to annual payments to cushion farmers against unnecessary borrowing from banks and other lending agencies.
- n) Directors draw a lot of allowances at the expense of the farmers hence they should be reduced to manageable numbers and voting should be based on one person one vote as opposed to the number of shares an individual own.
- o) Green tea leaves loaders should be employed at tea buying centres to relieve the farmers from the agony of spending cold nights at the collection centres.
- p) The Government should supply tea farmers with subsidised fertilizers as the revenue the Government gets from the tea industry is unparalleled. Moreover, the prices of fertilizers should be announced before distribution.
- q) Prices of tea should be harmonised as there is price discrimination with regard to selling of the product to the locals. One (1) kg of made tea is reportedly being retailed at Kshs, 400 at the factory

level, while the same kilogram of made tea retails at around Kshs. 170 at the Mombasa auction centre.

2.4 SUBMISSION BY THE MANAGEMENT OF KENYA TEA DEVELOPMENT AGENCY (KTDA):

Appearing before the Committee on 23rd September 2014, the KTDA management informed the Committee as follows;

- a) The fall in the prices was occasioned by overproduction as farmers have produced more than the farmers needed.
- b) Potential buyers have shunned Kenyan tea compared to other teas due to the effects of the *Ad-Valorem* levy. The level is imposed on the buyers and this has affected the tea industry negatively.
- c) KTDA owns seven (7) subsidiaries within the value chain that are all owned by the farmers.
- d) The profits that emanates from the assets run by KTDA are paid to the farmers through bonuses while KTDA charges a management fee of 2.5%.
- e) Directors are elected by the farmers basing on the number of shares farmers hold.
- f) Tea price variance between Eastern & Western region is occasioned by buyer preference as buyers prefer tea from the Eastern region due to its high quality.
- g) Tea is tested organoliptically as there is no modernised mode of testing it currently.

2.5 SUBMISSION BY THE CABINET SECRETARY, MINISTRY OF AGRICULTURE, LIVESTOCK AND FISHERIES

Appearing before the Committee on 15th July 2014 and 28th October 2014 the Cabinet Secretary for Agriculture, Livestock and Fisheries informed the members that the

Ad Valorem levy should not be reviewed downwards as prayed by The Hon. Kathuri Murungi, M.P South Imenti Constituency for it serves the following purposes that are of crucial importance to the Tea sector.

The levy is used to finance the following institutions that play key roles in the Tea sector;

- I. 50% of the collected levy is apportioned to the Tea Directorate(2013) under Agriculture, Fisheries and Food Authority (AFFA) Act of 2013 which carries out among other things the following core functions;
 - a. Regulation, control of cultivation and processing of tea
 - b. Monitoring trade in tea

- c. Tea research and advisory
 - d. Tea promotion and marketing of Kenya tea
 - e. Liaison with the tea industry and Government
 - f. Information dissemination
 - g. Advisory role
 - h. Resource mobilisation and utilisation
- II. 40% of the collected levy is also apportioned to Tea Research Foundation under Kenya Agricultural and Livestock Research Organisation (KALRO) that is mandated to promote research and investigate problems related to tea.
 - III. 10% of the collected levy is set aside to ensure that roads in the Tea growing areas are well maintained and accessible all the time.

For the three (3) years period of 2012 to 2014, the *Ad Valorem* Levy translates to an average of Ksh. 0.43 per kilo of green leaf. This indicates that the impact of the levy on the growers earnings is minimal compared to the benefits accruing from the use of the levy.

The introduction of the levy was meant to relieve the farmer the burden of financing the tea industry as was the case during the era of Manufacturing Cess where the farmer would pay KShs. 0.46 per kilogram. (*Annex 3; submissions by the Cabinet secretary*)

Challenges in the Tea Industry and proposed interventions.

1. Over supply of black CTC - Tea

Over the last (10) years there has been a steady increase in tea supply from 3.3 billion kgs in 2003 to 4.8 billion kgs in 2013 a difference of 1.5 billion kgs while demand has increased from 3.2 billion kgs to 4.6 billion kgs a difference of 1.4 billion kgs in the same period.

The supply – demand gap is widening with a surplus of 158 million kilos in 2013. Out of the surplus of 158 million kgs, Kenya contributed 72 million kgs which is over 50% of the global surplus.

According to FAO projections, production for CTC black tea will increase at the rate of 14.13% while consumption will increase at the rate of only 9.95%.

2. Decline of tea prices

The decline in tea prices in the Tea Industry was noted from May 2013 as a result of excess production of tea by tea producing countries. By April 2014, production had reached 66 million kgs in excess of consumption.

At the time, Tea prices at the Mombasa auction averaged USD 2.41 per Kilogram. Current prices are averaging at USD 2.34 per kg compared to average prices of USD 3.18 per kg same period in 2012.

FAO projections suggest that supply and demand for black CTC tea will reach equilibrium in 2021 at a price of USD 2.75 per kg if the current production levels continue.

3. Low product diversification and value addition

Kenya predominantly produces and sells CTC-teas and mostly in bulk form. Exports of value added teas from Kenya have marginally grown and are currently at 10%. Consequently Kenyan black CTC continues to fetch lower prices compared to value-added teas.

4. High cost of production (labour, fertilizers and energy)

The tea industry is grappling with increased costs of production inputs, for example labour costs have gone up at an average of 173% between 2001 and 2012.

The cost of fertilizer has gone up by about 146%, electricity has gone up 92% and the cost of diesel has gone up 345%.

Labour costs arising from tea plucking are normally negotiated by the Trade Unions through the CBA. This therefore is not with reference to productivity. These wages are negotiated every two years hence increasing the wage levels by 10% without commensurate increase in productivity. The tea industry is also faced with seasonal and regional labour scarcity which leads to high wage demand by tea pickers.

5. Low productivity at the farm level.

Although Kenya Tea productivity is the highest in the world, there is potential of increasing small holder productivity from the current one kilogram per bush to 1.5 kg per bush.

6. Low domestic consumption -

The per capita consumption in Kenya is 0.65 kg per annum; while in countries like China it is 1Kg per capita per annum. Low per capita consumption is caused by undeveloped tea drinking culture; inadequate awareness on health benefits on tea and preference for tea with high milk content and low tea content.

7. Adulteration and counterfeiting of teas

Where high quality teas from different regions are blended with low quality teas and still branded pure tea from the land of origin.

The Government has also constituted a Pre Shipment Inspection Panel to be able to test the quality of all imported teas.

INTERVENTION BY THE MINISTRY:

Promotion of diversification into production of non CTC teas e.g. Orthodox tea, purple tea, green tea etc. by encouraging new factories to manufacture Orthodox tea and currently over 10 factories have been issued with licenses to process Orthodox ,purple and green Teas. The estimated earnings from the diversification is USD 190,167,500 or 16.7 Billion Kenya Shillings.

The Ministry is in the process of engaging a consultant to study the export market and advices on the range of value added products demanded and explore any barriers to trade.

Develop Common User Facility in Mombasa to facilitate stakeholders to add value to their teas through blending and packaging. The total cost of the facility will be 3.2 Billion Kenya Shillings and will be operationalized through a Private Public Partnership model.

The AFFA Tea Directorate to develop mechanisms of increase the visibility Kenyan tea through the development of the Kenya Tea Mark of Origin. Upon the development of the GI Law in Kenya the process of Geographical Indications to enhance branding will also continue.

There is need to link wages to productivity, promote use of cost saving technology especially in plucking (use of plucking machines) and promote efficient use of fertilizer.

The Ministry has included Tea farmers in the Government subsidized fertilizer programme from the 2014/15 financial year. Government has committed 600 Million Kenya shillings for this purpose.

Encourage the planting of high yielding clones and improved Good Agricultural Practices at farm level through extension services. Since 2008 fifty (50) high yielding clones have been released with three (3) more being in the pipeline awaiting released

Use of research findings that highlight the health benefits of tea – e.g. Tea for health Marathon

Proposal to increase duty on imported packaged teas.

Increased and sustained Local Generic Promotion for Kenya Tea.

2.7 SUBMISSIONS BY EAST AFRICA TEA TRADE ASSOCIATION (EATTA) OFFICIALS:

On December 1, 2014, the Committee visited East Africa Tea Trade Associations (EATTA) headquarters in Mombasa to look into the issues that bedevil the tea industry and to understand how the tea auction centre runs.

Key stakeholders of East Africa Tea Association (EATTA) presented the following proposals as interventions to the problems in the Tea Industry;

In order to address the challenges on Ad Valorem, the following are proposed;

- a) **Level of payment:** There are two options proposed to address the impact of Ad valorem levy besides the existing system as indicated below:
 - i. The levy could be withdrawn altogether and this implies that the Government fully funds the mandates of the Tea Board (TBK) and Tea Research Foundation of Kenya (TRFK).
 - ii. If the levy cannot be withdrawn altogether, review the levy payment and charge it at a fixed amount /kg of made tea at the factory. The fixed amount should not exceed Kshs. 1 /kg. A levy at Kshs.1 /kg, the tea industry would contribute Kshs. 432,452,700 in 2013.
- b) **Representation:** There should be adequate representation of the stakeholders in the utilization of the levy, with clear cut budgetary provisions backed by prioritized activities that require implementation. The Promotion component under the Tea Directorate (Tea Board of Kenya) should be managed by a committee comprising of stakeholders.
- c) **Collection:** The definition of auction price should be included in the customs schedule and it should be taken as ex warehouse. That means that the levy should be collected at ex- warehouse value as opposed to customs [value.
- d) **Ring fencing:** The levy should be ring fenced so that it is not utilized by other crops or directorates under AFFA Act 2013, Crops Acts, 2013 and KALRO Act, 2013 and the same applies to the assets of TBK and TRFK.
- e) **Rebranding:** The levy should be renamed to be tea levy or manufacturing cess and not ad valorem as is the case currently.

Impact of the Ad valorem Levy to the tea industry

There are several challenges arising from the introduction of Ad valorem levy on the tea industry in Kenya. The most affected in the value chain have been the producers and buyers of tea as follows;

Impact on the producer

- a) **Impact on Kenyan teas:** The introduction of the levy which is charged on Kenyan tea at the rate of 1% of customs value at the point of export means that the buyers in the auction prefer to buy non Kenya East Africa teas. The decrease in demand for Kenya teas has resulted in the Kenyan tea being discounted and directly affects farmers' earnings not only because of the payment of the levy but also because of the discounting by the buyers.

- b) Punitive to high quality teas: The ad valorem levy is charged as a percentage so that the higher the auction prices and the high levy charged and this discourages the producer of good quality tea and also makes Kenya tea less competitive.
- c) Reduced purchases: There is increased level of out lots as buyers are reducing their purchases during the auction.
- d) Bureaucracy and delays: The documentation required to process the payment of the levy gives rise to bureaucracy and delays. An important principal of any taxation levy or license is to ensure that payment process is simplified administratively.
- e) Cumbersome refund mechanism: The exporters pay the levy at customs value and refunded the difference between the customs value and the auction price.

Impact on the buyer (exporter)

- a) Cash flow: The levy has an impact on the exporter's business cash flow because most sale transactions are on 90 day credit. Many exporters obtain trade financing to cover their expenses. The fact that they have to pay for the levy upfront will impact on their cash flow.
- b) Cumbersome payment process: Daily payments of the Ad valorem levy take a lot of time used in making payments and follow up the documentation.
- c) Delay obtaining Commercial invoice: currently commercial invoice is required as part of the document of the levy to be charged. However, in the absence of the commercial invoice then a proforma invoice is used as basis of payment as long as the commercial invoice is produced within 7 days after release of the teas.
- d) Impact on the Mombasa Auction Centre: The levy is likely to discourage buyers from buying tea in the Mombasa auction which will make other tea auctions benefit. It will also encourage tea stakeholders such Dubai Tea Trade Centre set up a tea auction centre.

Multiplicity of taxes and levies

There are more than 41 taxes and levies affecting the tea industry in Kenya.

Intervention for the Multiplicity of taxes and levies

1. Use of a Single Industry Licensing Regulation for a Single Tax Regime per Base for the Tea Industry :

It is recommended that the Tea industry should consider adopting the use of smart regulation which entails the use of one tax regime per base and simple tax administration. A single tax base regime is applicable when all other levies other than income tax are lumped together and charged as one. Under such a regime, levies like

National social security, NHIF, NEMA, KEBs, fuel levy, land rents and rates, and training and business permits fees are lumped together and charged as one levy.

2. Review the KEPHIS charges in Legal Notice No 48 of 3rd April 2009:

KEPHIS gazetted new charges of tea grading and inspection under Legal Notice No 48 of 3rd April 2009 that increased levies by up to 500%). The new charges took effect from 1st June 2010 and industry stakeholders were not adequately consulted before their gazettment. Upon industry consultation with the management team at KEPHIS on 28/05/2010, it was resolved that the charges for multiple custom entries be reduced to Kshs 10,000 from Kshs 20,000. This agreement has however not been formalized legally to date.

3. Policy Framework for an Incentive Scheme for the Tea Industry.

The industry recommends an incentive scheme that is favourable and grants the industry special fiscal tax and concessionary financing incentives.

2.8 SUBMISSIONS BY THE TEA DIRECTORATE IN AFFA

On 19th February 2015, the representatives from the Tea Directorate headed by the interim Director General of AFFA appeared before the Committee to respond to matters raised in the petition. The Directorate informed the Committee that decline of Tea prices is attributable to;

- I. Tea production increased by 15% in the year 2013 resulting a yield of 432 million kilos of made tea.
- II. Overproduction resulted in decline of tea prices which was felt from May 2013.
- III. In 2014, increase in production to the tune of 445 million kilos was also noted.
- IV. Production of black Cut, Tear and Curl (CTC) as the only type and lack of diversification also resulted in decline of tea prices.

Government Interventions

The Government is addressing the problem of decline of Tea prices through diversification of tea products by ensuring that;

- I. Any request for tea manufacture license is issued on condition that at least one line will be a dedicate production line for specialty tea.
- II. Common user facility (CUF) modelled along the Dubai Tea Trade Centre Facility is constructed through a Public Private Partnership (PPP) arrangement to address value addition gap.
- III. AFFA has commissioned a study to look into ways and means of establishing a Stabilization fund and minimum price setting mechanism for tea including other commodities.

- IV. Adequate internal controls, checks and balances are in place to ensure oversight of the levy funds as the Government is in the process of constituting an AFFA board following the repealing of the former boards.
- V. Following several consultative meetings, the National Treasury asked the Ministry to submit the request for the waiver to be considered during the 2015/16 budget cycle. The Ministry is following up on this matter.

Impact of *Ad Valorem* levy on Tea Industry

- I. *Ad Valorem* levy is payable at the rate of 1% of the customs value for made tea exports or imports.
- II. The burden of financing TBK and TRFK was shifted from the tea growers to the tea exporter.
- III. 50% of the levy is used to fund tea promotion and regulatory services through tea directorate under AFFA, while 40% is allocated to tea research institute under KALRO and 10% is apportioned to industry infrastructure development.
- IV. The amount allocated to TBK is used in Trade and Promotion; Administrative Services; Regulation, Trade Compliance and Technical Services; Industrial Development and Value Addition;
- V. The amount allocated to Tea Research Foundation (TRFK) is used in Capacity Building and Advisory Services; Production and Post- Production Research; Administrative Services; and Capital Investment.
- VI. The amount allocated for infrastructure will be utilized in construction of minor roads; culverts and bridges in the tea growing regions.
- VII. Assuming that the levy is scrapped, and the Government was to fund promotion, research and infrastructure, farmers stand only to gain Ksh. 0.45 per kg of green leaf while the Government may not ensure sustainability and development of the industry due to competing needs.
- VIII. There is no direct relationship between the levy and price decline as there may be other factors that could have contributed to decline in tea prices that have been witnessed in the last couple of years.

Proposal on reducing/ reviewing the Taxes, fees and levies applied to the Tea Industry in Kenya;

A review of the various taxes and other charges reveals that the Tea Industry pays a host of taxes and other charges that is categorized as National and institutional. The first eight (8) taxes are National in nature and applied to all tax payers. These include Corporate Tax at 30%; Value Added Tax at 16%; Excise duty 25% among others.

Interventions by AFFA

- I. AFFA has engaged the Government on the possibility of reducing these taxes but we are aware that a waiver of the taxes may bring a spiral effect on other crops. This may not be practical as it would reduce government revenue hence

affecting implementation of critical services in the security, energy, food security and infrastructure sectors.

- II. On advice by the National Treasury (NT) for waiver, Tea Directorate through the Ministry of Agriculture Livestock & Fisheries has forwarded a request for consideration by the National Treasury NT regarding a waiver on Value added Tax on locally sold tea for inclusion in the 2015/16 budget. If achieved, the waiver will spur local tea sales hence increase local consumption and earnings. The other fees and levies are institutional.
- III. The AFFA - Tea Directorate charges a Tea Ad Valorem Levy at 1% of customs value on all imports and exports. The levy was introduced in January 2012 and collected from March 2012 from buyers and importers. The purpose of the Levy is to fund Tea Promotion, Research, Technical services, Compliance surveillance audits, industry development and operations. In order to sustain a vibrant Tea Industry, all the above services are vital.
- IV. The shift of the point of charge from Manufacturing Cess which was being levied at a rate of 46 Kenya Cents per Kilogramme of manufactured tea was to relieve the grower the burden of financing the two institutions. In this regard, the burden of financing TBK and TRFK was shifted from the tea grower to the tea exporter.
- V. Following complaints by the stakeholders, the Ministry of Agriculture, Livestock and Fisheries and AFFA-Tea Directorate carried out consultations with the Stakeholders, during a Task Force exercise in 2014. It was agreed that the rate of the Levy be reduced from 1% to 0.75%. The proposals have been included in the Tea Regulations 2014 which were submitted to the office of the Attorney General for review.
- VI. AFFA- Tea directorate is also reviewing charges related to licensing of Tea Dealers with a view to removing it to ease doing business in tea.
- VII. The Agricultural Produce Cess was repealed by the Agriculture Fisheries and Food Authority Act, 2013 since the function of road infrastructure has been devolved to County governments.
- VIII. The other charges are imposed by the various oversight bodies such as NEMA, KEPHIS, KEBS, KPA and County Governments among others. Further, the Industry players also charge service fees at various levels including Management fees by KTDA Ltd (2.5% of net proceeds), EATTA and KTGA member subscription fees and Brokerage fees (0.75% from the producer and 0.5% from the buyer). The other taxes are imposed by some countries who import Kenya tea including Pakistan.

CHAPTER 3

COMMITTEE FINDINGS AND OBSERVATIONS

The Committee made the following observations and findings:-

- 1) On Tea pricing, the final prices for tea are determined by supply and demand forces in the market. The Ministry through the KTDA and Tea Research Institute was in the process of determining the current tea cost production in order to recommend a sustainable green leaf payment price
- 2) A review of the various taxes and other charges reveals that the Tea Industry pays a host of taxes and other charges which may be categorized as National and Institutional. The first 8 taxes are national in nature and applied to all tax payers. These include Corporate Tax at 30%; Value Added Tax at 16%; Excise duty 25% among others.
- 3) Over the years small holder growers have earned between 65% and 85% of the auction price. However the initial monthly payment is calculated based on the Cost of Production (COP) with a margin for domestic expenses and is reviewed and adjusted regularly by tea factory companies with advice by KTDA.
- 4) There is lack of proper marketing as the Directorate still majorly relies on traditional markets rather than exploring new markets for the product. However the Ministry is at present venturing into new markets such as U.A.E where they are marketing not only bulk tea but also value added tea.
- 5) That, 10% infrastructure development in the Tea growing areas can be taken up by respective County Governments hence this may act as reprieve to the farmers.
- 6) Stakeholders are not represented in the AFFA Board.
- 7) The charging of a levy at the Tea Export level may scare away potential buyers and make Kenyan Tea uncompetitive globally hence the Board was asked to come with proposals that strike a balance and would be favourable to all parties involved.
- 8) The Agricultural Produce Cess was repealed by the Agriculture Fisheries and Food Authority Act, 2013 since the function of road infrastructure has been devolved to County governments.
- 9) There are other charges imposed by the various oversight bodies such as NEMA, KEPHIS, KEBS, KPA, KTDA, EATTA, KTGA and County Governments among others. Further, there are other taxes which are imposed by some countries who import Kenya tea including Pakistan.

RECOMMENDATIONS

The Committee made the following recommendations:-

- 1) **THAT**, the Government should reduce the Ad-Valorem levy rate charged on Kenya Tea product from 1% to 0.75%. This reduction should be included in the Tea Regulations 2014.
- 2) **THAT**, the Government through the AFFA should review the charges related to licensing of tea brokers with a view to removing it to ease doing business in tea.
- 3) **THAT**, the Government should review other charges imposed by the various oversight bodies such as NEMA, KEPHIS, KEBS, KPA and County Governments among others with a view of harmonizing and consolidating them. Further, services fees charged which include Management fees by KTDA Ltd (2.25% of net proceeds), EATTA and KTGA member subscription fees and Brokerage fees (0.50% from the producer and 0.25% from the buyer) be reviewed.
- 4) **THAT**, the Government of Kenya should move with speed to lobby with countries such as Pakistan who import Kenya tea to consider easing the taxes imposed on the Kenya Tea exports.
- 5) **THAT**, the Government through the AFFA should intensify the marketing of Kenya tea in the new emerging markets such UAE and China.
- 6) **THAT**, 10% infrastructure development in the tea growing areas should be taken up by respective County Governments.

PUBLIC PETITION

BY THE RESIDENTS OF SOUTH IMENTI CONSTITUENCY AND TEA
FARMERS
ON DECLINE IN TEA PRICES AND EFFECTS OF THE AD VALOREM LEVY

*Petition
presented by
Hon. Kithure
Murungi
on 25/2/2014
JL
25/2/2014*

We, the undersigned residents of South Imenti and Tea Farmers

DRAW the attention of the House to the following:

THAT, the performance of the tea industry is vital to the Kenyan economy, noting that tea is the largest foreign exchange earner in Kenya contributing over Kshs 116 billion in 2012 and the tea industry consistently contributes 4% of GDP. More than 650,000 Kenyans directly earn an income from tea;

THAT, tea accounts for approximately 26% of Kenya's export earnings and is the leading foreign exchange earner;

THAT, tea cess supports and funds maintenance of rural roads, health and education facilities in the tea growing areas;

THAT, whenever there is an unprecedented increase in tea production in Kenya, auction prices usually experience a big slump as recorded in the year 1995, 1999, 2001, 2007, and 2013. The upward and downward trends in tea prices are cyclical and dependent on supply and demand situations;

THAT, the Ad Valorem levy continues to hurt the Tea industry as it is a regressive tax which penalises the higher priced finely picked quality tea produced by the small scale farmer. Further, the tea industry is grappling with increased costs of farm inputs;

THAT, the Government has failed to create an enabling environment by eliminating the bottlenecks that the tea industry is exposed to, for example, the Tea Board of Kenya should harmonise the payments made by the tea industry to various bodies and create a single window payment system.



PUBLIC PETITION

BY THE RESIDENTS OF SOUTH IMENTI CONSTITUENCY AND TEA FARMERS
ON DECLINE IN TEA PRICES AND EFFECTS OF THE AD VALOREM LEVY

THEREFORE, your humble petitioner (s) prays that Parliament through:-

The Departmental Committees on Agriculture, Livestock and Cooperative obtain without delay, undertaking from Cabinet Secretary in charge of the Agriculture, Livestock and Cooperatives that:

- i) The Government will review the Ad Valorem levy downwards, not on percentage of the value of tea but a fixed amount per kilogram of tea as proposed in the 2006 Tea Taskforce Report;
- ii) The Government immediately reconstitute the Board of the Tea Board of Kenya in order to ensure oversight on the levy;
- iii) The Government introduces a Buffer fund to cushion farmers on price when the prices of tea are below the cost of production; and
- iv) The Government waive the Value Added Tax levied on locally produced tea to enhance higher local consumption.

And your PETITIONERS will ever pray

Presented By



HON. KATHURI MURUNGI, MP
MEMBER OF PARLIAMENT FOR SOUTH IMENTI

SOUTH IMENTI CONSTITUENCY-TEA FARMERS PETITION LIST

NO.	NAME	TEA BUYING CENTRE	FACILITY	ID NO.	CONTACT	SIGN.
1	Alex. M. GATIBU	KIEGENE	KIONYO	820578	0722662164	Handwritten signature
2	DR LEONARD M. ARITHI	KIRAKA	KIONYO	1421057	0722742225	Handwritten signature
3	PETER MITWIRI SIMON	KERUMANTHI	IMENTI	3121273	0721924994	Handwritten signature
4	Wesley Gitabu	MUQUVATVE	KIONYO	6253281	0740766109	Handwritten signature
5	James Kimani	CAMPITE	KIONYO	1054721	0710458966	Handwritten signature
6	JACKIM MURIGI M.	MURUNGURUNE	KIONYO	9295563	0710638636	Handwritten signature
7	FRANCIS GIKUNDA	NKABONE	KIONYO	2523050	0721946182	Handwritten signature
8	JOHNSON GIDOVNKATAIA	KARIBNE	KIONYO	10971300	0724657744	Handwritten signature
9	JACKIM GITONGA M.	KIRAKA	KIONYO	9215936	0722250857	Handwritten signature
10	Brother Kimani	KARIBNE	KIONYO	17890462	0716659138	Handwritten signature
11	DATACUS MBARE	GATURUNE	KIONYO	2529821	0725749151	Handwritten signature
12	LIVUS MURUNGI	MURUNGURUNE	KIONYO	7714270	0710997409	Handwritten signature
13	FRANKLIN KIMATHI	MURUNGURUNE	KIONYO	2523879	0726439378	Handwritten signature
14	JOHN R. KIRIMA	CHUGU	KIONYO	237490	0728889844	Handwritten signature
15	SAMVARIAN GICHURU	KIAMWERI	KINDRO	6757305	0724721287	Handwritten signature
16	EDWARD K. KIRIRI	KIAMWERI	KINDRO	13177481	0723013861	Handwritten signature
17	ELICITY MAKUON	KIAMWERI	KINDRO	11401958	0720249761	Handwritten signature
18	PAUL KIMATHI	KIAMWERI	KINDRO	2258251	0725847203	Handwritten signature
19	John Saw Gachuri	MURUNGURUNE	KINDRO	21495757	072265753	Handwritten signature
20	HOSEA N. KATHURI	MURUNGURUNE	KINDRO	22622134	0704646548	Handwritten signature
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MINUTES OF THE 9TH SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES (MEETING WITH TEA DIRECTORATE OVER TEA PETITION) HELD ON THURSDAY 19TH FEBRUARY, 2015 AT MEDIA CENTRE, PARLIAMENT BUILDINGS AT 10.00 A.M.

Present

1. Hon. Adan M. Nooru, MBS, M.P - Chairman
2. Hon. Kareke Mbiuki, M.P
3. Hon. Mary Wambui, M.P
4. Hon. Phillip Rotino, M.P.
5. Hon. Daniel Maanzo, M.P
6. Hon. Kabando Wa Kabando, M.P.
7. Hon. (Dr.) Victor Munyaka, M.P
8. Hon. Alfred K. Keter, M.P
9. Hon. Kimani Ichung'wah, M.P
10. Hon. Maison Leshoomo, M.P
11. Hon. Florence Mutua, M.P
12. Hon. Patrick Wangamati, M.P
13. Hon. Benjamin Washiali, M.P
14. Hon. Paul Simba Arati, M.P
15. Hon. Fredrick Outa, M.P
16. Hon. Peter N. Gitau, M.P
17. Hon. Ayub Savula Angatia, M.P.
18. Hon. John Kobado, M.P
19. Hon. John B. Serut, M.P
20. Hon. Waititu Munyua, M.P
21. Hon. James Opiyo Wandayi, M.P
22. Hon. Raphael Letimalo, M.P
23. Hon. Justice Kemei, M.P
24. Hon. Korei Ole Lemein, M.P
25. Hon. Ferdinand Wanyonyi, M.P

Apologies

1. Hon. Millie Odhiambo - Mabona, M.P
2. Hon. Zuleikha Hassan Juma, M.P

Absent

1. Hon. Silas Tiren, M.P
2. Hon. Hezron Awiti Bollo, M.P

In Attendance: Member of Parliament

1. Hon. Kathuri Murungi, M.P – Petitioner and Friend of the Committee.

In Attendance: AFFA

1. Mr. Alfred Busolo, - Interim Director General, Agriculture, Fisheries and Food Authority, (AFFA)
2. Mrs. Elizabeth Kimenyi, - Interim Head, Tea Directorate.
3. Ms. Rosemary Owino - Tea Directorate
4. Ms. Christine Chesaro - Tea Directorate
5. Ms. Phrasiah Mwangi - Tea Directorate

In Attendance : National Assembly Secretariat

1. Mr. Ahmad Adan Guliye - Third Clerk Assistant
2. Ms. Angeline Naserian - Third Clerk Assistant
3. Mr. David Ngeno - Research Officer
4. Ms. Mercy Wanyonyi - Legal Counsel
5. Mr. John Nganga - Audio Officer
6. Mr. Onesmus Kiragu - Sergeant at Arms

Min. 35/2015: Preliminaries

- I. The meeting was called to order at 10.30 hours and prayer was said by Hon. Kareke Mbiuki, M.P
- II. The Chairman welcomed members and the witnesses to the meetings and requested them to introduce themselves.
- III. The Chairman informed the members of the day's agenda, and requested them to adopt it as stipulated in the notice of meeting.

Min. 36/2015: Adoption of Agenda

The Committee adopted the day's agenda as follows:

- I. Adoption of Report on Supplementary Estimates for Year 2014/2015
- II. Meeting with the Tea Directorate on a Petition of Decline in Tea Prices and effects of the *Ad Valorem* levy in the Tea Industry.

Min.37 /2015: Adoption of Report on Supplementary Estimates for 2014/2015

The Committee adopted the report on the supplementary estimates for the year 2014/2015.

Min. 38/2015: Presentation by the Interim Director General – AFFA

The Interim Director General informed the Committee of the following;

Decline of Tea Prices

- (a) Tea production increased by 15% in the year 2013 resulting a yield of 432 million kilos of made tea.
- (b) Overproduction resulted in decline of tea prices which was felt from May 2013.
- (c) In 2014, increase in production to the tune of 445 million kilos was also noted.
- (d) Production of black Cut, Tear and Curl (CTC) as the only type and lack of diversification also resulted in decline of tea prices.

Regulatory Matters & Interventions

- (a) Any request for tea manufacture license is issued on condition that at least one line will be a dedicate production line for specialty tea.
- (b) Common user facility (CUF) modeled along the Dubai Tea Trade Centre Facility is constructed through a Public Private Partnership (PPP) arrangement to address value addition gap.
- (c) AFFA has commissioned a study to look into ways and means of establishing a Stabilization fund and minimum price setting mechanism for tea including other commodities.

Impact of *Ad Valorem* levy on Tea Industry

- (a) *Ad Valorem* levy is payable at the rate of 1% of the customs value for made tea exports or imports.
- (b) The burden of financing TBK and TRFK was shifted from the tea growers to the tea exporter.
- (c) 50% of the levy is used to fund tea promotion and regulatory services through tea directorate under AFFA, while 40% is allocated to tea research institute under KALRO and 10% is apportioned to industry infrastructure development.
- (d) The amount allocated to TBK is used in Trade and Promotion; Administrative Services; Regulation, Trade Compliance and Technical Services; Industrial Development and Value Addition;
- (e) The amount allocated to Tea Research Foundation (TRFK) is used in Capacity Building and Advisory Services; Production and Post- Production Research; Administrative Services; and Capital Investment.
- (f) The amount allocated for infrastructure will be utilized in construction of minor roads; culverts and bridges in the tea growing regions.
- (g) Assuming that the levy is scrapped, and the Government was to fund promotion, research and infrastructure, famers stand only to gain Ksh. 0.45

per kg of green leaf while the Government may not ensure sustainability and development of the industry due to competing needs.

- (h) There is no direct relationship between the levy and price decline as there may be other factors that could have contributed to decline in tea prices that have been witnessed in the last couple of years.
- (i) Adequate internal controls, checks and balances are in place to ensure oversight of the levy funds as the Government is in the process of constituting an AFFA board following the repealing of the former boards.
- (j) AFFA has commissioned a study to look into ways and means of establishing a Stabilization fund and minimum price setting mechanism for tea including other commodities.
- (k) Following several consultative meetings, the National Treasury asked the Ministry to submit the request for the waiver to be considered during the 2015/16 budget cycle. The Ministry is following up on this matter.

Committee Observation

The Committee observed the following;

- (a) Proper marketing is not done as the Directorate still majorly relying on traditional markets rather than exploring new markets for the product.
- (b) That, 10% infrastructure can be taken up by respective County Governments hence this may act as reprieve to the farmers.
- (c) The Committee observed that stakeholders are not represented in the AFFA Board and recommend that representatives of stakeholders be part of the Board.
- (d) The Committee also observed that charging the levy at export level may scare away potential buyers and make Kenyan Tea uncompetitive globally hence the Board was asked to come with proposals that strike a balance and would be favorable to all parties involved.

Min. 39/2015: Adjournment

There being no other business to discuss, the meeting was adjourned at 12.10 hours.

Signature

HON ADAN MOHAMEDNOORU, MBS, M.P.

(Chairman)

Date.....

MINUTES OF THE 108th SITTING OF THE DEPARTMENTAL COMMITTEE ON
AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD AT THE MAIN PARLIAMENT
BUILDINGS IN COUNTY HALL MAIN CHAMBERS ON TUESDAY 23rd SEPTEMBER 2014
AT 10.30 AM

PRESENT:

1. Hon. Kareke Mbiuki, M.P – Vice Chair person
2. Hon. Fred Outa, M.P
3. Hon. Kabando wa Kabando, M.P
4. Hon. Alfred Keter, M.P
5. Hon. Ayub Savula, M.P
6. Hon. Dr. Victor Munyaka, M.P
7. Hon. James Opiyo Wandayi, M.P
8. Hon. Mary Wambui, M.P
9. Hon. Philip Rotino, M.P
10. Hon. Kimani Ichung'wah, M.P
11. Hon. Simba Arati, M.P
12. Hon. Justice Kemei, M.P
13. Hon. John Serut, M.P

APOLOGIES

1. Hon. Adan Mohamed Nooru, M.P – Chairperson
2. Hon. Raphael Letimalo, M.P
3. Hon. Hon. Benjamin Washiali, M.P
4. Hon. Millie Odhiambo, M.P
5. Hon. Korei Ole Lemein, M.P
6. Hon. Silas Tiren, M.P
7. Hon. Daniel Maanzo, M.P
8. Hon. Florence Mutua, M.P
9. Hon. Peter Gitau, M.P
10. Hon. Zuleikha Juma, M.P

ABSENT

1. Hon. Maison Leshoomo, M.P
2. Hon. Patrick Wangamati, M.P
3. Hon. Francis Waititu, M.P
4. Hon. Ferdinand Wanyonyi, M.P

5. Hon. John K'Obado, M.P
6. Hon. Hezron Awiti Bollo, M.P

IN ATTENDANCE

Hon. Kathuri Murungi, M.P – Friend of the Committee

KTDA

1. Mr. Peter T. Kanyago- Chairman, KTDA Board of Directors
2. Mr. Philip Ng'etich – Vice-Chairman,
3. Mr. Benson Matonda – Director
4. Eng. Joseph Wakimani – Director
5. Mr. Chege Kirundi – Director
6. Mr. Lerionka S. Tiampati- Managing Director
7. Mr. Benson Ngari- Finance &Strategy Director
8. Mr. Ken Omanga-Company Secretary
9. Mr. Albert Otochi-Head of Marketing

National Assembly

1. Mr. Oscar Namulanda –Senior Clerk Assistant
2. Ms. Tracy Chebet Koskei- Clerk Assistant II
3. Mr. Ahmad and Guliye-Clerk Assistant III
4. Mr. David Ngeno-Research Assistant
5. Mr. Elijah Ichwarah-Hansard Editor

MIN. NO. 236 /2014 - PRELIMINARIES

The vice Chair called the meeting to order at 10.50 am after which he prayed. The chairman welcomed the members of the Committee and the witnesses to the meeting and informed them that the purpose of the meeting was to get clarification from KTDA on the tea crisis and issues raised during a field visit undertaken by the Committee to tea growing areas in the Western and Eastern Region.

MIN. NO. 237/2014 - ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as follows:

1. Preliminaries
2. Confirmation of previous minutes
3. Matters arising
4. Meeting with KTDA Management over various issues in the Tea Sector
5. Any Other Business
6. Adjournment

MIN. NO. 238 /2014 - SUBMISSION BY KTDA

KTDA made the following submissions:

- i) The issues of price decline was occasioned by the Tea glut in the market
- ii) The Ad valorem levy had made Kenyan tea less competitive since the levy was directed at the buyer, hence buyers preferred to buy other teas by the fall of the hammer.
- iii) Part of the levy was given to the tea directorate and was meant for infrastructure but none of the factories managed by KTDA had received any of these funds.
- iv) The company owns seven (7) subsidiaries that are in line with the value chain. All the assets of the subsidiaries are owned by tea farmers.
- v) The profits are given to farmers through the bonus and KTDA charged 2.5 percent as management fee.
- vi) On the issue of election, voting was done on the basis on the no. of shares one had, the company having done away with the 'one man one vote' system.

- vii) The difference in tea prices between the Eastern and Western Region was due to buyer preference, the buyers preferred tea from the Eastern region hence the higher prices.
- viii) Testing of tea was done organoliptically and there was no automated mechanized system to carry out tea testing.
- ix) There ten (10) brokers appointed by the factories to sell tea and KTDA had no control over the brokers.
- x) Tea research is funded from the money collected from the Ad Valorem Levy, KTDA requested that the government comes on board to support research because it is a very expensive venture.

MIN. NO. 239/2014 - COMMITTEE RECOMMENDATIONS

The Committee made the following recommendations:

- i) KTDA needs to aggressively look for other markets besides the traditional markets to increase its revenue.
- ii) There was need for value addition so as to increase the product offering other than the Black CTC Tea, other products such as white tea, green tea and purple tea would widen the market scope.
- iii) KTDA needs to create awareness among the farmers on its operations and to ensure proper information trickles down to the farmer.
- iv) KTDA to provide more information on the following:
 - a. The composition of management and the directors, and how long they have held the positions
 - b. Provide a written brief on the strategies to transform the tea industry
 - c. Provide the loan status of all factories
 - d. Provide the cost of construction of a KTDA factory Vis a Vis a the cost of construction by a private factory
 - e. The list of the brokers selling tea on behalf of KTDA and the factories they covered
- v) The Committee to invite the Tea Directorate to also shed light on the various issues raised during the meeting.

MIN. NO. 240 /2014 - ANY OTHER BUSINESS

The Vice Chairman informed the members of Correspondence from the Ministry of Agriculture inviting two members of the Committee to accompany the Cabinet Secretary for Agriculture, to the Polagra International Trade Fair for Food in Poland.

The following members were nominated for the trip:

1. Hon. Simba Arati, M.P
2. Hon. Justice Kemei, M.P

MIN. NO. 241/2014 - ADJOURNMENT

There being no other business to discuss the meeting was adjourned at Forty-Five Minutes past Three O'clock. The next meeting will be on notice.

Signature

HON ADAN MOHAMED NOORU, MBS, M.P.

(Chairman)

Date..... 17. 12. 2014

MINUTES OF THE 103rd SITTING OF THE DEPARTMENTAL COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES (with Cabinet Secretary National Treasury over VAT on Tea) HELD ON MONDAY 25TH AUGUST, 2014 AT THE CONTINENTAL HOUSE 5TH FLOOR, PARLIAMENT BUILDINGS AT 3.30 P.M.

PRESENT

- | | | |
|---------------------------------------|---|----------|
| 1. Hon. Adan M. Nooru, MBS, M.P | - | Chairman |
| 2. Hon. Maanzo Daniel Kitonga, M.P | | |
| 3. Hon. Phillip Rotino, M.P. | | |
| 4. Hon. John B. Serut, M.P | | |
| 5. Hon. Peter N. Gitau, M.P | | |
| 6. Hon. Paul Simba Arati, M.P. | | |
| 7. Hon. James Opiyo Wandayi, M.P | | |
| 8. Hon. Zuleikha Hassan, M.P | | |
| 9. Hon. Millie Odhiambo - Mabona, M.P | | |
| 10. Hon. (Dr.) Victor Munyaka, M.P | | |
| 11. Hon. Ferdinand Wanyonyi, M.P | | |

ABSENT WITH APOLOGIES

- | | | |
|----------------------------------|---|---------------|
| 1. Hon. Kareke Mbiuki, M.P | - | Vice Chairman |
| 2. Hon. Kabando Wa Kabando, M.P. | | |
| 3. Hon. Florence Mutua, M.P | | |
| 4. Hon. Fredrick Outa, M.P | | |
| 5. Hon. Kimani Inchung'wah, M.P | | |
| 6. Hon. Silas Tiren, M.P | | |
| 7. Hon. Raphael Letimalo, M.P | | |
| 8. Hon. Hezron Awiti Bollo, M.P | | |
| 9. Hon. Korei Ole Lemein, M.P | | |

ABSENT

1. Hon. Justice Kemei, M.P
2. Hon. Ayub Savula Angatia, M.P.
3. Hon. Mary Wambui, M.P
4. Hon. Patrick Wangamati, M.P
5. Hon. John Kobado, M.P

6. Hon. Maison Leshoomo, M.P
7. Hon. Alfred K. Keter, M.P.
8. Hon. Benjamin Washiali, M.P
9. Hon. Waititu Munyua, M.P

IN ATTENDANCE

The National Treasury

- | | |
|------------------------|---------------------------------------|
| 1. Mr. Henry K. Rotich | - Cabinet Secretary; |
| 2. Martin S. O. Gumo | - Deputy Director - Economic Affairs; |
| 3. Joseph Ngugi | - Principal Economics. |

Kenya National Assembly

- | | |
|----------------------------------|------------------------|
| 1. Ms. Tracy Chebet Emily Koskei | - Clerk Assistant II |
| 2. Mr. Ahmad Adan Guliye | - Clerk Assistant III |
| 3. Ms. Mercy Wanyonyi | - Legal Counsel II |
| 4. Mr. David Ngeno | - Research Officer III |

MIN. NO. 215/2014:

PRELIMINARIES:

1. The meeting was called to order at Thirty minutes past four O'clock with a word of prayer from Hon. Opiyo Wandayi M.P.
2. The chairman informed the members that the meeting started late because the Cabinet Secretary was also attending another committee meeting. He further apologised to the Cabinet Secretary for inviting him to two committees at the same time and acknowledged that it was an oversight from the clerk's office.

MIN. NO. 216/2014:

SUBMISSIONS BY THE CABINET SECRETARY

a. Tea Issues

The cabinet secretary informed the committee that;

- I. Imported tea attracts a 25% income duty while tea imported for blending with Kenyan tea is duty free.
- II. Processed tea attracts 16% VAT while unprocessed green tea is tax exempt just like all other unprocessed goods.
- III. Exported tea is zero rated.
- IV. Imposing levies on products such as tea is important because they help run the institutions that manage and run the produce.

- V. Tea prices are determined by market factors such as demand and supply and it's also affected by the dynamics in the traditional export markets.

b. On Sugar

The cabinet secretary informed the committee that;

- I. No sugar was imported by Mumias Sugar Company between the years of 2006 to 2012.
- II. There were no exports levy imposed on sugar.
- III. There are challenges being faced due to dumping of excess sugar from Uganda.
- IV. VAT has no impact on the consumption of tea in the country as alleged by the petitioners unless it's backed up by facts and figures which are not available at the moment.
- V. Uganda insists on exporting sugar while it does not have the capacity to do so but the head of States of the region are in process of dealing with the issue administratively.
- VI. A common tax entry point has helped to reduce the issue of sugar dumping and tax evasion.
- VII. Boarder control is being enhanced to curb illegal smuggling of goods and budget will allocated for the purchase of modern scanners to facilitate 100% goods verification.
- VIII. All agencies are working together to introduce one point boarder control.

MIN NO. 217/2014:

COMMITTEE OBSERVATION

The committee observed that the Cabinet Secretary didn't provide the specific information requested of him by the committee and resolved him to appear before the committee on Friday 29th August 2014 with the following information;

- a. Imports of sugar in 2013 which was purported to be imported by Mumias Sugar Company but given to a third party.
- b. Verify whether the permit to import the sugar may have been used more than once.
- c. Verify whether sugar has indeed being exported between the years 2006 and 2013.
- d. Give a brief on privatization of the Sugar Industry.

MIN. NO. 218/2014:

ANY OTHER BUSINESS

a. Invitation to Sugar Caucus Meeting

- I. The members were not happy with the manner in which a member who is not a Committee member organised for a workshop in the conjunction with the Ministry of Agriculture without the knowledge of the Committee members and cancels the meeting without a prior notice.
- II. The members resolved to write to the speaker to seek clarification on the matter and demand an apology from the organisers.

b. Frequent foreign trips of the Lead Clerk

- I. The members aired their dissatisfaction with the chronic absenteeism of the lead Clerk due to his frequent foreign travels.
- II. The Chairman informed the members that the matter is with the Liaison Committee and is being deliberated upon.

MIN NO.219/2014:

ADJOURNMENT

Since no other matter to discuss, the meeting was adjourned at twenty minutes past seven O'clock.

Signature

HON ADAN MOHAMEDNOORU, MBS, M.P.

(Chairman)

Date.....

14th Oct. 2014

MINUTES OF THE NIGHTY FOURTH SITTING OF THE DEPARTMENTAL COMMITTEE
ON AGRICULTURE, LIVESTOCK AND COOPERATIVES HELD ON WEDNESDAY 16TH
JULY, 2014 IN COMMITTEE ROOM 2ND FLOOR, CONTINENTAL HOUSE,
PARLIAMENT BUILDINGS AT 3.30 PM.

PRESENT

- | | | |
|--|---|---------------|
| 1. Hon. Adan M. Nooru, MBS, M.P | - | Chairman |
| 2. Hon. Kareke Mbiuki, M.P | - | Vice Chairman |
| 3. Hon. Maanzo Daniel Kitonga, M.P | | |
| 4. Hon. Fredrick Outa, M.P | | |
| 5. Hon. Mary Wambui, M.P - PNP | | |
| 6. Hon. Silas Tiren, M.P | | |
| 7. Hon. Justice Kemei, M.P | | |
| 8. Hon. Raphael Letimalo, M.P | | |
| 9. Hon. Kabando Wa Kabando, M.P. | | |
| 10. Hon. Phillip Rotino, M.P. - SEC, | | |
| 11. Hon. James Opiyo Wandayi, M.P. | | |
| 12. Hon. Maison Leshoomo, M.P | | |
| 13. Hon. John B. Serut, M.P | | |
| 14. Hon. Patrick Wangamati, M.P | | |
| 15. Hon. Benjamin Washiali, M.P | | |
| 16. Hon. Alfred K. Keter, M.P. | | |
| 17. Hon. Paul Simba Arati, M.P. | | |
| 18. Hon. John Kobado, M.P | | |
| 19. Hon. Kimani Inchung'wah, M.P | | |
| 20. Hon. Ferdinand Wanyonyi, M.P | | |
| 21. Hon. Korei Ole Lemein, M.P | | |
| 22. Hon. Peter N. Gitau, M.P | | |
| 23. Hon. Millie Odhiambo - Mabona, M.P | | |
| 24. Hon. Ayub Savula Angatia, M.P. | | |
| 25. Hon. Hezron Awiti Bollo, M.P | | |

ABSENT WITH APOLOGIES:

1. Hon. Zuleikha Hassan, M.P.

ABSENT

1. Hon. (Dr.) Victor Munyaka, M. P.
2. Hon. Waititu Munyua, M.P
3. Hon. Florence Mutua, M.P

In attendance:

The National Treasury and Tea Board of Kenya

- | | |
|--------------------------|---------------------------------|
| 1. Dr. Kariuki Thugge | - PS, National Treasury |
| 2. Mr. Justus Nyamunga | - National Treasury |
| 3. Mr. Apollo N. Kiarri | - Kenya Tea Growers Association |
| 4. Mr. Benson Ngari | - Finance Director, KTDA |
| 5. Ms. Phrasia W. Mwangi | - Tea Board of Kenya |

Kenya National Assembly

- | | |
|----------------------------------|--------------------------|
| 1. Mr. Oscar Namulanda | - Senior Clerk Assistant |
| 2. Ms. Tracy Chebet Emily Koskei | - Clerk Assistant II |
| 3. Mr. Rogers Kilungya | - Hansard Reporter |

MIN. NO.165/2014:

PRELIMINARIES

- I. The meeting was called to order at forty minutes past Three O'clock with a word of prayer from the Vice-Chairman.
- II. The members of the Committee introduced themselves followed by Permanent Secretary Treasury, who gave the apologies of the Cabinet Secretary

The members of the Committee expressed disappointment over the failure of key witnesses to honour invites to appear before the Committees. The committee noted that it was becoming the norm for the Cabinet Secretaries to send the Principal Secretaries of their respective Ministries on their behalf. The Committee resolved that should the Submissions by the PS not be satisfactory, they would invite the Cabinet Secretary again.

MIN.NO. 166/2014:

ADOPTION OF THE AGENDA

The Committee adopted the agenda of the meeting as follows:

1. Prayer
2. Meeting with CS Treasury on VAT on locally produced Tea
3. Any other Business

The PS made the following submissions:-

- I. The previous Tea Act of 1961 was very hard to execute and had therefore been streamlined to make it more efficient. The new Act had made it easier for KRA to collect revenue.
- II. The VAT on Tea is used in creating good infrastructure hence reducing cost of production. This would make Tea and other agricultural products more competitive. The VAT is also used to fund research especially on Tea.
- III. Zero-rating rating products does not make prices go down and the Government then loses revenue to address issues tackling the Agricultural sector.
- IV. The PS appreciated that Tea was a key export revenue earner and the Tea farmers needed to be encouraged to plant Tea by reducing the levies they face. He suggested that the Committee, the Ministry of Agriculture and the Treasury have a workshop to discuss key issues facing the Agricultural sector.

The Committee asked the PS to submit a write-up to the Committee by the following week, Tuesday 29th July, 2014.

- I. The Members present expressed disappointment over some members of the committee for digressing to other issues not relevant to the agenda of the day when interrogating witnesses. Hon. Silas Tiren, M.P. also impressed on the members to always respect the ruling of the Chairman.
- II. The committee resolved that there should always be guiding questions when there are witnesses, to ensure the meeting is systematic.
- III. Following the withdrawal of the Petition by Hon. Kathuri Njuki, M.P. on the stalled grain project in Tharaka Nithi Constituency, the Committee resolved that some members of the Committee should visit the site to confirm on the progress of the project on 28th July, 2014. The following members were nominated:

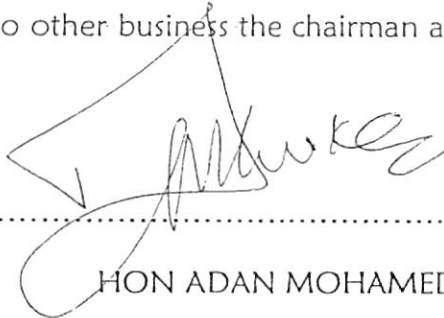
1. Hon. Kareke Mbiuki, M.P - Vice- Chairman
2. Hon. Florence Mutua, M.P
3. Hon. Daniel Maanzo, M.P
4. Hon. Opiyo Wandayi, M.P
5. Hon. Kabando Wa Kabando, M.P
6. Hon. Francis Waititu, M.P

7. Hon. Mary Wambui, M.P
8. Hon. Silas Tiren, M.P
9. Hon. Paul Simba Arati, M.P

MIN. NO.169/2014: ADJOURNMENT

There being no other business the chairman adjourned the meeting at thirty minutes past five O'clock.

Signature



HON ADAN MOHAMEDNOORU, MBS, M.P.

(Chairman)

Date.....

25/9/2014

MINUTES OF THE EIGHTY NINTH SITTING OF THE DEPARTMENTAL -
COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES
(MEETING WITH HON. KATHURI MURUNGI & SOUTH IMENTI TEA FARMERS
ON

(Petition on tea prices and ad valorem tax)) HELD ON WEDNESDAY 9TH
JULY, 2014 IN COMMITTEE ROOM 2ND FLOOR, CONTINENTAL HOUSE,
PARLIAMENT BUILDINGS AT 2.30PM.

PRESENT:

1. Hon. Adan Mohamed Nooru, MBS, M.P
2. Hon. Kareke Mbiuki, M.P
3. Hon. Benjamin Washiali, M.P
4. Hon. Justice kemei, M.P
5. Hon. Francis Waititu, M.P
6. Hon. John B. Serut, M.P
7. Hon. Philip R. Rotino, M.P
8. Hon. Silas Tiren, M.P
9. Hon. Raphael letimalo, M.P
10. Hon. John kobado, M.P
11. Hon. Fred Outa, M.P
12. Hon. Ayub Savula Angatia, M.P
13. Hon. Kbando Wa kabando, M.P
14. Hon. James Opiyo Wandayi, M.P
15. Hon. Millie Odhiambo Mabona, M.P
16. Hon. Wangamati Patrick, M.P
17. Hon. Simba Arati, M.P

ABSENT WITH APOLOGY:

1. Hon. Mary Wambui, M.P
2. Hon. Peter Gitau, M.P
3. Hon. Kimani Ichung'wah, M.P
4. Hon. Korei Ole Lemein, M.P
5. Hon. Victor Munyaka, M.P
6. Hon. Ferdinand Wanyonyi, M.P

ABSENT:

1. Hon. Maanzo Daniel Kitonga, M.P
2. Hon. Maison Leshoomo, M.P
3. Hon. Florence Mutua, M.P
4. Hon. Alfred Keter, M.P
5. Hon. Zuleikha Hassan, M.P

6. Hon. Hezron Awiti Bollo, M.P

Kenya National Assembly Secretariat:

- | | |
|----------------------------------|--------------------------|
| 1. Mr. Oscar Namulanda Wesonga | - Senior Clerk Assistant |
| 2. Ms. Tracy Chebet Emily Koskei | - Clerk Assistant II |
| 3. Mr. Ahmad Adan Guliye | - Clerk Assistant III |
| 4. Ms. Mercy Wanyonyi | - Legal Counsel II |
| 5. Ms. Rehema Koech - | Audio Officer |

Inattendance:

Hon. Kathuri Murungi, M.P – South Imenti Constituency

MIN NO. 138/2014 PRELIMINARIES

1. The meeting was called to order by the chairman at five minutes to three o'clock with a word of prayer by Hon. Kareke Mbiuki, M.P- The Vice Chairman

The chairman welcomed the members and thanked them for turning up for the meeting despite them being on recess.

2. The chairman requested the members to introduce themselves followed by the witness.

MIN NO. 139/2014: ADOPTION OF AGENDA

The members adopted the agenda of the meeting as follows:

- I. Prayer
- II. Confirmation of Previous Minutes
- III. Meeting with Hon. Kathuri Murungi on Petition of tea prices and *Ad Valorem* levy
- IV. Matters Arising
- V. Any Other Business

MIN NO. 140/2014: CONFIRMATION OF PREVIOUS MINUTES

The minutes of the 86th sitting were confirmed as true record of the committee's deliberations after being proposed by Hon. Kareke Mbiuki, M.P and Hon. Francis Waititu, M.P respectively.

MIN NO. 141/2104: MATTERS ARISING

Under Min no. 125/2014

The members noted that minute numbering is still an issue and advised the secretariat to be keen in minute writing.

MIN NO. 142/2014: SUBMISSION BY THE WITNESS

Hon. Kathuri Murungi, M.P for South Imenti and twenty other petitioners presented a petition on decline in tea prices and effects of the *Ad Valorem* levy on the tea industry to Parliament through Departmental Committee on Agriculture Livestock and Co-operatives with the following prayers that:

- I. The government will review the *Ad Valorem* levy downwards, not on percentage of the value of tea but a fixed amount per kilogram of tea as proposed in the 2006 tea taskforce report
- II. The government immediately reconstitute the board of the Tea Board of Kenya in order to ensure oversight of the levy
- III. The government introduces a buffer fund to cushion farmers on price when the prices of tea are below the cost of production; and
- IV. The government waive the Value Added Tax levied on locally produced tea to enhance higher local consumption

MIN NO. 143/2014: COMMITTEE OBSERVATIONS:

- 1) The committee deliberated on the afore-mentioned issue in the above minute and made the following observations and resolved to discuss it with the Cabinet Secretary of Agriculture Livestock and Co-operatives in their subsequent meeting;
 - I. That the *Ad Valorem* levy and the VAT are making the tea product expensive hence disadvantaged compared to other tea from the region.
 - II. The ministry waive the value added tax levied on locally produced tea and review *Ad Valorem* levy downwards to make the prices of tea locally competitive.
- 2) The committee raised their concern that the Cabinet Secretary should consult the committee before undertaking a decision.
- 3) The committee resolved to inquire from the Cabinet Secretary in their meeting with him on July 15th about the following:
 - a) Major programs in this new financial year
 - b) Distribution of fertilizers
 - c) The state of food security in the country
 - d) The crops act(why it has not been operationalized to date)

MIN NO. 144/2014: ANY OTHER BUSINESS

- A. The members nominated the following five members to attend a two day symposium on SACCOS and investment to be held on July 16th -17th at Laico Regency.
1. Hon. Kareke mbiuki, M.P- Vice Chairman
 2. Hon. Daniel K. Maanzo, M.P
 3. Hon. Simba Arati, M.P
 4. Hon. Florence Mutua, M.P
 5. Hon. Kabando Wa Kabando, M.P
- B. The members resolved to meet the Cabinet Secretary for Treasury on Wednesday afternoon 16th July to discuss VAT waiver on tea produced locally.
- C. Hon. John Serut and Hon. Benjamin Washiali thanked the committee members for their solidarity and support they showed during their bereavement.

MIN NO. 145/2014: ADJOURNMENT

There being no other business to discuss, the chairman adjourned the meeting at twenty minutes to five o'clock.

Next meeting will be held on Thursday, 10th July 10.30 am at the same venue.

Signature

HON ADAN MOHAMED NOORU, MBS, M.P.

(Chairman)

Date.....

15th July 2014



AGRICULTURE, FISHERIES AND FOOD AUTHORITY

Tea House | Naivasha Road, Off Ngong Road,
P.O. Box 37962 NAIROBI - 00200.
24th February 2015

REF: AFFA/DG/PB/VOL. I/(6)

① D/Committees

Mr. Justin Bundi, CBS
Clerk of the National Assembly
Kenya National Assembly
P.O. Box 41842-00100
NAIROBI

Dear Mr Bundi,

② MAHUT
Pls deal
FA 25/2

RE: REPORT ON TAXES, FEES AND LEVIES APPLIED TO THE TEA INDUSTRY IN KENYA

I wish to take this opportunity to thank you for giving us an opportunity to appear before the Departmental Committee on Agriculture, Livestock and Co-operatives on 19th February 2015.

As agreed during the meeting, I am forwarding the attached report covering the issues regarding taxes; fees and levies applied to the Tea Industry in Kenya.

I look forward to a further fruitful engagement in the future.

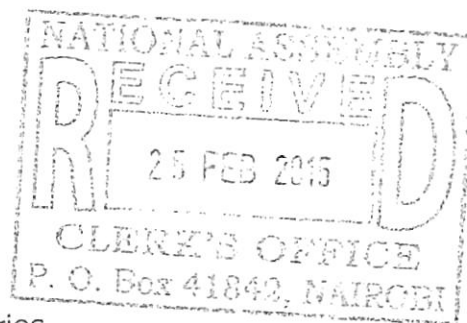
Yours Sincerely

PP *Alfred Busolo Tabu*

Mr. Alfred Busolo Tabu
INTERIM DIRECTOR GENERAL

Encl.

Copy to: **Sicily K. Kariuki (Mrs.) MBS**
Principal Secretary
State Department of Agriculture
Ministry of Agriculture Livestock & Fisheries
P.O. Box 30028-00100
NAIROBI





AGRICULTURE, FISHERIES AND FOOD AUTHORITY

Tea House | Naivasha Road, Off Ngong Road,
P.O. Box 37962 NAIROBI - 00200.
24th February 2015

REF: AFFA/DG/PB/VOL. I/(6)

① D/Committees

Mr. Justin Bundi, CBS

Clerk of the National Assembly
Kenya National Assembly
P.O. Box 41842-00100

NAIROBI

Dear Mr Bundi

② MAF
Pls deal
FA 25/2

RE: REPORT ON TAXES, FEES AND LEVIES APPLIED TO THE TEA INDUSTRY IN KENYA

I wish to take this opportunity to thank you for giving us an opportunity to appear before the Departmental Committee on Agriculture, Livestock and Co-operatives on 19th February 2015.

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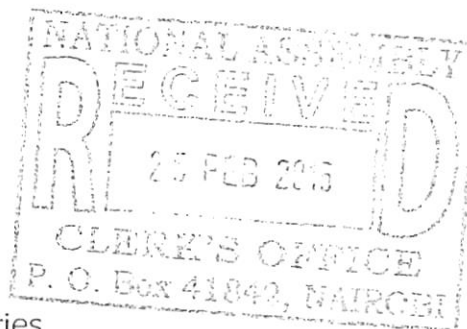
Yours Sincerely

PP *Alfred Busolo Tabu*

Mr. Alfred Busolo Tabu
INTERIM DIRECTOR GENERAL

Encl.

Copy to: **Sicily K. Kariuki (Mrs.) MBS**
Principal Secretary
State Department of Agriculture
Ministry of Agriculture Livestock & Fisheries
P.O. Box 30028-00100
NAIROBI



REPUBLIC OF KENYA



**REPORT ON "TAXES, FEES AND LEVIES APPLIED ON THE TEA INDUSTRY IN
KENYA"**

PRESENTED TO

**THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON AGRICULTURE,
LIVESTOCK AND CO-OPERATIVES**

BY

MR. ALFRED BUSOLO

INTERIM DIRECTOR GENERAL - AFFA

ON TUESDAY, 24TH FEBRUARY 2015

1.0 BACKGROUND

The committee on Agriculture, livestock and cooperatives requested for the following information:

1. *Proposal on reducing/ reviewing the Taxes, fees and levies applied to the Tea Industry in Kenya;*

2.0 RESPONSE

2.1 Taxes, fees ,cess and levies on Tea Industry

- The Tea Industry in Kenya is regulated by Agriculture Fisheries and Food Authority (AFFA) through the Tea Directorate. The Industry has over the last two years faced challenges including declining prices as a result of over production in the world market and over-reliance on black Cut Tear and Curl (CTC) teas. This occurred as the cost of production rose leading to low returns for the farmer and the country. Earnings dropped from Ksh 114 billion in 2013 to Ksh 101.1 billion in 2014 for the country. Some of the costs borne by the Industry include taxes, fees and levies. A review of the various taxes and other charges reveals that the Industry pays a host of taxes and other charges as shown on the attached annex.
- The charges may be categorized as National and institutional. The first 8 taxes are national in nature and applied to all tax payers. These include Corporate Tax at 30%; Value Added Tax at 16%; Excise duty 25% among others.

2.2 Action taken by AFFA

- AFFA has engaged the Government on the possibility of reducing these taxes but we are aware that a waiver of the taxes may bring a spiral effect on other crops. This may not be practical as it would reduce government revenue hence affecting implementation of critical services in the security, energy, food security and infrastructure sectors.
- On advice by the National Treasury (NT) for waiver, Tea Directorate through the Ministry of Agriculture Livestock & Fisheries has forwarded a request for consideration by the NT regarding a waiver on Value added Tax on locally sold tea for inclusion in the 2015/16 budget. If achieved, the waiver will spur local tea sales hence increase local consumption and earnings. The other fees and levies are institutional.
- The AFFA - Tea Directorate charges a Tea Ad Valorem Levy at 1% of customs value on all imports and exports. The levy was introduced in January 2012 and

collected from March 2012 from buyers and importers. The purpose of the Levy is to fund Tea Promotion, Research, Technical services, Compliance surveillance audits, industry development and operations. In order to sustain a vibrant Tea Industry, all the above services are vital.

- The shift of the point of charge from Manufacturing Cess which was being levied at a rate of **46 Kenya Cents per Kilogramme** of manufactured tea was to relieve the grower the burden of financing the two institutions. In this regard, the burden of financing TBK and TRFK was shifted from the tea grower to the tea exporter.
- Following complaints by the stakeholders, the Ministry of Agriculture, Livestock and Fisheries and AFFA-Tea Directorate carried out consultations with the Stakeholders, during a Task Force exercise in 2014. It was agreed that the rate of the Levy be reduced from 1% to 0.75%. The proposals have been included in the Tea Regulations 2014 which were submitted to the office of the Attorney General for review.
- AFFA- Tea directorate is also reviewing charges related to licensing of Tea Dealers with a view to removing it to ease doing business in tea.
- The Agricultural Produce Cess was repealed by the Agriculture Fisheries and Food Authority Act, 2013 since the function of road infrastructure has been devolved to County governments.
- The other charges are imposed by the various oversight bodies such as NEMA, KEPHIS, KEBS, KPA and County Governments among others. Further, the Industry players also charge service fees at various levels including Management fees by KTDA Ltd (2.5% of net proceeds), EATTA and KTGA member subscription fees and Brokerage fees (0.75% from the producer and 0.5% from the buyer). The other taxes are imposed by some countries who import Kenya tea including Pakistan.

It is these group of levies and charges that should be reduced substantially if we have to reduce the cost of doing business.

- AFFA has undertaken to impress on the players to also consider a reduction on their fees to reduce the tax burden in the industry. Further, the stakeholders are encouraged to engage the bodies who provide services to reduce the fees/levies.

3. CONCLUSION

AFFA has taken steps towards a reduction in the number of taxes, fees and levies in the Industry to enhance Tea Industry performance. It is our plea to the Committee to engage with the other stakeholders i.e. KTDA; KTGA; EATTA and the brokers to prevail upon them to also consider their levies and fees.

1.1 THE TAXES PAYABLE TO THE TEA INDUSTRY STAKEHOLDERS:

Table 1: Taxes, duty, licenses, fees and Levies Facing Stakeholders in the Tea Value Chain

	ITEM	Type	Payee	Rate of payment	Frequency	National/ tea sector	Stakeholders bearing the Cost
Government Taxes							
1.	Corporate Tax	Tax	KRA	30 % on profit	Paid in installments	National	All Companies
2.	Value Added Tax	Tax	KRA	16% on Vatable products	Monthly	National	All companies
3.	Import Declaration Fee	Tax	KRA	2.75 % of Value	At point of export	National	All Importers/
4.	Furnace Oil import tax	Tax	KRA	Kshs 0.6/litre	Daily	National	All companies
5.	Vehicle advance tax	Tax	KRA	1500/ ton of commercial vehicle	Annual	National	All companies
6.	Motor Vehicle Inspection Booking	Tax	KRA	1000/ per commercial vehicle	Annual	National	All companies
7.	Withholding Tax	Tax	KRA	5% of dividends	Annual	National	All companies
8.	Fuel for agric operations	Duty	KRA	Kshs 10,305 per Cbm	Daily	National	All companies
Registration fees							
9.	Buyers at Tea Auction	Fees	TBK	10,000	Annual	Tea sector	Buyers
10.	Brokers	Fees	TBK	10,000	Annual	Tea sector	Tea brokers
11.	Warehousemen	Fees	TBK	10,000	Annual	warehousemen	warehousemen
12.	Tea importer	Fees	TBK	10,000	Annual	Tea sector	Importers

	ITEM	Type	Payee	Rate of payment	Frequency	National/ tea sector	Stakeholders bearing the Cost
13.	Tea Manufacturing License	Fees	TBK	7,500	Annual	Tea sector	Tea Factories
14.	Tea Auction Organizers	Fees	TBK	10,000	Annual	Tea sector	EATTA
15.	Tea Packers	Fees	TBK	2,000	Annual	Tea sector	Packers
16.	Management agent	Fees	TBK	25,000	Annual	Tea sector	Tea farmers
17.	EATTA Membership	subscri ption	EATTA	30,000	Annual	Tea Sector	Producers, Buyers, warehousemen, brokers, packers
	Levies						
18.	Ad valorem levy	levy	TBK	1% customs value of tea	For each consignment	Tea sector	Bulk Exporter- Buyer/ Factories for contract
19.	Mombasa Municipal Port Health Charges	Levy	County Government	Kshs 5,000	Annual	County Government	Tea warehousemen, tea packers
20.	Mombasa Municipal Annual License Fee	Levy	County Government	Kshs 10,000	Annual	County Government	All Tea companies
21.	Land Rates	Levy	County Government	0.3-0.75% percent of undeveloped value	Annually	National	All Tea companies

	ITEM	Type	Payee	Rate of payment	Frequency	National/ tea sector	Stakeholders bearing the Cost
22.	Inspection and Grading Fee (KEPHIS)	Levy	KEPHIS	5,000/= per single consignment & 10,000/= per multiple consignment to one consignee inspected	Consignment	National	Tea factories (contract exports), tea buyers , tea packers
23.	KEPHIS SPS Certificate	Levy	KEPHIS	Kshs 1000	Weekly	National	Tea factories (contract exports); tea warehousemen, packers
24.	KEBS Product Conformity	Levy	KEBS	0.2% of value of made tea ≤ Kshs	Annually	National	Exporter/Importers
25.	KEBS Quality Standard	Levy	KEBS	0.2% of value of made tea ≤ Kshs 400,000	Quarterly	National	Tea factories, tea packers
26.	NEMA Environmental audit	Levy	NEMA	0.1% of investment costs	Annual	National	Tea factories
27.	K.P.A Port Charges (40 feet Container)	Levy	Kenya Ports Authority	Kshs 9,000	At time of loading	National	Tea buyers, tea packers, tea factories (direct
28.	K.P.A Port Terminal Handling Charges	Levy	Kenya Ports Authority	Kshs 2000 per 20 Feet Container	At time of loading	National	Tea buyers, tea packers, tea factories (direct

	ITEM	Type	Payee	Rate of payment	Frequency	National/ tea sector	Stakeholders bearing the Cost
29.	Directorate of Industry Training Levy (DIT) National Industrial Training Authority(NITA)	Levy	NITA	Kshs 50 per employee	Monthly	National	Tea factories; Tea warehousemen, buyers, brokers, auction organizer, management agents
30.	Merchant Shipping Surcharge Fee	Levy	Kenya Maritime Authority	Kshs 10 per tonne	Annual	National	Tea buyers, tea packers, tea factories (direct exports)
31.	Chamber of Commerce Certificate of Origin	Levy	Chamber of Commerce	0.025 % of the gross value tea sold	Annual	National	Buyers, packers
Cess							
32.	Agricultural Produce Cess	Cess	County Government	1% of gross value of green leaf	Monthly	Tea sector	Tea farmers
Licenses							
33.	Fuel Wood Movement	License	County Government	300 per vehicle trip	Daily	National	Tea factories
34.	Waste Water Regulations	License	NEMA	Kshs 100,000	Annually	National	Tea factories
35.	Department of Occupational Health & Safety license	License	DOHS	Kshs 2,060	Annually	National	Tea factories, warehousemen, packers
36.	Seizure of scales	License	Weights & Measures	Kshs 2,010	Annually	National	Tea Companies/ Factories

	ITEM	Type	Payee	Rate of payment	Frequency	National/ tea sector	Stakeholders bearing the Cost
37.	Water Permit	License	Water Resources Board	Kshs 4,600	Annually	National	Tea factories
38.	Underground Water Tank license	License	Ministry of Health	Kshs 1000	Annually	National	Tea factories
39.	Food & Drugs	License	F&D Board	Kshs 1000	Annually	National	Tea factories, packers, warehousemen
40.	Mombasa Municipal Parking Ticket per truck	Levy	County Council	Kshs 1,700 per day	Annually	National	All companies
	KTDA Management Fees						
41.	KTDA		KTDA	2.5% of the net sale	Monthly	Tea sector	Tea farmers
	Brokers Fees						
42.	Tea Brokers	fees	Brokers	0.75% Producers and 0.5% Buyers	Daily	Tea sector	Tea Producers, Buyers

**KENYA TEA DEVELOPMENT AGENCY
HOLDINGS LIMITED**

**Presentation to The Departmental
Committee of Agriculture, Livestock and
Cooperatives Regarding Petition By Tea
Farmers on The Decline in Tea Prices
And Effects of Ad Valorem Levy.**

Table of Contents

1. Historical Background of KTDA	3
2. Summary of Sessional Paper No. 2 of 1999	3
3. KTDA Structure	8
4. Over view of KTDA Performance.....	13
5. Ad Valorem Levy	19
6. Decline in tea prices for the past 2 years and intervention measures	20
7. Response to other Issues.....	25
i) How second payment is determined;	25
ii) Why factories borrow to finance second payment;.....	25
iii) Ceiling of minimum payment	25
iv) Transparency and competitiveness of loans for factories construction.....	25
v) Cost of putting up factories	25
8. Efficiency of KTDA operations – leaf collection, cost control, etc	29
9. Marketing of KTDA teas	36
i. KTDA operates as a monopoly both in marketing of teas and operations	36
ii. Introduction of County Tea Auction Centres.....	36
10. Pay points of farmers tea proceeds	37
11. New technology in KTDA tea factories	37
12. Role of tea brokers in the tea value chain.....	40
13. Transport of made tea to warehouses in Mombasa	41
14. Governance Issues	41

1. Historical Background of KTDA

Year	Activity in Phase
1. 1950's	Small-holder cultivation commences
2. 1957	First Small-holder Tea Factory started in Ragati, Nyeri Factory management through a management agreement with multi-national tea companies
3. 1960	Special Crops Development Authority established
4. 1964	The Kenya Tea Development Authority established under the Agriculture Act (Cap 318) Section 191. (Legal Notice No.42). KTDA (authority) takes over small-holder management from multinational tea companies.
5. 1991	Parastatal Reform Strategy Paper developed, listing KTDA among other Strategic Parastatals for privatization.
6. 1999	KTDA Order revoked through Legal notice No.44 through Sessional Paper No. 2 of 1999.
7. 2000	KTDA (Authority) was transformed into a private company, KTDA (Agency) Ltd on 30 th June 2000 & registered under the Companies Act. (45 factories)

2. Summary of Sessional Paper No. 2 of 1999

Introduction

The Sessional Paper No. 2 of 1999 on the Liberalization & Restructuring of The Tea Industry Reforms in the Tea Board of Kenya and Privatization of the Kenya Tea Development Authority ("Sessional Paper") was a result of the Government's decision to undertake significant structural adjustment reform measures such as liberalization and privatization of various agricultural subsectors.

This led to the development of a detailed action plan on the structural reforms within the tea industry, and in particular the privatization of the Kenya Tea Development Authority that had been managing the tea activities in the small holder sub-sector and modalities to strengthen the Tea Board of Kenya to enable it undertake its mandated role as the main regulatory body of the industry.

Liberalization/Privatization Measure in the Tea Industry

The Sessional paper notes that prior to the liberalization initiatives the Agriculture ministry was charged with the role of decision making in agriculture and its functions spanned the entire sector leaving little individual entrepreneurial decision making in the hands of farmers.

However due to globalization of economies there was need to restructure some of the economic sectors with a view to enhance the private sector involvement.

The process therefore to liberalize the tea industry commenced in 1992 when the Government and the World Bank signed an agreement under the **Public Enterprise Reform Program** covering 5 major parastatals. KTDA was included among the 5 parastatals earmarked for liberalization and restructuring under the program.

Consequently the government agreed that the process of liberalization of KTDA and small holder sub-sector should result into incorporation of KTDA under the Companies Act as an independent and private tea enterprise owned by small holder tea farmers through their respective tea factory companies.

Privatization of Kenya Tea Development Authority (KTDA)

It was noted that KTDA was then owned by small holder farmers numbering 300,000 and 'de jure' owned by Government as it was established under the Agriculture Act CAP 318.

The steps that had been taken towards privatization of KTDA were cited as:-

- Exemption of the Authority from provisions of the State Corporations Act;
- Divestiture of KTDA from the tea factory companies through the following measures:-
 - Election by farmers of 6 directors (majority) out of the maximum 9 directors in each factory company board;
 - Transfer of chairmanship of factory company boards from KTDA to elected tea farmers' representatives;
 - Direct participation by elected directors in management decisions regarding procurement of goods and services by each factory company;
 - Direct participation by elected directors in formulation of annual budgets and monitoring of financial expenditures;
 - Transfer of green leaf collection and payment to farmers from KTDA to individual factory companies;

- Sales of KTDA equity in factory companies to tea farmers;
 - Allotment of ownership shares to all small holder tea growers in their respective tea factory companies;
 - Strict information and data disclosure by KTDA to factory companies regarding marketing of tea by the Authority.
- Repeal of all previous KTDA Orders and replacement with Legal Notices No. 109 to 112 of 1997. The new Legal Notice No. 109 of 1997 effectively placed control of the KTDA Board under the farmers elected representatives who number 12 out of a total KTDA Board Membership of 17 including the Managing Director;
 - Removal of provisions in the KTDA Orders which in the past required the Board to seek the Minister's approval before making important investment decisions.

Privatization & Transfer of Ownership of KTDA to Small Holder Tea Farmers

The paper indicated that KTDA will be incorporated under the Companies Act as a public company, thereby removing it from the auspices of the Agriculture Act.

The structure of the privatized KTDA would be as follows:-

▪ Incorporation and shareholding

- ✓ KTDA would be incorporated as an independent and private enterprise ("KTDA Limited") owned by all small holder tea farmers through their respective factory companies;
- ✓ KTDA limited will offer management services to the individual tea factories and the latter had the option of contracting another managing agent;
- ✓ The constitution of shareholding will be based on the current valuation of the assets of KTDA allocated in accordance with the contribution of each factory company in creation of KTDA assets;
- ✓ The net worth of KTDA will thus be distributed to the tea factory companies relative to their contribution in form of management fees from the 1983/84 to 1996/97 period.

▪ Governance

- ✓ KTDA Board of directors would comprise of a minimum of 13 and a maximum of 19 directors where 12 would be elected by shareholders and the Managing Director. The PS Treasury will be co-opted as a member of the Board in view of the Government loan guarantees.
- ✓ The chairman of the board would be elected from amongst its elected directors.

▪ **Action Plan**

- ✓ The on-going restructuring of the small holder tea subsector and KTDA would be finalized by January 2000;
- ✓ Repeal of KTDA Orders and any legislative amendments would be undertaken and effected by January 2000;
- ✓ Government subvention in respect of tea extension staff employed by KTDA and small holder factory companies will cease in January 2000;
- ✓ The term of the Board expired with the repeal of the KTDA Order and shareholders of KTDA Limited will elect a new Board of Directors within a period of 6 months.

▪ **Company Structure and Management**

- ✓ The board of the Company will delegate its executive authority to the Chief Executive and the management;
- ✓ Sales and Marketing services will be provided from the headquarters. The same would apply to the financial and accounting services save for the accounting work already decentralized to factory companies;
- ✓ The relationship between KTDA Limited and tea factory companies will be governed by revised management agreements.

▪ **Associated Companies**

Companies closely associated with KTDA Limited will include:-

- ✓ All the current 45 small holder factory companies and any future ones managed by KTDA Limited;
- ✓ Majani Insurance Brokers Limited;
- ✓ KTDA Farmer's Company Limited whose shares are held directly by small holder tea farmers;
- ✓ Chai Warehousing Limited (information) to be located in Mombasa;
- ✓ Kenya Tea Packers (KETEPA) Limited.

OTHER TEA SUB SECTOR INSTITUTIONS

▪ **Tea Research Foundation of Kenya (TRFK)**

TRFK which was operating under Ministry of Research and Technology would be transferred back to the Ministry of Agriculture and report to it through the Tea Board of Kenya.

▪ **Nyayo Tea Zones Development Corporations (NTZDC)**

The major objective of NTZDC was to protect and conserve gazetted high altitude forests against human encroachment.

Due to its geographical spread and absence of a processing facility, it would sign agreements with small holder tea companies or KTGA member companies to process its green leaf.

▪ **Kenya Tea Growers Association (KTGA)**

KTDA and KTGA were encouraged to work closely to assist small holder tea farmers willing to transfer to KTGA managed tea factories or in cases where the KTDA managed tea factories does not have adequate processing capacity.

This will be done through agreements between individual small holder tea factory companies and KTGA member companies.

▪ **East African Tea Trade Association**

The Association will:-

- ✓ Run the Mombasa auction;
- ✓ Ensure that representation at the association management committee is equitable and special representation is accorded to the large single producers like KTDA who represent all the small holders in Kenya;
- ✓ Ensure that sale of the tea at the auction and other operations of the trade is fair, efficient and transparent;
- ✓ Ensure that tea producers determine the currency of sale depending on whether the tea is for local or export sale;
- ✓ Ensure that payment of the tea sold at the auction is made within 10 days.

KTDA should examine how best the small scale tea growers can be represented in EATTA while taking cognizance that KTDA currently has one vote in EATTA and yet it represents 312,000 tea farmers owning 45 tea factory companies and also producing over 60% of Kenyan tea.

▪ **Tea Brokers**

Tea Brokers are appointed by tea producers and buyers and members of EATTA. In future they will be expected to register with the Tea Board of Kenya.

The tea factory companies will appoint their own tea brokers in consultation with their managing agents.

In future the tea board of Kenya will be involved in the registration of tea brokers and review the tea brokerage commission.

▪ **Tea Packers**

Local packers will be encouraged and assisted where necessary to develop the value added tea market.

All tea blended and packed in Kenya will contain 70% of Kenya's produced tea.

All tea packers based in Kenya will be required to register with the Tea Board of Kenya.

CONCLUSION

The various programs and plans of action contained in the Sessional Paper after their implementation will result in efficient and effective operation of the institutions in the industry.

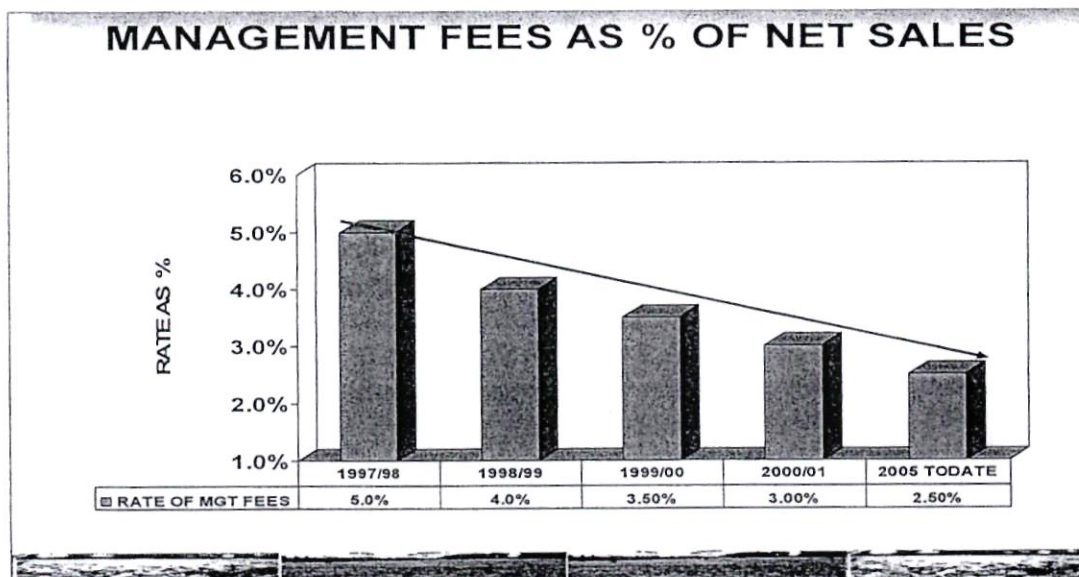
The existing constraints, problems and challenges will be addressed through the new policies.

The government would continue to support the industry through the existing institutions to enable various actors and stakeholders to fully play their rightful roles under an enabling environment in the liberalized tea industry.

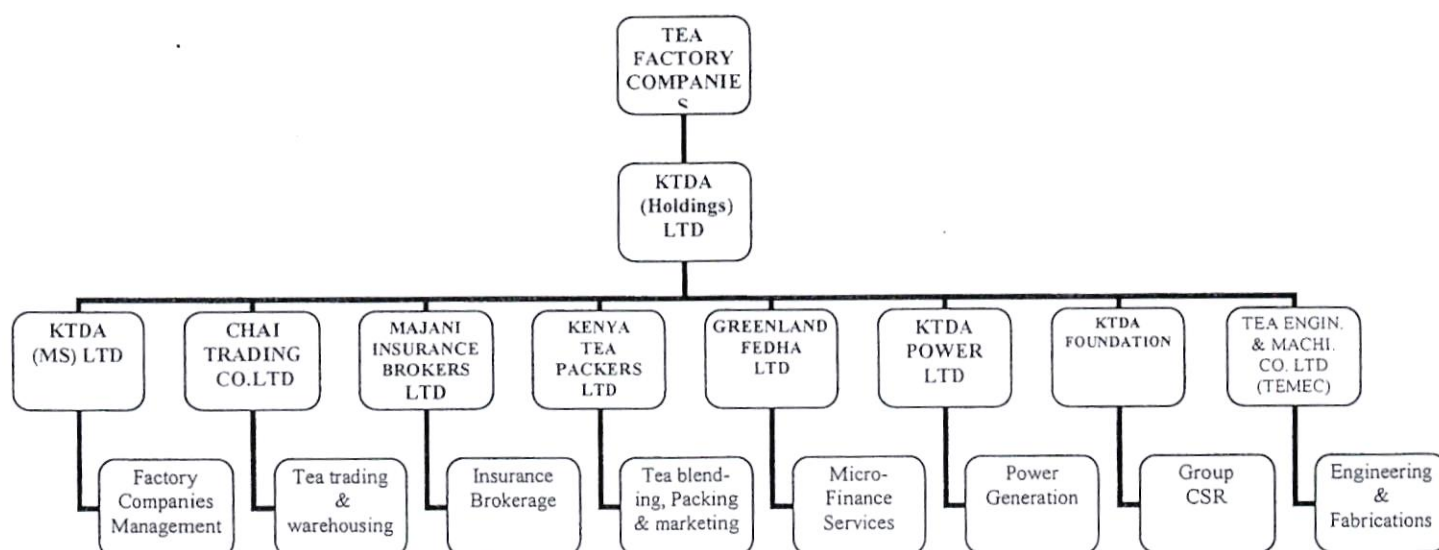
3. KTDA Structure

The Sessional Paper No.2 of 1999 on the Liberalization and Restructuring of the Tea Industry, culminated in the privatization and incorporation of KTDA under the Companies Act (Cap 486). KTDA therefore lost tax exemption status which had an effect of reduction in the profit by as much as 35%. The Sessional Paper went further to indicate that it was necessary for the company to introduce cost-cutting measures in order to break even.

Prior to privatization, KTDA's main source of revenue was management fees charged to the factory companies at a rate of 5% of the gross value of tea. Upon privatization the rate was reduced gradually to the current rate of 2.5% of the net value resulting to decreased revenue. Diversification of revenue generation sources was therefore a key strategy for sustainability of the KTDA business.



- Global business challenges such as fluctuating prices, exchange rates, interest rates, rising costs of inputs have affected KTDA therefore justifying implementation of the diversification strategy.
- In December 2009 the company changed its name to Kenya Tea Development Agency Holdings Limited in line with the recommendations made by a Government-constituted Tea Industry Task Force of 2007. KTDA Management Services, a subsidiary of KTDA Holdings Ltd, provides management services to the factory companies through a management agreement with the factory companies. KTDA (H) became the investing arm of the shareholders as outlined in the chart below:



In order to address core business activities and exploit economies of scale and scope, KTDA (H) Ltd established subsidiary companies for specific roles and responsibilities.

These investments have been made along the tea value chain to manage costs more efficiently, add value to the services to the small scale tea farmers and distribute the surplus revenue to the shareholders as explained under each company here below:-

1. KTDA (MS) Ltd

KTDA MS Ltd was established specifically to deal with management of the tea factory companies in line with the recommendations made by the Tea Industry Taskforce of 2007. The company is contracted by the tea factory companies to; manage tea cultivation, develop and maintain tea husbandry, collect, weigh, handle and pay farmers for green leaf delivered, manufacture green leaf into tea, market the manufactured tea, develop and provide sound technical, financial and managerial infrastructure, provide services in procurement, ICT, Human Resources and other support services. It is currently providing the services to 66 tea factory units in Kenya and 2 in Rwanda. It employs over 700 specialized personnel in engineering, ICT, accounting, agriculture, in its Head Office, regions and factories. Factories also employ over 7,000 staff in extension, leaf collection, production and engineering.

2. Chai Trading Company Ltd (CTCL)

CTCL core mandate is warehousing, blending, clearing & forwarding, value addition, export and general tea trading. It is now one of the top 10 buyers at the Mombasa tea auction and a member of EATTA. The warehousing arm of the company was established to ensure that the teas from the smallholder factories are assured of storage facilities at Mombasa before shipment as well as manage the shipping of the tea. Other than ensuring that warehouses are available for small holder teas, this arm has ensured that small holder factories are not vulnerable to market forces in regard to warehouse costs. It manages out bound and in bound shipping, clearing and forwarding for tea machinery and fertilizers. It employs over 100 professional staff in addition to outsourced staff.

3. Majani Insurance Brokers (MIB)

Majani Insurance Brokers Ltd was established to provide insurance brokerage services for all categories of insurance requirements for the KTDA Group and other external clients. In so doing, it ensures that the factories get value for money, that is, insurance services obtained economically, efficiently and effectively. The company has expertise able to evaluate the best insurance companies for different covers. In addition, the company in liaison with some insurance companies has been able to tailor-make some specific covers for small holder farmers like “Kinga ya Mkulima”, a health insurance cover. It provides rebates to the tea factories and employs over 100 members of staff across the factory catchments.

4. Greenland Fedha Ltd. (GFL)

Green Land Fedha Limited was set up as a non-deposit taking MFI with the objective of facilitating easy access to affordable credit for small scale farmers using their tea deliveries as collateral. Up to 30% of the small scale holder farmers had no access to credit and did not own a bank account due to onerous requirements imposed by the financial institutions. Moreover, the venture was also in-line with the strategic corporate objective of increasing value by investing in diversified, synergetic and profitable activities.

5. KTDA Power Company (KTPC)

KTPC was set to spearhead development of renewable energy starting with small hydro power projects across the tea growing regions as a way of addressing the ever increasing energy costs. The company manages Regional Power Generating Companies owned by the tea factory companies. As part of the cost cutting measures as outlined in the Sessional Paper No. 2 of 1999, the different factory Boards resolved to establish Regional Power Companies (RPCs) through which the factories would get renewable, reliable and affordable energy. KTPC would act as the managing agent for these RPCs.

6. Kenya Tea Packers Company Ltd (KETEPA)

KETEPA undertakes tea blending and packing for local and export markets. Majority shareholding of the company is owned by small holder tea farmers through KTDA while the minority shareholding is by members of Kenya Tea Growers Association (KTGA). The Company is involved in Tea blending, packing, marketing and distribution in the local and export markets. KETEPA has been a leading brand name in the tea sector over the years and has remained a profitable venture thereby adding value to the shareholders.

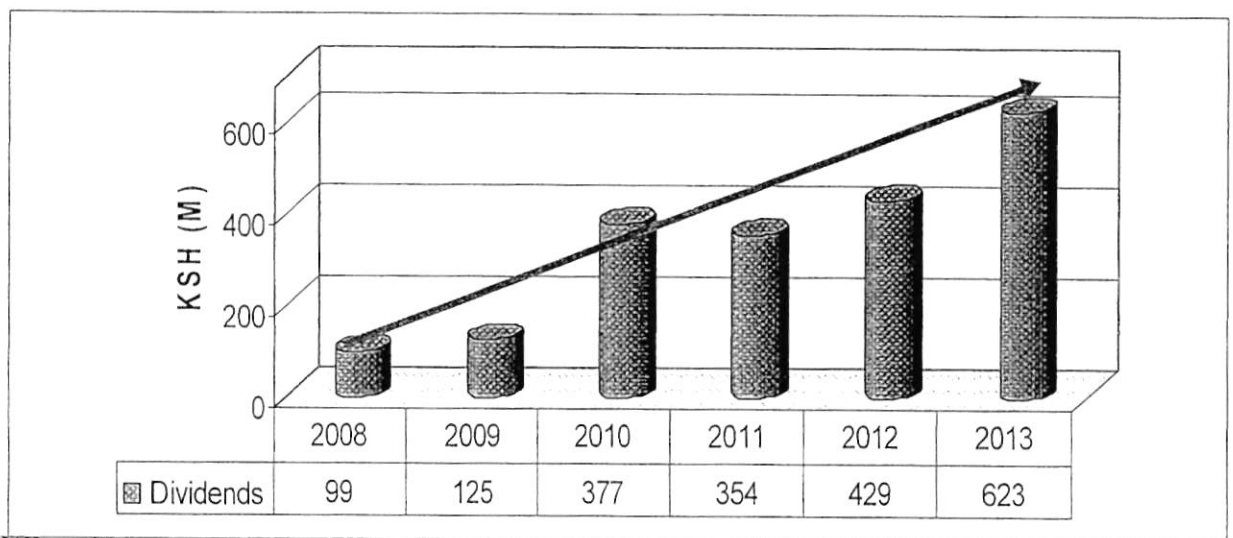
7. Tea Machinery and Engineering Company Ltd (TEMEC)

TEMEC was established to provide a modern workshop for fabrication and assembly of tea machinery for the tea factories. The majority of tea machinery is imported from India and elsewhere and it was felt that with Kenya's leadership role in tea production, it was about time we harnessed the skills of our engineers to fabricate these machineries and reduce overreliance on imported technology. This is also in line with Vision 2030 to make Kenya an industrialized country. We expect the quality of machineries manufactured by TEMEC to improve and their cost of these items to reduce for the benefit of the tea factory companies. The venture would create employment for our young engineers and enable them deploy their skills in real manufacturing.

8. KTDA Foundation

KTDA Foundation is the vehicle through which KTDA, its subsidiaries and managed factory companies give back to the community through CSR activities. Through the Foundation, KTDA group has provided 4 years secondary school scholarships to 143 students now in Form 1 and 2. This will be extended to Forms 3 and 4 and later to University. The Foundation is also involved in community health, environmental conservation and energy projects.

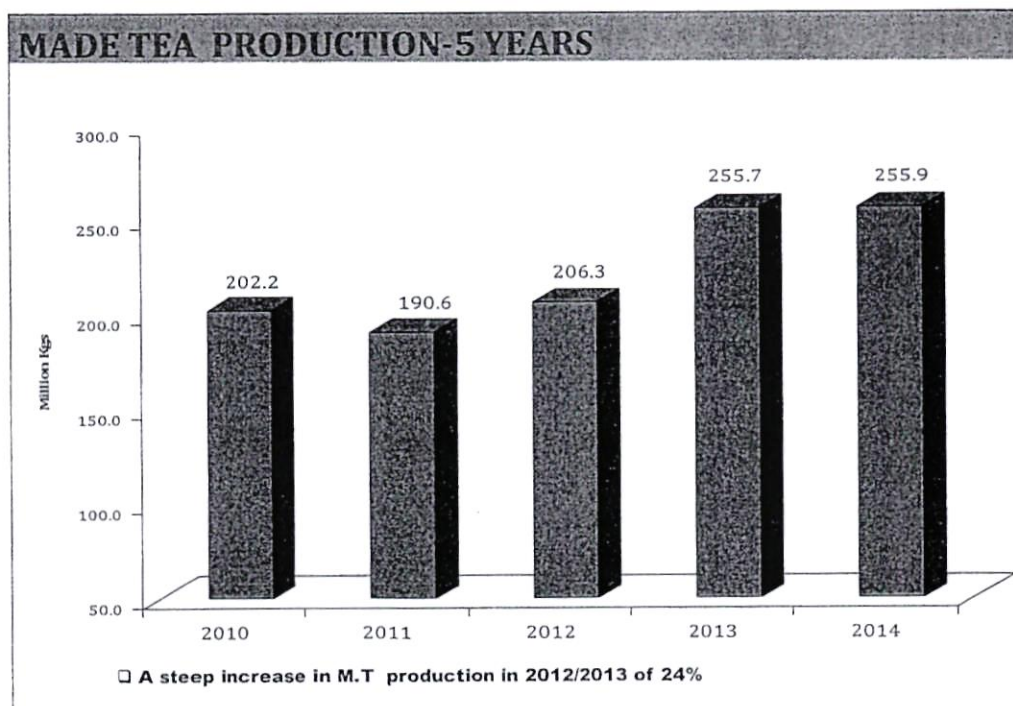
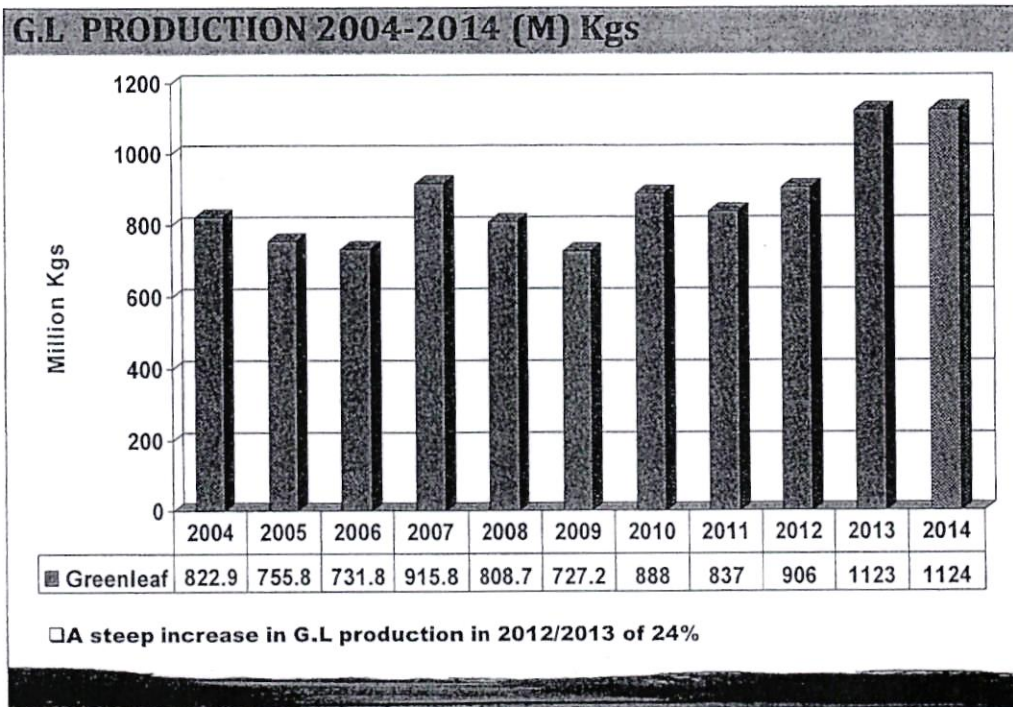
Revenue generated from the subsidiaries benefit the shareholders/farmers through annual dividend payments by the KTDA Holdings Ltd to the tea factory companies. Dividend payment trend for the last 6 years is shown here-below:-

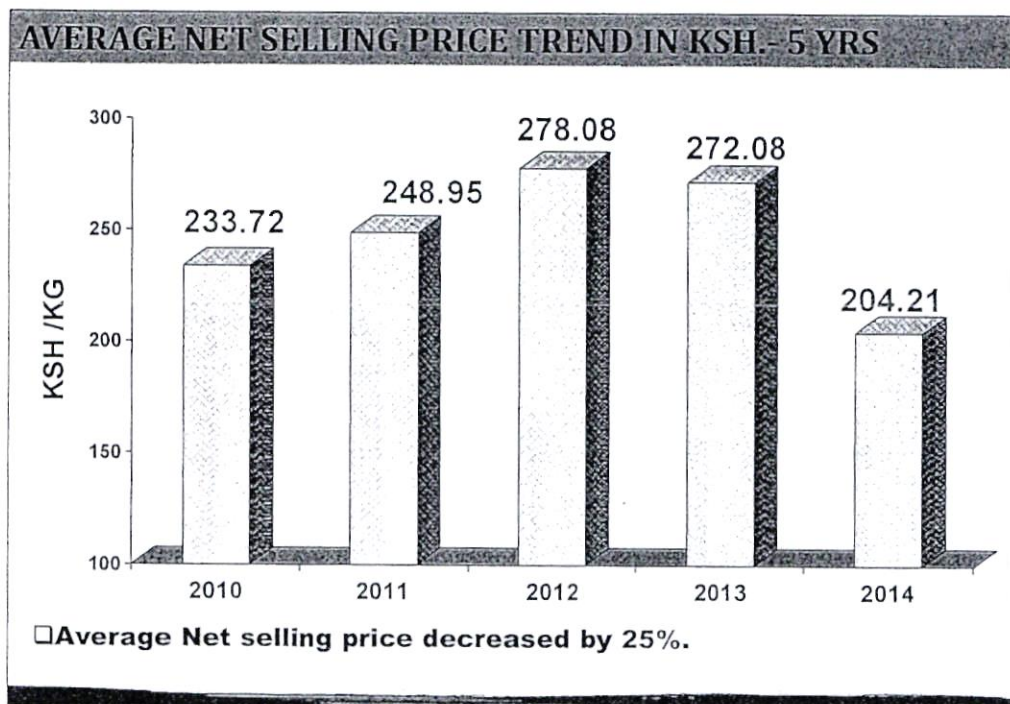
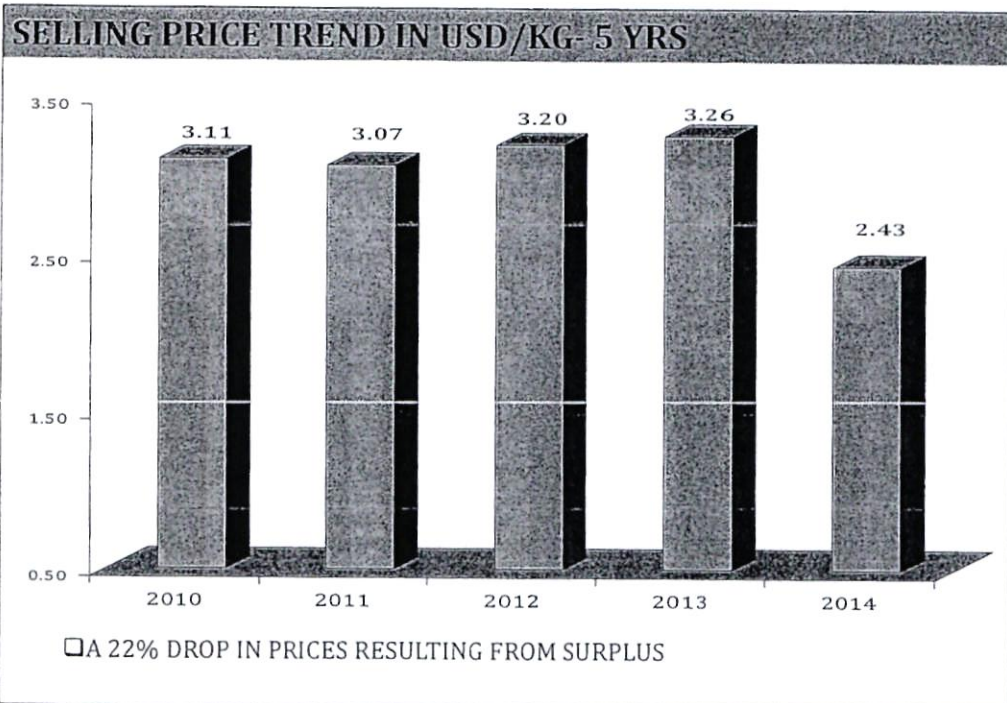


NB The above is in addition to rebates paid by some of the Subsidiary companies

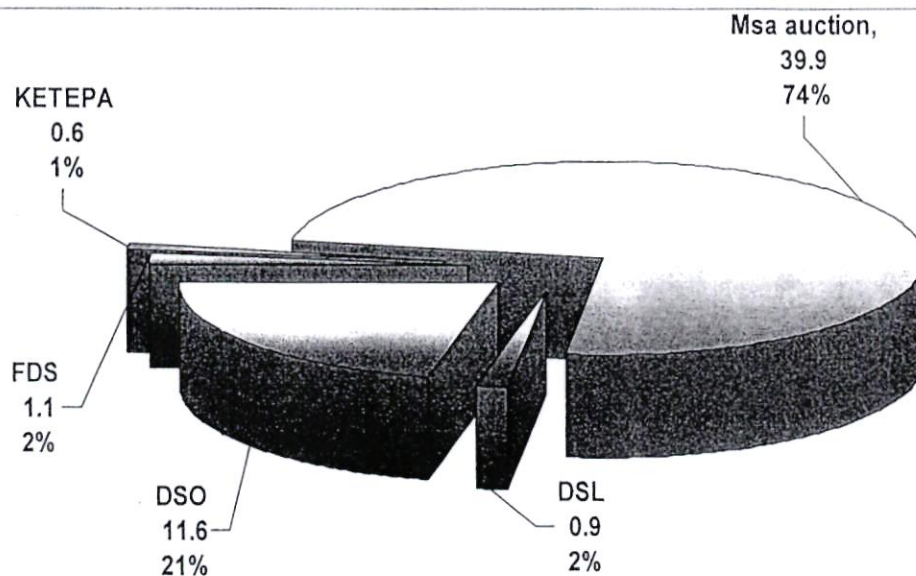
In addition, we pay taxes to the Government and through retentions, build a strong balance sheet which is leveraged for financing the debt obligations of the factory companies and regional power companies.

4. Over view of KTDA Performance

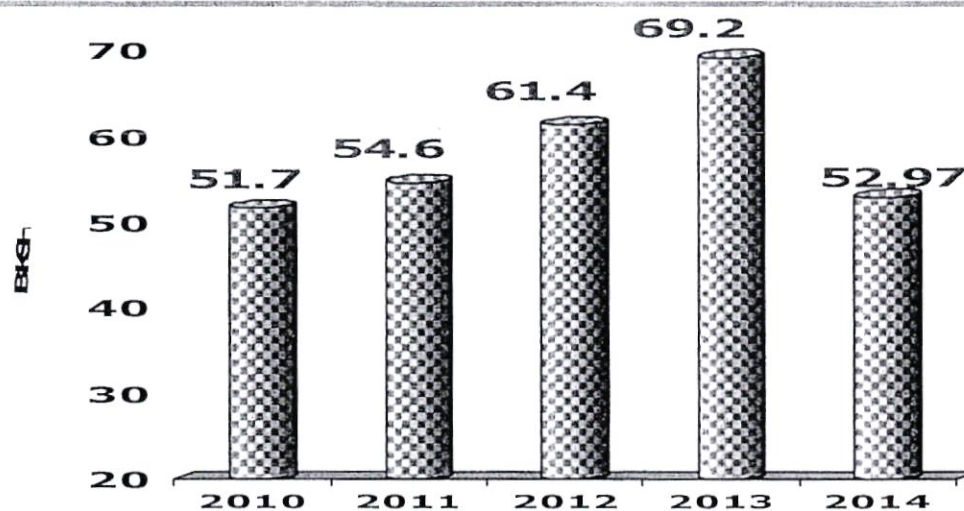




MARKET OUTLETS- SALES (B) KSH

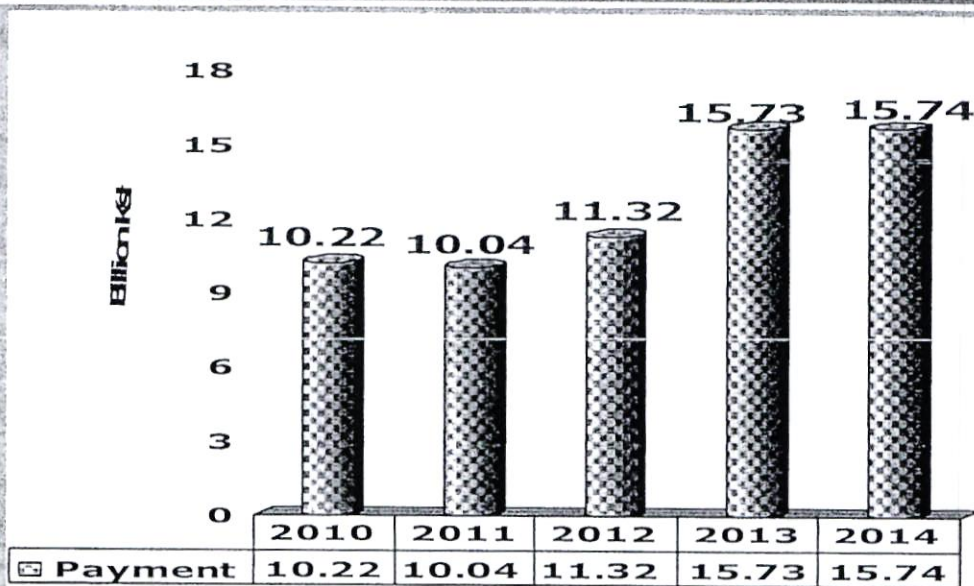


TOTAL INCOME IN BILLION KSH – 5 yrs

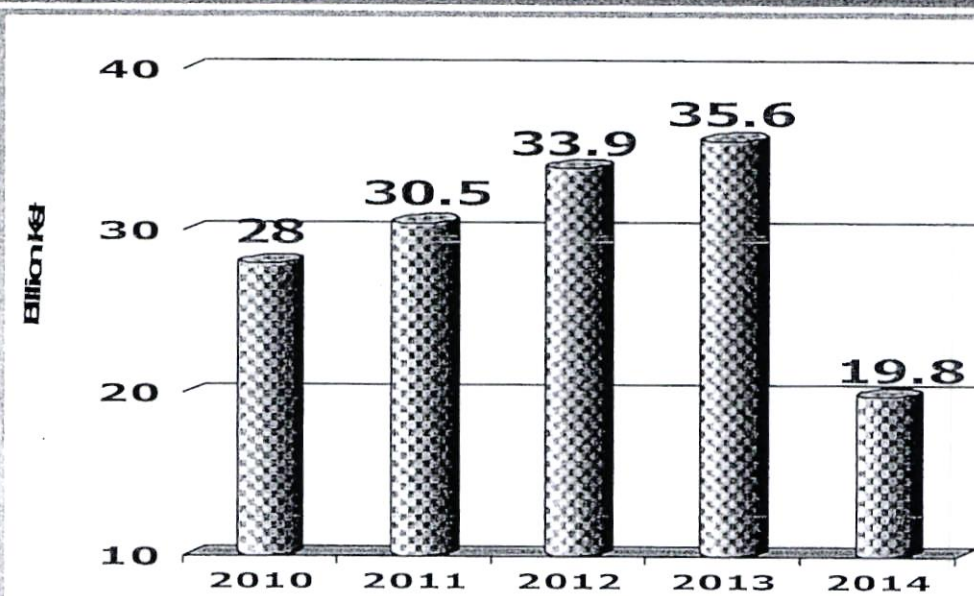


□ Total income decreased by 23%.

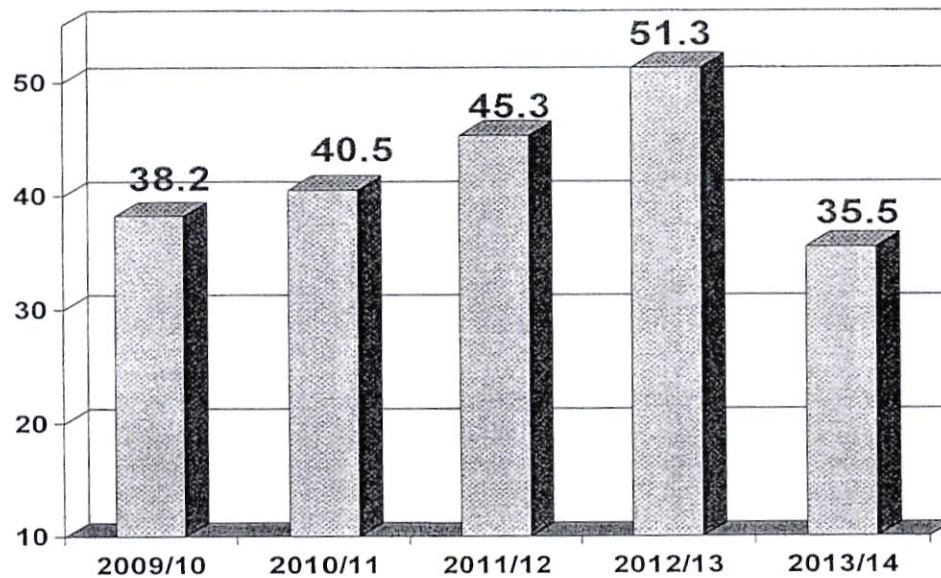
MONTHLY PAYMENT IN BILLION KSH - 5YRS



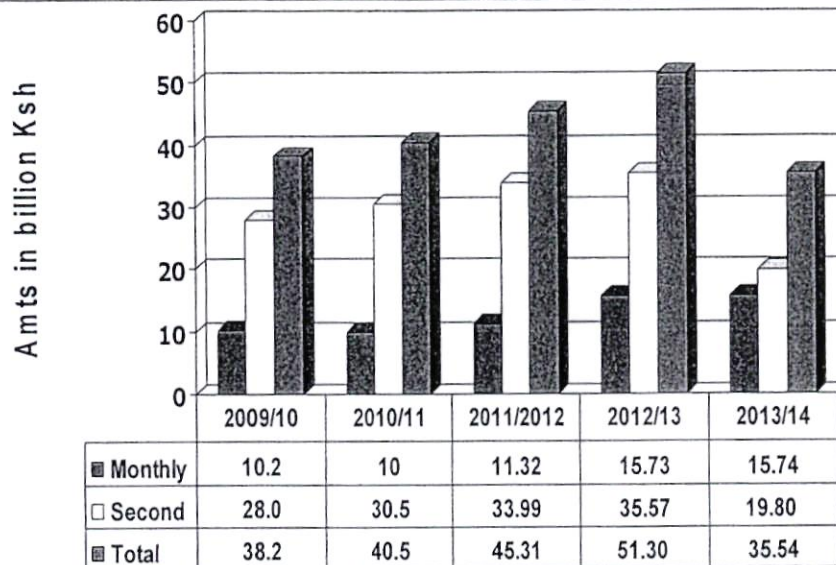
2ND PAYMENT IN BILLION KSH - 5 YRS



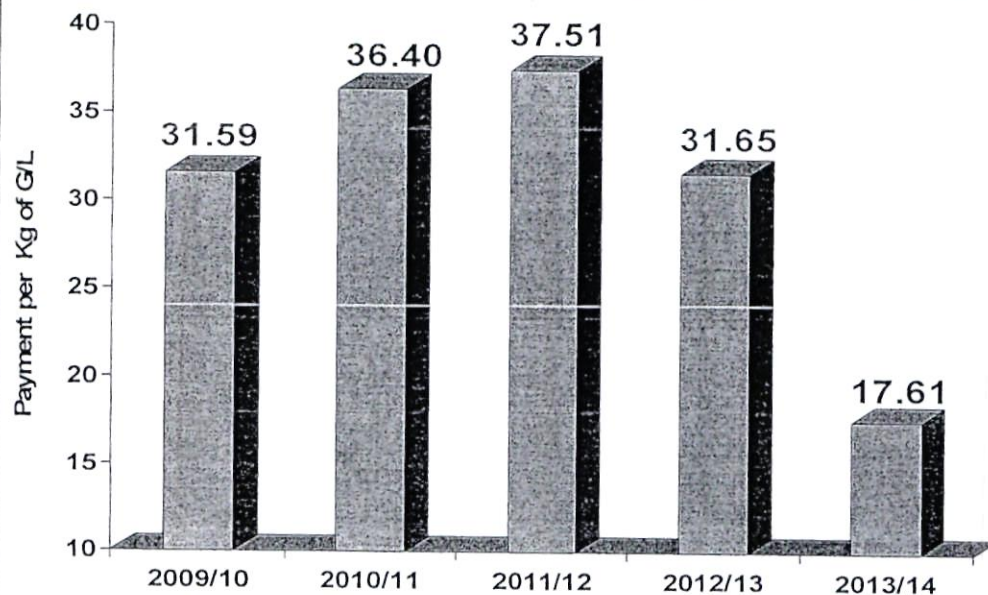
TOTAL PAYMENT IN BILLION KSH - 5 YRS



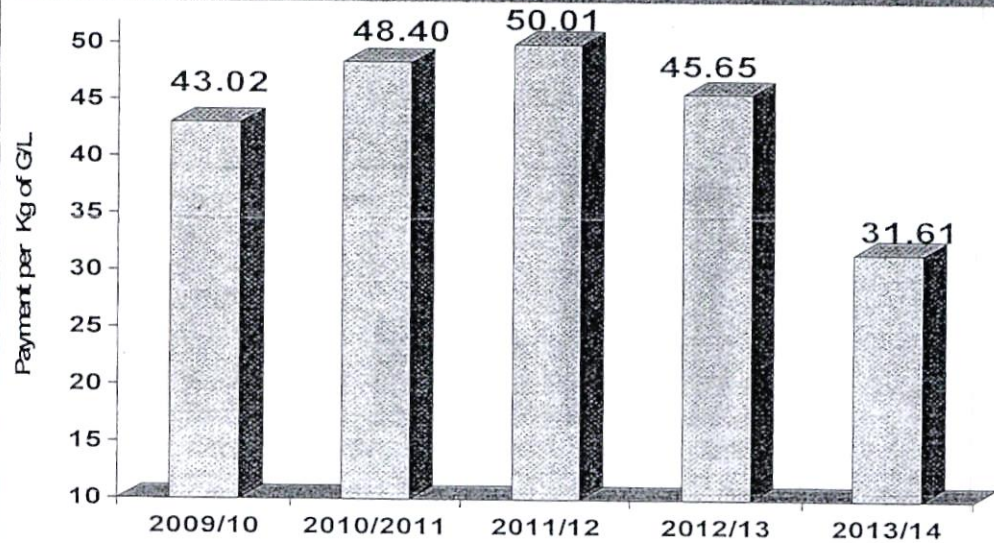
TOTAL PAYMENT 5 YRS COMPARISON IN BILLION KSH



2ND PAYMENT AVERAGE RATE KG/GREENLEAF



TOTAL AVERAGE PAYMENT RATE KG/GREENLEAF



☐ Includes monthly payment of Ksh.14 per Kg

5. Ad Valorem Levy

KTDA fully supports the memorandum on the need for a review of the tea ad valorem levy regulation and multiplicity of taxes presented by the EATTA being the body representing the interests of the tea industry in Kenya and Africa.

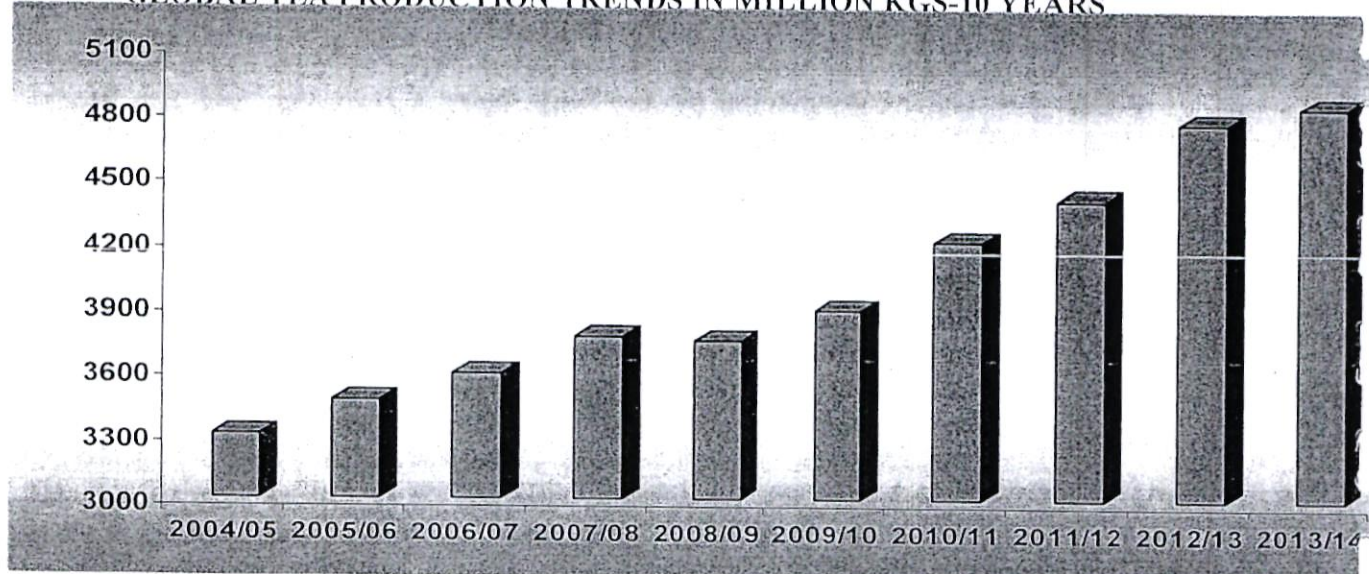
KTDA also supports the petition by the South Imenti Constituency and Tea farmers through the MP for Imenti South Hon. Kathuri Murungi. The reasons for our support are clearly enumerated in the actual EATTA petition (copy attached) and on which we made our contribution. In summary,

- a) We support the recommendation of the tea task force that a total of Kshs1.00 per Kg of made tea is levied but at factory level rather than at point of export.
- b) The amount raised from this levy is sufficient to fund research activities as well as the promotion and regulatory activities of the Tea Directorate. The amount can be reviewed as and when necessitated by inflationary pressures.
- c) Its application at the factory level will enable Kenyan teas have a level playing field at the auction with other teas from Africa. At the moment only Kenyan teas are subjected to an additional level post the hammer price making it more expensive than other African teas.
- d) Its application at the factory level will eliminate the increased paper work and documentation leading to delays in shipping.
- e) Its application will eliminate the cumbersome refund process leading to improved cash flow for buyers/exporters. We fully support the need for adequate funding of research and promotion activities in the tea industry. The manner and quantum of the levy required to do this is what is in contention; and we believe can be resolved through proper engagement and consultation.
- f) The impact of VAT on the tea industry is well documented in the EATTA document. The intervention measures are also well enumerated in order to improve the competitiveness of Kenyan tea exports. We fully support this measures in particular zero rating of VAT on tea for local consumption, timely VAT refunds and zero rating of VAT on warehouse services.
- g) The Agricultural produce cess, collected by the TBK and administered by cess committees has served tea farmers well. Otherwise impassable roads have benefitted from this cess enabling tea factories collect green leave from buying centres during rainy seasons. The cess should continue to be administered as it currently is. The County and National Government should continue to support these efforts through improvement in rural access roads.

On the multiple taxes and levies that the tea industry is subjected to; we fully support the recommendation for a single tax regime at the National and County Governments.

6. Decline in tea prices for the past 2 years and intervention measures

GLOBAL TEA PRODUCTION TRENDS IN MILLION KGS-10 YEARS

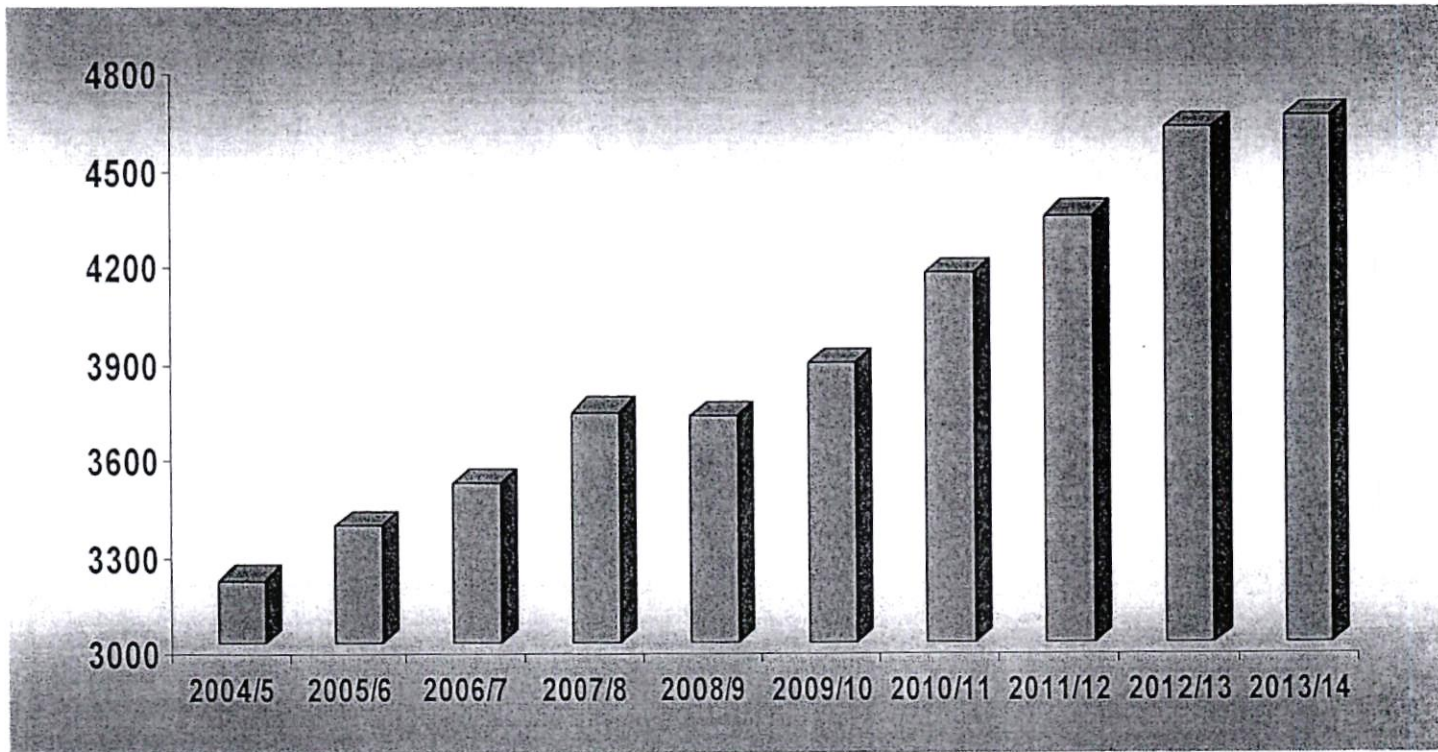


Period	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14
Volume	3301	3462	3582	3777	3738	3886	4198	4395	4755	4830

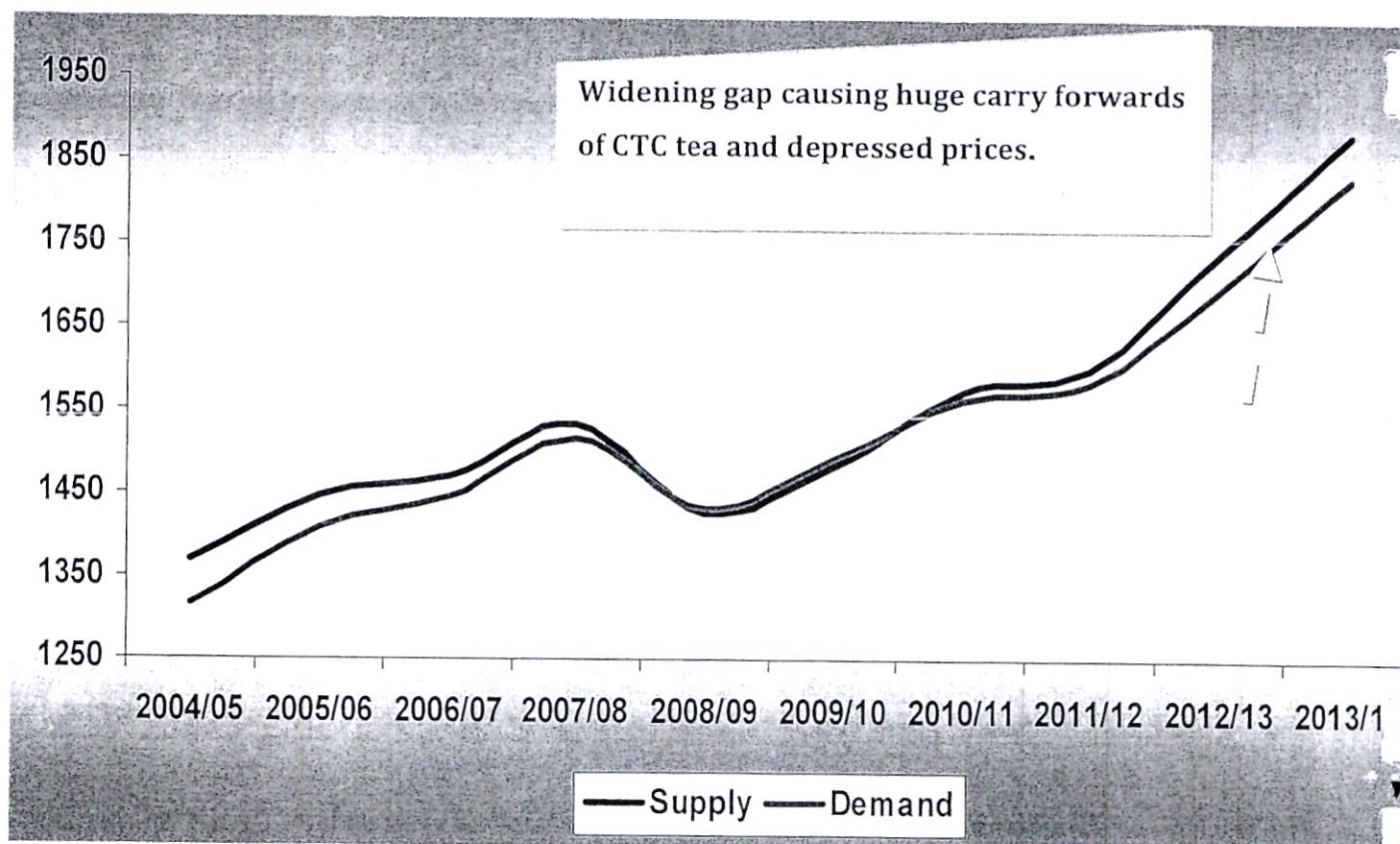
MAJOR TEA PRODUCING COUNTRIES

Producers	2012/13	% Share	2013/14	% Share	Variance (%)
China	1835	38.6	1872	38.8	2.02
India	1142	24.0	1172	24.3	2.63
Kenya	437	9.2	432	8.9	(1.14)
Sri Lanka	327	6.9	337	7.0	3.06
Viet Nam	198	4.2	199	4.1	0.51
Turkey	174	3.7	179	3.7	2.87
Indonesia	110	2.3	111	2.3	0.91
Japan	103	2.2	104	2.2	0.97
Argentina	93	2.0	90	1.9	(3.23)
Other	336	7.1	331	6.9	(1.49)
Total	4755	100.0	4827	100.0	1.58

CONSUMPTION TRENDS-MILLION KGS

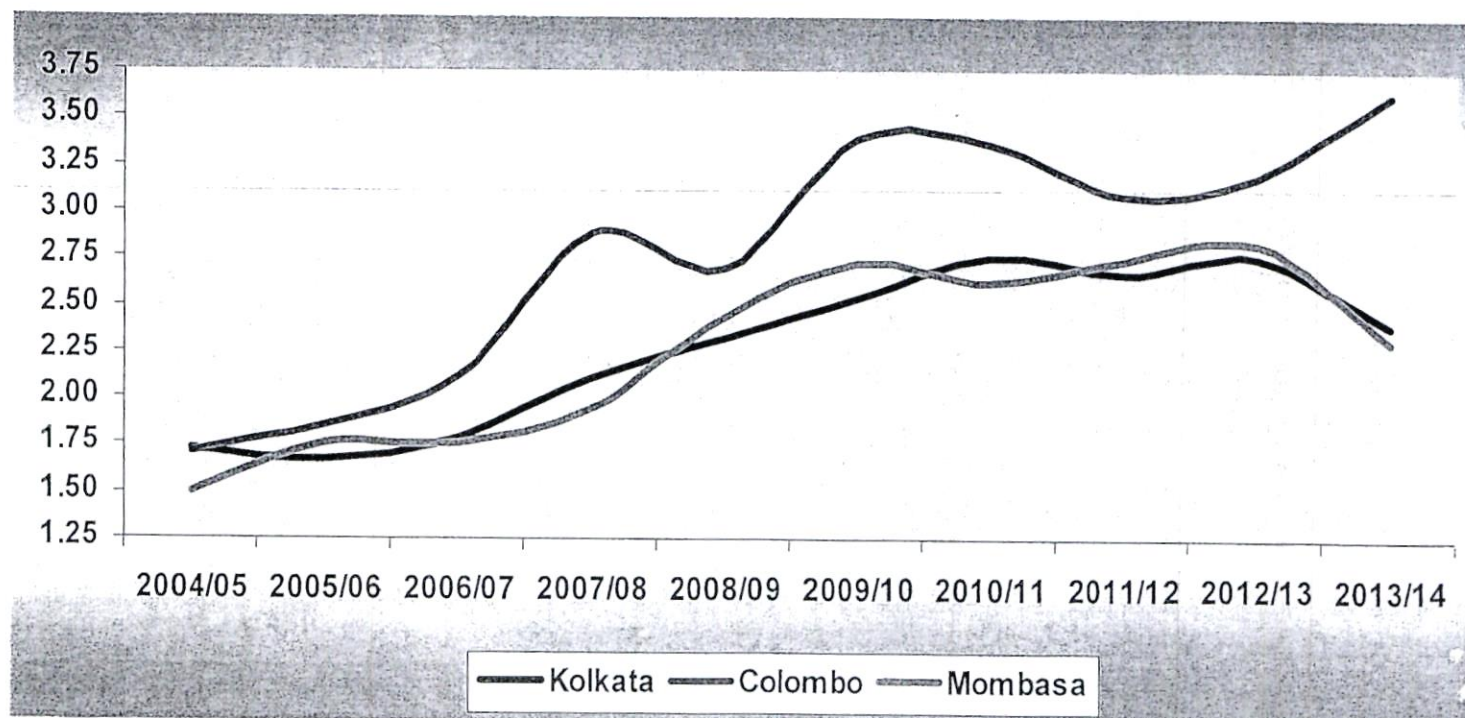


Period	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14
Demand	3199	3367	3495	3719	3707	3868	4149	4325	4596	4633

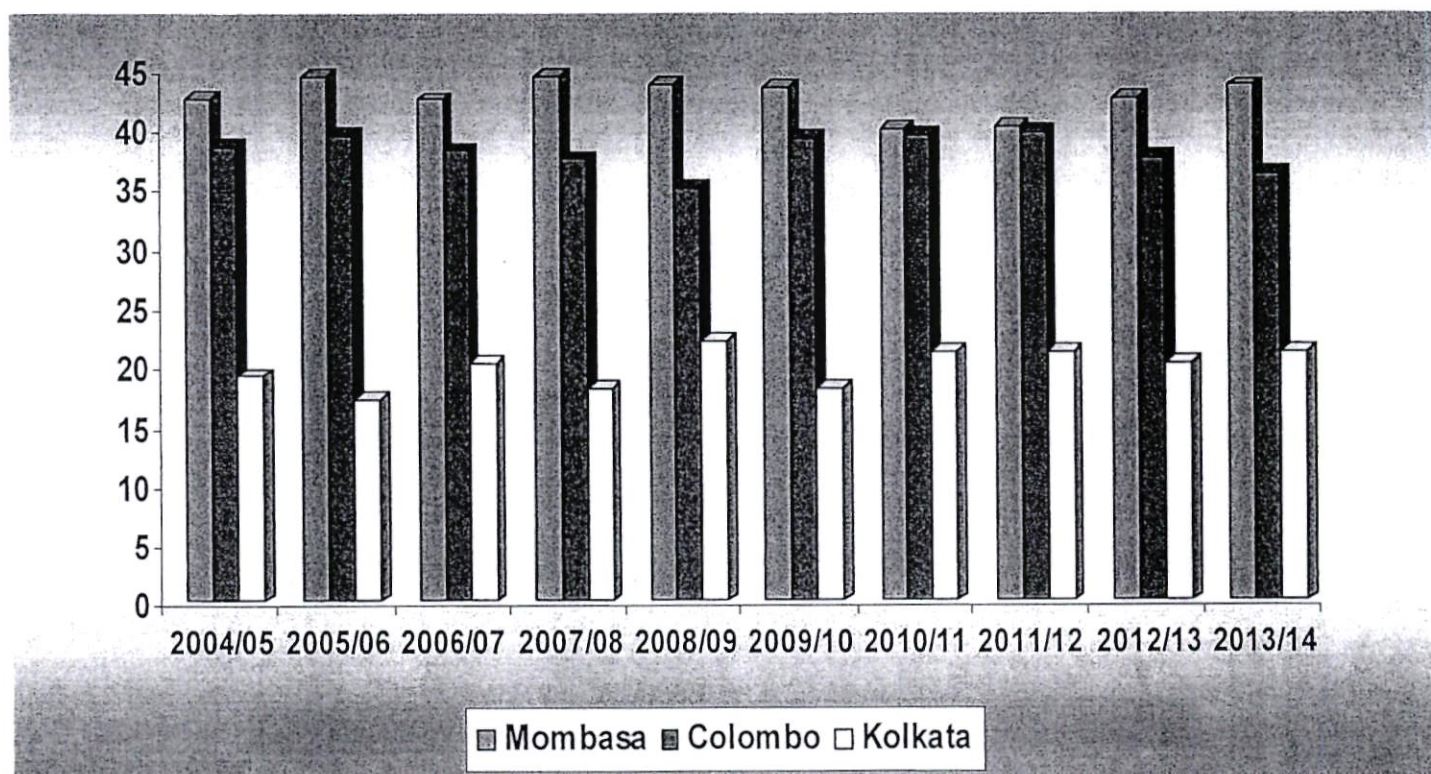


CTC Tea	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14
Surplus/Deficit	52	37	22	16	-6	-9	8	17	43	56

GLOBAL AUCTION PRICE TRENDS - KEY AUCTION TRADING CENTRES

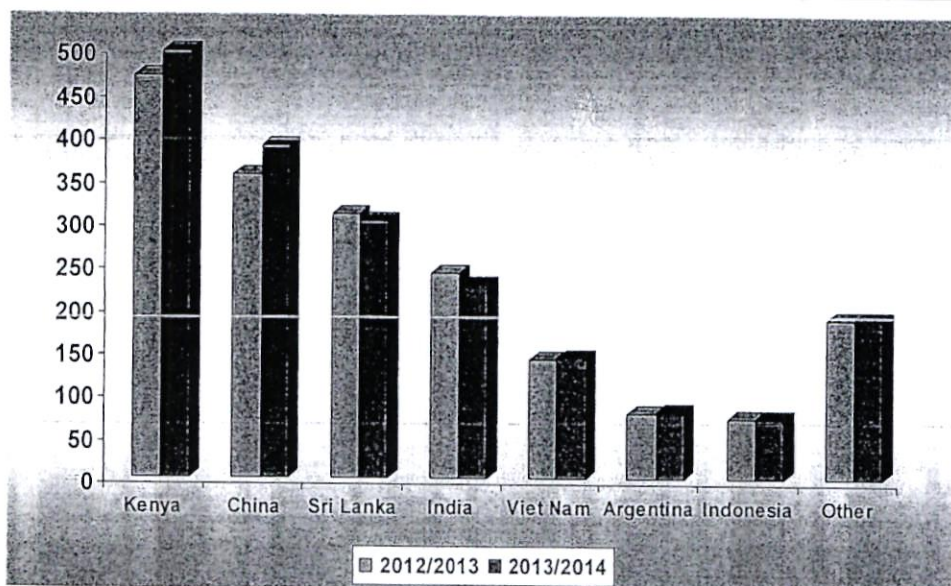


GLOBAL AUCTION % SHARE



Auction Center	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14
Mombasa	42	44	42	44	44	43	40	40	42	43
Colombo	38	39	38	37	35	39	39	39	37	36
Kolkata	20	17	20	18	22	18	21	21	21	21

MAJOR TEA EXPORTING COUNTRIES - MILLION KG



MAJOR TEA EXPORTING COUNTRIES - MILLION KG & % SHARE

Country	2012/13		2013/14	
	Export Volume	% Share	Export Volume	% Share
Kenya	468.8	25.4	497.5	26.3
China	353.5	19.2	386.7	20.3
Sri Lanka	308.6	16.7	300.3	15.9
India	239.5	13.0	226.7	12.0
Viet Nam	139.2	7.6	141.5	7.5
Argentina	76.6	4.2	77.9	4.1
Indonesia	70.9	3.8	71.4	3.8
Other	185.6	10.1	187.2	9.9
Total	1842.7	100.0	1889.2	100.0

MAJOR TEA IMPORTING COUNTRIES - MILLION KG

Key Importers	2012/13		2013/14	
	Import Volume	%	Import Volume	%
Russia	183	10.9	181	10.1
UK	144	8.6	140	7.7
Pakistan	132	7.8	131	7.3
USA	130	7.7	131	7.3
Sub-Total	589.0	35.0	583.0	34.4
Egypt	104	6.2	105	5.8
Iran	64	3.8	67	3.7
Germany	62	3.7	65	3.6
Morocco	57	3.4	63	3.5
UAE	48	2.9	49	2.7
Sub-Total	335.0	20.0	349	19.3
Other	758	45.0	865	48.1
Grand Total	1681.0	100.0	1797.0	100.0

7. Response to other Issues

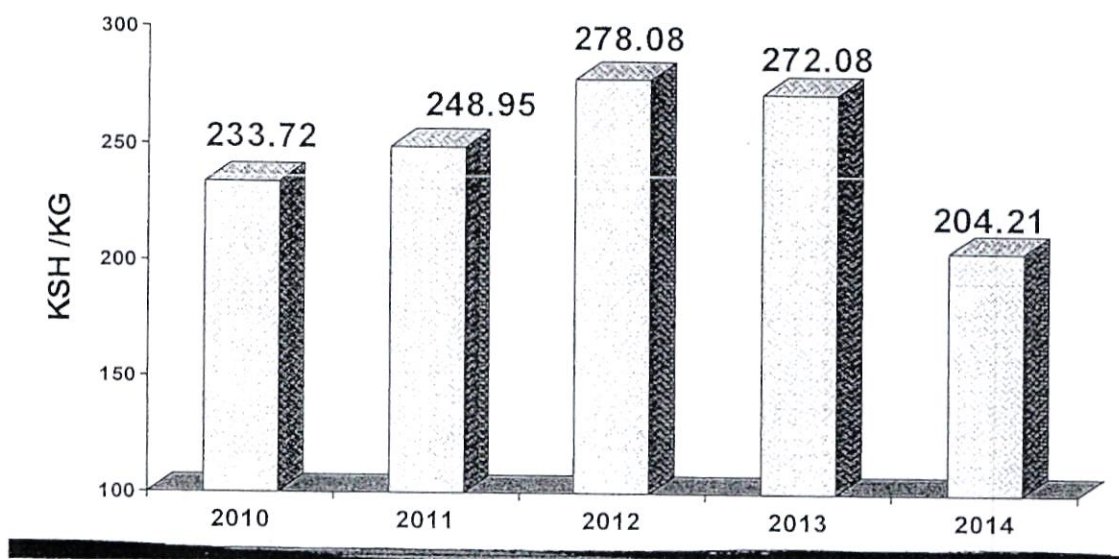
- i) How second payment is determined;
- ii) Why factories borrow to finance second payment;
- iii) Ceiling of minimum payment
- iv) Transparency and competitiveness of loans for factories construction
- v) Cost of putting up factories

How Second Payment is determined - The revenues (tea sales and other income) of the factories are netted against the cost of production, the initial payment at the rate of the Kshs 14 per Kg GL and the surplus is distributed to the farmers based on the kilos delivered. The accounts leading to second payment declaration are prepared by KTDA Management Services and audited by an independent Auditor appointed by the factory shareholders, who are also the farmers.

Why Factories borrow to finance 2nd Payment - The tea prices realized from 2010 to 2013 were favourable and such factories entered into long term capital expenditure to modernize/expand the capacities and to enhance efficiencies. With the sharp tea prices decline and high tea stocks as at June 2014 (49.68 million Kgs valued at Kshs 8.57 Billion) borrowing as

a bridging for second payment financing is a normal business cycle decision. Below is tabulation of tea prices in Kshs per Kg Made tea.

Average Net selling price trend Kg/MT - 5 yrs



Guaranteed Minimum second payment - The current KTDA model as explained above pays the entire surplus to the farmers. With the challenges of price decline, we are in the process of consultation with factory directors with a view to coming with price stabilization retentions in the near future. The Government could also assist by setting aside price stabilization funds for the tea farmers and we would appreciate if this could be expedited.

Monthly Payment- The currently monthly is Kshs14. This rate is reviewed periodically as shown below.

Period	Monthly Pay Per Kg/GL	Labour cost Per Kg/GL
May 1999 to June 2000	6.00	2.90
July 2000 to June 2003	7.50	3.60
July 2003 to September 2006	9.00	4.50
October 2006 to Nov. 2009	10.50	5.00
December 2009 to March 2012	12.00	6.00
March 2012 to date	14.00	9.00

As you can see from time there is a review of the initial monthly payment, plucking labour costs also goes up. The effective benefit of any increase in initial payment is about 50% of the increased amount. The other 50% goes to the plucking labour costs, which in some regions has gone as high as 11 per Kg Green leaf. The initial monthly payment rate substantially covers the farms costs as indicated. Majority of small scale farmers use the family labour for plucking.

10.0 FARM LEVEL COSTS-1 ACRE

INCOME	HIGHEST PAID	AVERAGE PAID	LOWEST PAID	Rate per Kg GL
Production (@3,500Kg GL p.a./acre)	3,500	3,500	3,500	
1st Payment Rate (Kshs per Kg GL)	14.00	14.00	14.00	
2nd Payment Rate (Kshs per Kg GL)	26.50	17.61	8.50	
Total Payment Rate (Kshs per Kg GL)	40.50	31.61	22.50	
TOTAL INCOME	141,750.00	110,635.00	78,750.00	
EXPENDITURE	KSH	KSH	KSH	
PLUCKING 3500 KG X KSH 8.00	28,000.00	28,000.00	28,000.00	8.00
PRUNNING (1/3) 1,167X KSH 3.00	3,500.00	3,500.00	3,500.00	1.00
TIPPING(1/3) 5 Md X KSHS 250	1,250.00	1,250.00	1,250.00	0.36
WEEDING 5 Md X KSH 250	1,250.00	1,250.00	1,250.00	0.36
FERTILIZER 5 BAGS X KSH 2,214	11,070.00	11,070.00	11,070.00	3.16
TEA CESS 1 %	1,417.50	1,106.35	787.50	0.32
OVERHEAD COST 7.5%	3,486.56	3,463.23	3,439.31	0.99
TOTAL EXPENDITURE	49,974.06	49,639.58	49,296.81	14.18
AVERAGE FARM COST (KSHS/KG GL)	14.28	14.18	14.08	
NET INCOME PER YEAR (KSHS)	91,775.94	60,995.42	29,453.19	
NET INCOME/KG. GL/PA.(KSHS)	26.22	17.43	8.42	

Whether procuring of loans to construct factories is a competitive and transparent process (cost of putting up factories deemed to be higher for KTDA factories than for private factories and a huge burden to farmers)

Schedule of loans attached

(a) Reasons why cost of putting up factories is high

Cost of construction of new KTDA standard tea factories have increased from approximately Kshs425 million (Mudete 1997) to Kshs562 million (Kaptumo) due to the following reasons:-

- Business variable changes:-
 - Rising Inflation
 - Labour cost escalation
 - Energy cost
 - Finance cost escalation
 - Foreign exchange fluctuations
 - Taxes, duties and levies
- Market and statutory requirements/demands necessitating additional equipments such as epoxy floors, Effluent waste treatment plants, food safety management system, dust-free yards, birds and insect proofing
- The tendering process for factory constructions is done competitively.

		DESCRIPTION	AMOUNT
	1	CIVIL WORKS	196,894,549.43
		Epoxy	3,982,860.00
		pipeline	17,000,000.00
		Timber	5,600,000.00
	2	STRUCTURAL WORKS	54,549,352.56
		Elevated tank	2,720,200.00
	3	PLUMBING, DRAINAGE WORKS	7,719,389.00
	4	Electrical works	34,100,606.00
		KPLC -connection charges	7,963,530.00
	3	Sub - Total 1	330,530,486.99
	4	Machinery Including associated Fittings	197,399,313.83
	5	Sub - Total 2	197,399,313.83
	6	Total - Sub - Total (1+2)	527,929,800.82
	7	Sub - Total 3	527,929,800.82
	8	Consultancy fees (7.5%)	34,315,437.05
	9	Grand Total Amount	562,245,237.87

Kipchabo 2 lines factory (a Nyayo Tea Zone factory) in Nandi cost Ksh 720 million.

(b) Reasons for the huge burden to farmers/shareholders

- Prior to privatization, KTDA used to construct leaf bases (about 25-30% of project cost), as part of contribution to new projects and the lenders would finance the rest of the construction cost. Through this arrangement farmers were able to get 100% loan facility for construction of new factories. The loans were payable over a period of ten years plus a two-year grace period, while the Government would provide the necessary loan guarantees. With privatization, this arrangement was no longer tenable, as lenders demanded 30% equity contribution upfront before they

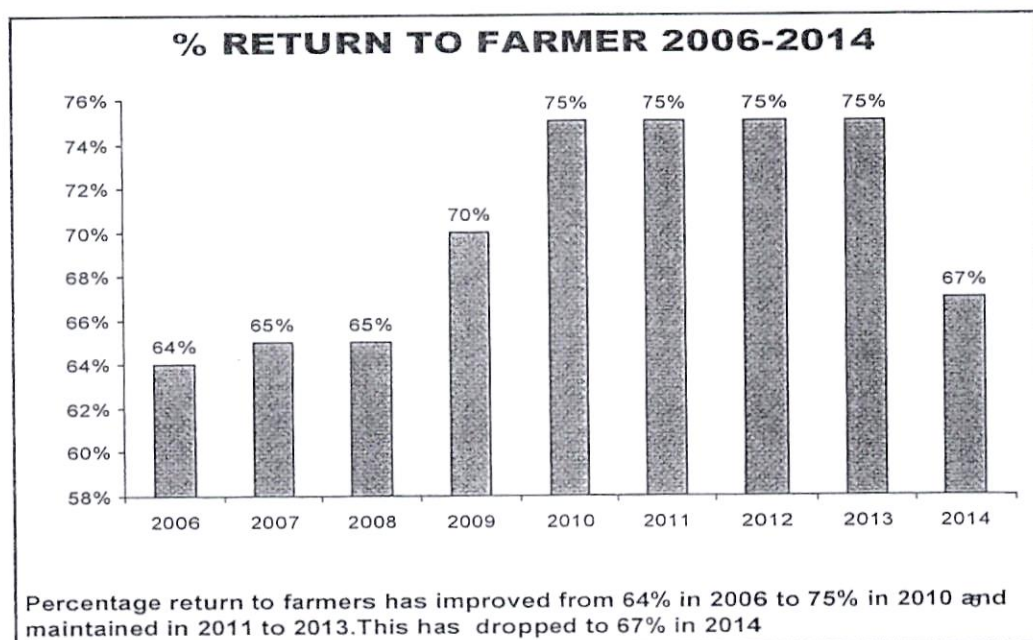
could release the loan funds. Subsequently satellite factory policy that was in line with the lenders' requirement of 30% (later revised to 50%) contribution upfront by the project beneficiaries was put in place.

- The development loans towards new satellite units are acquired by and designated to the sponsoring factory for purposes of benefiting from economies of scale and ease in debt servicing. These proposals were meant to enhance processing capacities, manage cost of putting up new tea factories and help to improve quality of made tea by reducing congestion. They also helped to ease loan repayment since the whole catchments would be involved and not only the farmers moving to the new facilities. These farmers had also participated in developing the factories they were shifting from.
- The above is in addition to change in relevant economic variables namely increased interest rates, fluctuation in exchange rates, statutory requirements etc.

The loans are sourced competitively and transparently. There are 21 Commercial banks approved by KTDA board and these banks are always asked to bid for the loans. Most of the loans are USD denominated and the interest rates ranges from 4.5% to 6%, one the best of you can in the local market.

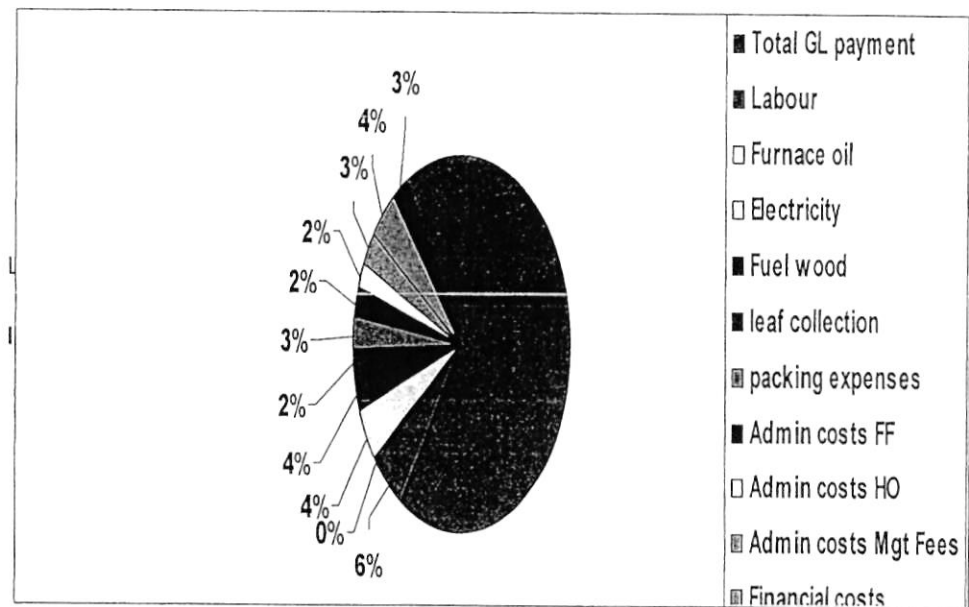
Subsidies- We fully support and welcome any subsidies from the Government for the tea farmers. The government has pledged to subsidize fertilizer at Kshs 321.35 per 50 kg bag in the current financial year

8. Efficiency of KTDA operations – leaf collection, cost control, etc



Pie chart on how revenue is shared out.

An average of 67% of the total revenue was paid to farmer in 2013/14



The factory companies have adopted the use of fuel saving fleet for the leaf collection which is able to consume 1 liter for every three kilometers and the fleet numbers have come down from 890 in the year 2002 to the current number of 408.

Improvements in leaf collection services since privatization

Leaf Collection Initiatives

Roads maintenance & Fleet modernization

Fleet Monitoring System

Constant weight bags

Phased out Old Fleet

Bus Stop/Logistics Assistant

Output:



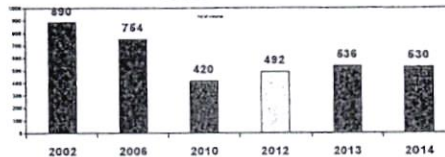
Improved Roads



Modern Fleet:

Five Year

Replacement Policy



1. Efficient Leaf collection.

- Improved Haulage rate (from 200 to 240 bags)
- Improved vehicle turnabout time (from 3 to 2.5Hours)

2. Cost Effectiveness.

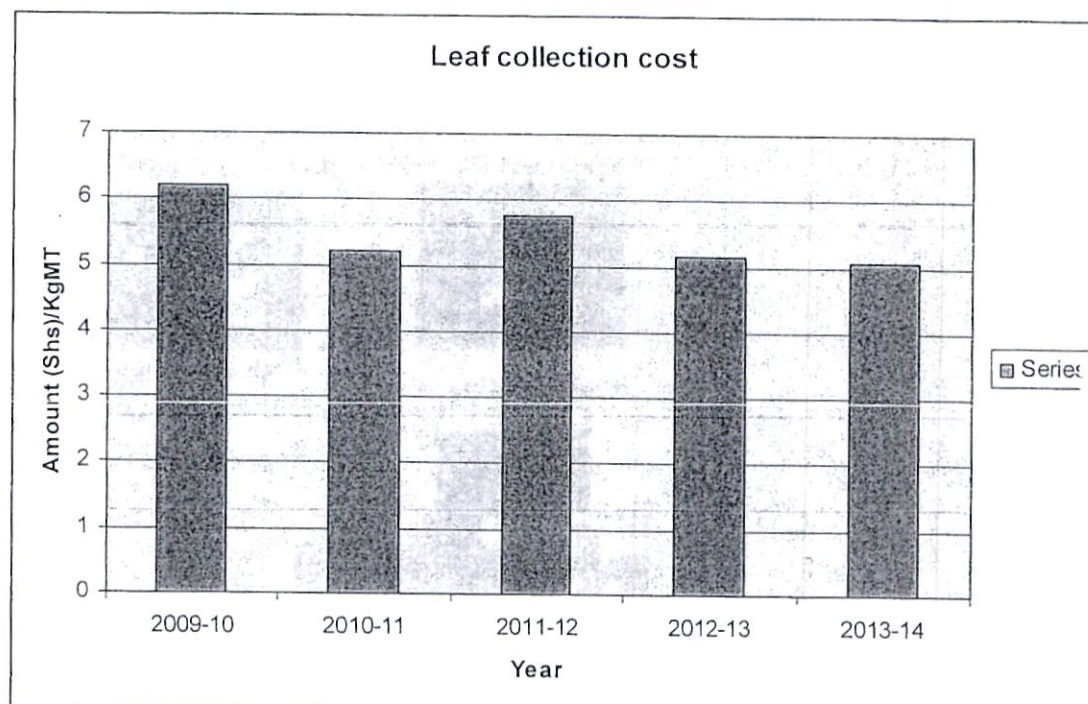
- Less on Maintenance (Spares)
- Less fuel Consumption (diesel)

3. Improved quality of green Leaf.

4. Improved service delivery

Leaf collection costs consume 2% of the total value of the teas.

These initiatives have resulted to a decrease in staff numbers from 1940 to the current 544 which translates to improved profitability since the salaries and wages are reduced. The leaf collection costs have decreased from 6.20 shs per kilo of made tea to the current 5.06 shs per kilo of made tea.



PRODUCTION, AREA AND AVERAGE YIELD OF TEA (2009-2013)					
YEAR (CALENDAR YEAR)	2009	2010	2011	2012	2013
AREA ('000 Ha.)					
Smallholder.....	107.3	115.0	123.3	124.9	127.3
Estates.....	51.1	56.9	64.5	65.7	71.3
TOTAL	158.4	171.9	187.8	190.6	198.6
PRODUCTION ('000 Tonnes)					
Smallholder.....	172.6	225.0	218.6	218.5	249.8
Estates.....	141.5	174.0	159.3	150.9	182.6
TOTAL	314.1	399.0	377.9	369.4	432.4
AVERAGE YIELD(Kg/Ha)***					
Smallholder.....	1,862.0	2,291.0	2,040.0	2,036.3	2,172.0
Estates.....	2,909.0	3,412.0	3,149.0	2,953.0	3,209.1

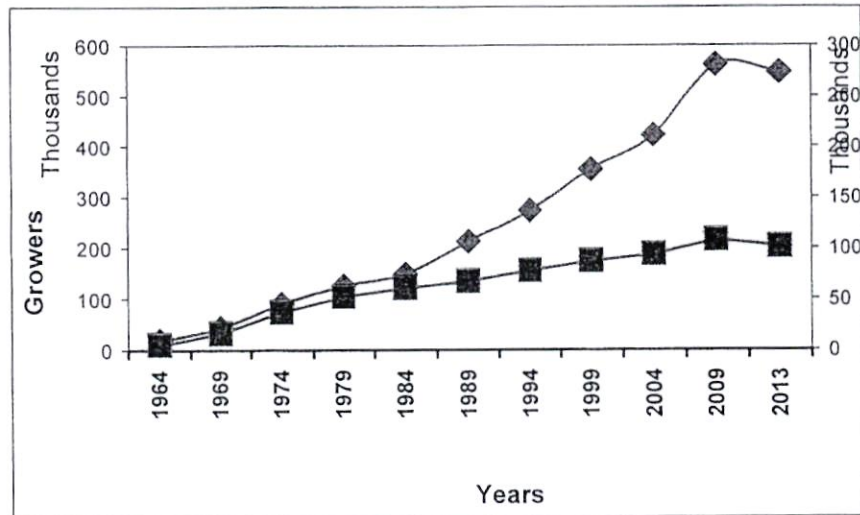
Source: Economic Survey, 2014

Area under tea has increased by 25.4%

The small holder contribution to the increase 18.6%

The area under tea has been increasing and is currently at 127.3 hectares

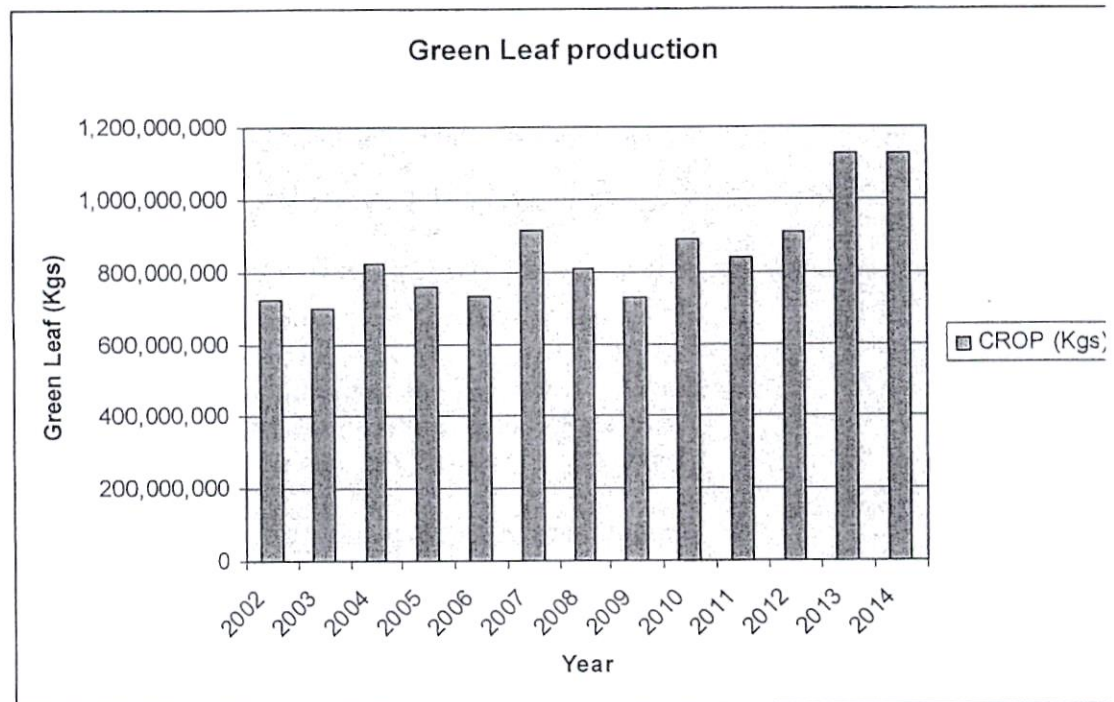
Hectarage vs No. of growers



15

The increase in number of farmers is majorly a result of land subdivision.

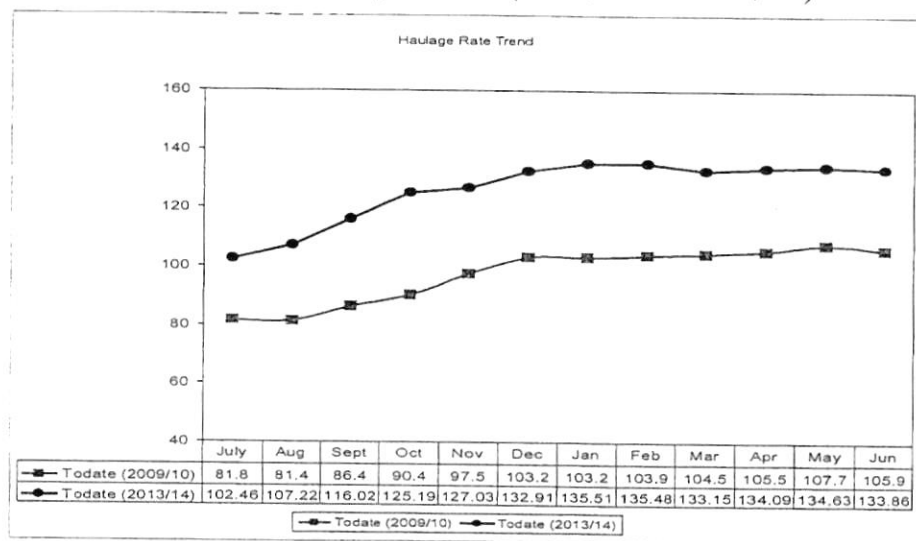
The crop received over the years has been as shown below;



The vehicle turn-around has also improved considerable from 2.62 hours to the current 2.42 hours. This is equivalent to close to 100 hours improvement in collection per run for the entire fleet.

The haulage rate (Kg/km) which means weight of green leaf carried per distance covered has improved considerable from 81kg/km to 133kg/km.

Haulage Efficiency Trend (2009/10 & 2013/14)



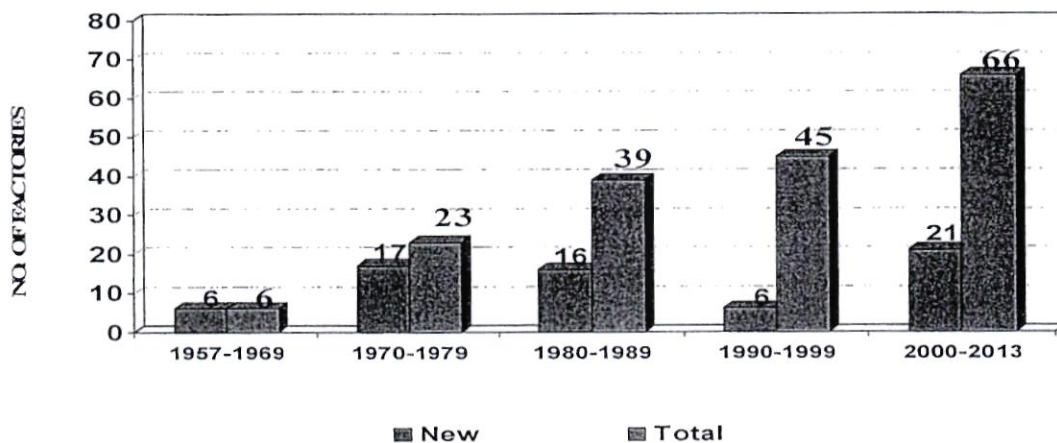
These initiatives have resulted to a decrease in staff numbers from 1940 to the current 544 which translates to improved profitability since the salaries and wages are reduced. The leaf collection costs have decreased from 6.20 shs per kilo of made tea to the current 5.06 shs per kilo of made tea.

Processing capacity improvement in since privatization.

21 new factories have been built since year 2000, raising the number of factories to 66. The processing capacity has increased from 665Mkgs to 1,410Mkgs. The cost of putting up the new factories is 10 billion.

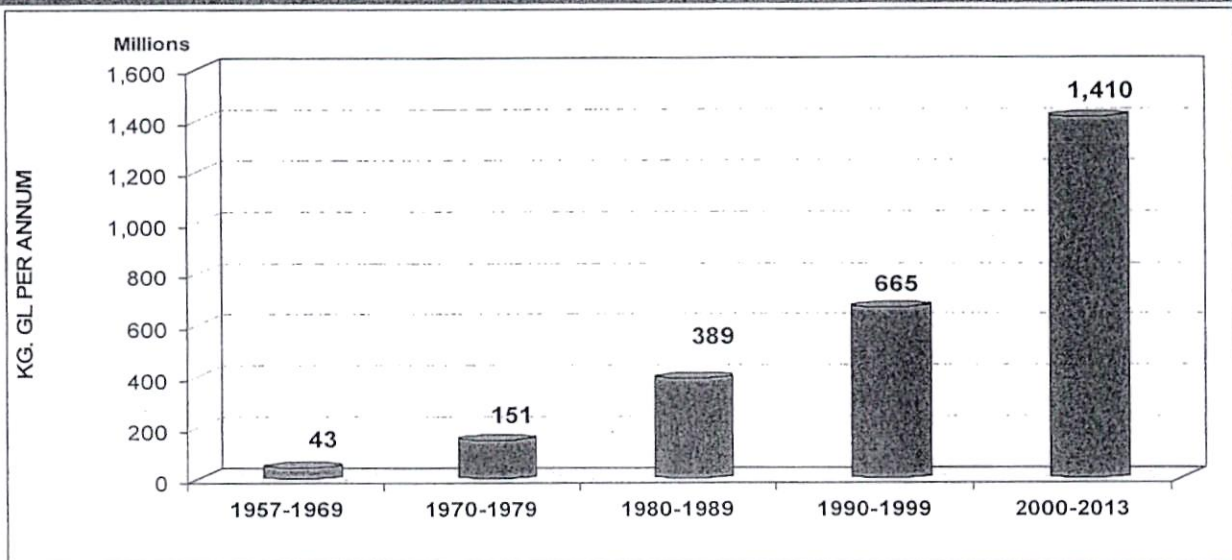
In addition old factories have been modernized and expanded to process the increasing leaf quantity.

KTDA MANAGED TEA FACTORY UNIT



In addition Boito, a satellite of Mogogosiek is under construction while others are planned in future.

TEA FACTORY CAPACITY ENHANCEMENT



Factory Green Leaf capacity has increased annually from 43M Kg in 1969 to 1,410M Kg currently.

Increased capacity has been achieved through existing factory expansion and construction of new ones.

9. Marketing of KTDA teas

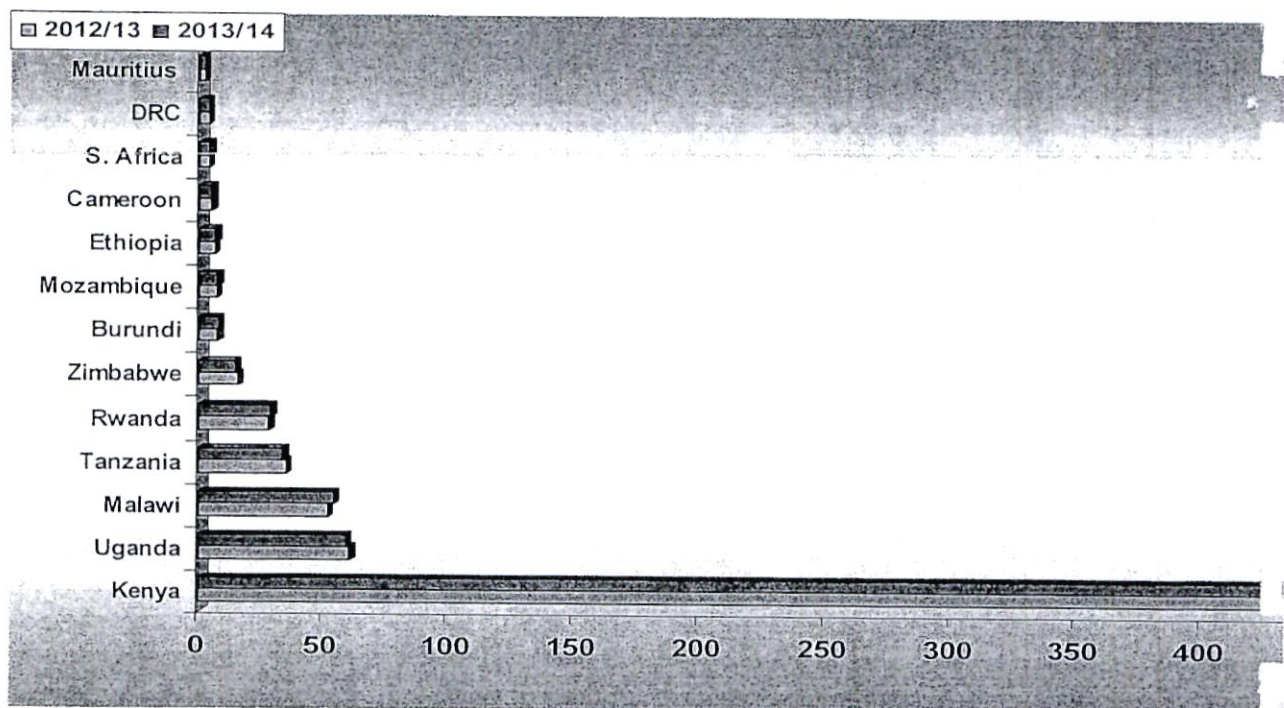
i. KTDA operates as a monopoly both in marketing of teas and operations

- i) Marketing of tea is spelt out in the Sessional paper No. 2 of 1999.
- ii) KTDA engages closely with missions abroad on mobilizing and organizing business to business meeting in tea consuming countries.
- iii) We engage with Ambassador/Trade Missions before and after postings.
- iv) We are part of the Tea Promotion Advisory Panel together with the Tea Directorate and other industry stakeholders tasked with tea promotion.
- v) It is the role of the Tea Directorate to license managing agents and currently KTDA Management Services operate under tenable managing contracts with small holder tea factories. Sessional Paper No. 2 of 1999 section 10.3.1 (sub section ii) outlined that..... factory companies may opt to contact a different managing agent to manage their operations and activities". Other licensed managing agents charge 12 per cent while KTDA charges 2.5 per cent

ii. Introduction of County Tea Auction Centres

Mombasa Auction is a regional / global centre

REGIONAL PRODUCTION



- ii. Mombasa is a multi origin/ regional auction centre. This makes it strategic to scale it up a tea hub through establishment of a Free Port

just like Dubai. Dubai has already seen this business opportunity and has positioned itself a tea hub between producing countries and consuming nations in Asia. Kenya should not take this for granted.

- iii. Centralization of tea business in Mombasa means economies of scale in terms of warehousing, brokerage services, tea transport, banking facilities, clearing and forwarding services, pre-shipment shipping logistics and ease of enforcing Rules and regulations. Already an efficient payment platform exist that ensures farmers money is paid before clients can access tea.
- iv. Factories can still sell tea directly as ex-factory but subject to local taxes.

10. Pay points of farmers tea proceeds

There are about 560,000 small scale tea farmers in the KTDA growers payroll. Each of these farmers independently advises us of their pay point details by filling and signing the necessary form. As such, the pay point is a farmer's personal decision. However, from the analysis below, about 57% to 62% of the amounts paid to the farmers in the financial year 2014 went through the Saccos.

PAY-POINT AMOUNT ANALYSIS

Month	BANKS	SACCOS	POSTA	TOTAL	% of thro 'Saccos
Jul-13	233,959,827	400,818,613	10,649,989	645,428,429	62.10%
Aug-13	248,979,235	418,226,470	10,035,356	677,241,062	61.75%
Sep-13	11,563,895,621	16,004,382,836	317,909,458	27,886,187,914	57.39%
Oct-13	555,411,743	844,166,800	14,178,923	1,413,757,466	59.71%
Nov-13	469,825,878	728,128,125	14,269,314	1,212,223,317	60.07%
Dec-13	569,469,297	936,263,398	17,716,288	1,523,448,984	61.46%
Jan-14	544,463,352	830,045,628	14,834,406	1,389,343,385	59.74%
Feb-14	431,734,957	670,394,421	10,223,807	1,112,353,185	60.27%
Mar-14	580,030,367	950,699,824	7,043,219	1,537,773,411	61.82%
Apr-14	520,345,123	810,734,743	14,934,851	1,346,014,717	60.23%
May-14	849,380,830	1,118,593,782	14,261,902	1,982,236,514	56.43%
Jun-14	378,722,699	605,281,598	11,511,476	995,515,773	60.80%
TOTAL	16,946,218,929	24,317,736,239	457,568,989	41,721,524,157	58.29%

11. New technology in KTDA tea factories

a. New clones

Farmers are encouraged to plant the high yielding clones of 371/3 and 430/90. KTDA managed factories booked 3,538,600 cuttings from Tea Research Foundation (TRFK) and

have received 705,700 cuttings. The next supply is expected to be ready from September to May 2015

b. Pruning machines

The farmers and factories have been encouraged to start using pruning machines which replaces the use of pruning knife. This has greatly reduced the pruning labor, cost and time. 6,692 pruners have been trained and 65 pruning machines procured.

c. Constant weight bags

These bags maintain a standard weight regardless of the weather and all the factories are currently using these bags. The bags were introduced to harmonize the tare weights. Their introduction has led to increased farmers confidence and higher crop levels

d. EWS (Electronic Weighing Solution)

This was introduced to replace manual weighment of green leaf and it has been implemented in all the KTDA managed factories. The farmer is given a receipt when the green leaf is weighed and the weight received is sent to the factory. The introduction of EWS has increased farmers confidence as farmers get accurate weight and this has reduced green leaf falsification

e. Vehicle tracking

This was introduced to check the fuel use efficiency and after a successful pilot where savings were realized, the project has started being rolled out to 26 factories so far. This has resulted to improved vehicle turnabout, fewer accidents due to monitoring and fuel consumption has decreased significantly by about 12% whereas in some instances where the distance covered was more by 20%

f. Fleet type

From Bedford J6 & J2s, tractors, to higher fuel efficiency models

Initially the fleet maintained was old and would incur high costs in running and maintenance but currently using a fleet with a replacement policy of 7 years. The new models are efficient in fuel consumption averaging 3.0km/L from 2.4Km/L by the earlier fleet. The carrying capacity has increased from 200 bags to between 240-260 bags

g. Continous Fermenting Units (CFUs), Weigh-feeders, Vibro-Fluid Bed Driers.

All factories have one line CFU installed and operational, 60 factories have procured/installed second CFU. All factories have a weigh feeder.

37 factories have procured and installed VFBDs driers. These are the latest in tea drying technology.

Benefits.

- Savings of labour cost.
- Consistence in terms of product quality
- Minimization of product handling by human

h. ICT capability

All factories are linked to Head Office through an ICT infrastructure. Investment in various ERP system i.e. chaipro for GL processing, infomix for finance and treasury

i. Fibre connectivity

All factories are on a fibre network with a bespoke and microwave on at the last mile.

j. Electronic Bill Board

The EBB handles all proceeds from the sale of tea at the auction. This is an enhanced online payment settlement system that facilitates direct transmission of proceeds to individual factory bank accounts.

Factory Focused Initiatives by KTDA

In its bid to provide efficient management services to the tea factories and its farmers, KTDA has undertaken several initiatives that have proven to be of immense benefit to the farmers. These initiatives are undertaken to not only benefit the farmers but to ensure that the KTDA teas retain their leading position as producers of quality tea.

They include:-

- ❖ Fertilizer credit scheme – KTDA through its subsidiary KTDA Ms Ltd procures top grade fertilizer at subsidized rates annually for the farmers through credit which the farmer repays in monthly installments throughout the year;
- ❖ Farmers' training – KTDA has scaled up farmers' training through the Farmer Field Schools (FFS) that ensure knowledge on good agricultural practices is shared and widely disseminated. In addition KTDA provides agricultural extension services by highly trained personnel located in the tea catchment areas to ensure best crop husbandry and production of high quality green leaves;
- ❖ Factory construction and expansion- KTDA has overseen the growth of the number of factories from 45 at privatization in 2000 to 66 in 2014 and at the same time expansion of existing ones. This has indeed been a major boost for the factories' production capacities;
- ❖ Modernization and automation of factories – the factories have benefited from the automation of the manufacturing process through the introduction of Continuous Fermentation Units (CFU) and other new technologies in tea manufacture leading to management of production costs and increased efficiency;

- ❖ Energy initiatives – KTDA has undertaken energy generating projects. For instance, the pilot Imenti Small Hydro power plant produces 1MW of electricity out of which the factory consumes around 0.5 MW and sells the surplus power to the national grid through a power purchase agreement with Kenya Power.

KTDA is also through its subsidiary, KTDA power company developing 12 other small hydro power plants across the tea growing which will generate more than 20 MW of electricity. This will benefit the factories first by providing energy and secondly by granting them extra income from the surplus that would be sold to Kenya Power;

- ❖ Electronic Weighing Solution – KTDA has introduced a revolutionary electronic weighing solution (EWS) in all the 66 factories. The EWS has seen leaf collection centers shift from the manual weighing scales and paper receipts used to record green leaf delivery and payment to the wireless solution that uses mobile applications and devices to record, store and relay growers production and payment data;

Constant weight bags – KTDA has rolled out constant weight bags for weighing and carrying of green leaf from the collection centers to factories which has replaced the sisal bags that had variable weight due to weather changes. The use of these bags has assisted in faster and efficient weighing of green leaf.

Subsidy of fertilizers by GoK

We are still awaiting GoK contribution towards fertilizer subsidy. There has not been any GoK subsidy since privatization. Before privatization, farmers used to get GoK guarantees.

12.Role of tea brokers in the tea value chain

The role of each player including brokers is provided for in the sessional paper no.2 of 1999 on the liberalization and restructuring of tea industry. They are independent players operating under the EATTA rules which sets trading rules for all the regional players.

Amendment 14 Section 20.1.1

- (Tea Factory Company will appoint own tea brokers in consultation with Managing agent) – Attached session paper
- Brokerage charges from producers and buyers are provided for under the EATTA rules and regulations whose membership is drawn from : Kenya, Uganda, Rwanda, Burundi, Democratic Republic of Congo, Tanzania, Mozambique, Madagascar, Zambia, Malawi, Zimbabwe and Ethiopia.

- The brokerage charge from both the Producers and the Buyers are 0.75% and 0.50% respectively. This was reduced from 1% - 0.75%. These Brokerage charges vary from time to time as prescribed by the EATTA Board. EATTA Board is composed of Producer representative, Buyer representatives, warehouse representatives, and Packer representatives.
- EATTA producer members which KTDA is a member is exploring further reduction.

13. Transport of made tea to warehouses in Mombasa

Made teas remains the property of the factories until they are sold at the Auction or directly and paid off. As such transport costs are borne by the factory to the point of sale. Sessional Paper No. 2 of 1999 requires that EATTA sets the auction rules and the rules state that teas are only auctioned when they are available at the warehouses in Mombasa.

14. Governance Issues

All KTDA managed Factory Companies are incorporated under the Companies Act (Cap 486 Laws of Kenya). The respective Companies have rules known as Articles of Association, which govern how the shareholders run their company. The Articles of Association provide for the mechanism for election of Directors and voting

▪ Number of Directors

The Articles of Association and provisions of the Companies Act form the basis for determination of the number of Directors of each factory company. The Articles provide that the factory company shall create Electoral Areas in its catchments to ensure equitable distribution of Directorship. However, the shareholders have the final say in the number of directors over and above the requirements of the Companies Act and the Articles of Association.

▪ Voting by shares

Voting in any company must comply with the statute, which states that the shares of a shareholder determine his/her voting power.

15. Conclusion

KTDA is a robust organization that has been practical in its service to its shareholders, the small scale tea farmers. The small scale farmers continue getting good returns from KTDA both as suppliers of green leaf and as shareholders. Farmers in KTDA model working together significantly reduce operations costs as efficiency is realized through economies of scale and scope. Prices are major determinants of returns to the farmer and fluctuate depending on market forces.

MEMORANDUM ON THE NEED FOR A REVIEW OF THE TEA AD VALOREM LEVY REGULATION AND THE MULTIPLICITY OF TAXES

1.0 Introduction

East Africa Tea Trade Association (EATTA) is a voluntary, non-profit umbrella body representing the interests of the tea industry in Africa. EATTA has 180 members drawn from 9 countries (Kenya, Uganda, Tanzania, Rwanda, Burundi Democratic Republic of Congo, Malawi, Madagascar and Mozambique) all actively engaged in growing, buying, broking and warehousing of tea. 90% of the members are based in Kenya.

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

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

It is important to note that most tea traders sell multi origin teas as blends to meet the taste and preferences of various tea consuming countries. Every country has its dominant characteristic likings in particular teas. It is therefore the work of a trader to match same satisfactorily or else due to global market competition, some of the markets would turn to Dubai as a source of multi origin and consequently divert interest from Mombasa. In future, we should strive to make Mombasa the single sourcing hub for all world teas and more so home value addition.

Although the teas on sale can at first appear similar, differences can in fact be significant. Even if teas have the same 'grade' (e.g. PF1), this is a nominal way of categorizing teas and the grades themselves have no strict definitions. Two teas graded PF1 can easily have very different taste characteristics and even a different leaf size and appearance. Tea picked from the same bush can easily have a huge variation in quality based on the time of the year or the manufacturing process.

The attributes such as leaf appearance, taste and liquor will determine the asking price for a particular tea. More broadly factors affecting the price movements include tea supply, buying activity in import markets, world auction prices, availability of cash and currency fluctuations.

The Mombasa Auction has more than, seventy buyers reflecting the Kenya export volume into the key markets of Pakistan, Egypt, UK, Sudan Yemen and UAE among many others. The market is very competitive, with some client contracts changing hands for a few cents difference in price. The job of the buyer is to meet his clients' requirements as efficiently as possible, or risk losing clients to competing buyers. A broker's job is to sell the tea at the highest possible price or risk losing the business to another broker. They earn their commission as a percentage of the value of the tea sold.

The interests of the broker and the buyer are not aligned so they will not have an opportunity to collude. The issue of collusion is therefore a wrong perception and not the reality.

The article specifically mentioned the declining average price for PF1. What it neglected to mention is that BP1 has actually declined more than the rate of PF1's decline.

If we take January 2013 as a base period compared to the average for May 2014 then you will note that the four grades namely BP1, PF1, PD and DUST1, have declined by 42%, 40%, 31% and, 30%, respectively.

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

1.1 Performance of the Tea industry in Kenya

The performance of the tea industry is vital to the Kenyan economy. Tea is the largest foreign exchange earner in Kenya contributing over Kshs 114 billion in 2013. The tea industry contributes about 4% to the GDP and more than 20% of the foreign exchange. More than 650,000 Kenyans directly earn a living from tea. More than 4 million Kenyans directly or indirectly earn a living from tea.

Tea is grown in 15 counties and is therefore an effective catalyst for development. Tea is also the only cash crop grown widely in geographically dispersed areas in Kenya. The small scale tea farmers' account for over 60% of Kenya's production through 66 KTDA managed tea factories with the rest being produced by the medium and large size tea estates.

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

The Table in Annex 1 shows the top ten export markets for Kenyan tea and the amount earned from them. Tea generates 4% to the Kenya GDP.

Tea accounts for approximately 26% of Kenya's export earnings and is the leading foreign exchange earner with leading buyers being Pakistan, Egypt, United Kingdom, Afghanistan and Sudan.

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

Tea has assisted to fund maintenance of rural roads through tea cess and voluntarily provides health and education facilities to rural populations.

Kenya experienced very high production which started towards the fourth quarter of 2013. The situation was exacerbated by overstocking towards the run-up to the March 4th General Election in anticipation of supply disruptions by possible political violence.

It has been stated by industry stakeholders that whenever there is an unprecedented increase in tea production in Kenya, auction prices usually experiences a big slump as recorded in the year 1995, 1999, 2001, 2007, and 2013. The converse was also observed when higher prices were recorded in 1997, 2000, 2006, 2008, 2009, 2011 and 2012 when there was lower production.

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

It is worthwhile to note that there are more than 41 taxes and levies charged in the tea industry in Kenya. Despite the more than a billion shillings of the ad valorem levy that continues to be paid annually there has been no Board of Directors at the Tea Board of Kenya for more than 30 months.

2.0 Tea Task force and Ad Valorem Levy

In 2006, a task force to look into the challenges facing the tea industry recommended, among other issues, an introduction of a tea promotion levy to fund Tea Board of Kenya's marketing activities. The levy was to paid at the export point at the rate of Kshs 0.54 per kilogram of made tea. This was to be in addition to the Kshs 0.44 collected from tea producers as manufacturing cess. On 27th January, 2012 the Minister of Agriculture gazzetted the amended Tea (Ad Valorem Levy) Regulations, 2012 introducing a levy to be charged at 1% of customs value at the point of export. Producers and buyers have complained that there should have been consultations prior to implementation of this levy as it is exorbitantly high.

The average price of Kenya tea in sale 16 of 16th April was \$3.11 upto the shipment point (FOB), the point the levy is charged. one percent of \$ 3.11 is US cents 3 which is equivalent to Kshs 2.50, up from the Kshs 0.46 cents the farmers have been paying. This is an increase of slightly over 500%.

While the Government has insisted that stakeholders are represented in the Tea Board through elected representatives, stakeholders feel that such fundamental decisions that can have serious implications to the trade ought to have been given wider consultation.

2.1 Eroding importers Confidence

Although Kenya is the third largest producer of tea after India and China, it is the largest exporter of tea in the world, having an advantage that tea grows all year round. With the calls by producers to boycott plucking due to this added levy, the confidence that

overseas buyers have on the continued availability of Kenya tea may start being eroded. These overseas packers sign annual supply contracts with producers and such threats like boycotting plucking will make them look elsewhere. Moreover, if the Western consumer organizations such 'Fair-trade' or 'Rainforest Alliance' who are paying additional cash premiums for Kenya teas could easily cancel these premiums if they feel that the Government is overtaxing the farmers. In the last two months the levy has been in force, prices of good quality non Kenya teas sold through the auction have risen substantially while those from Kenya have stagnated. The levy is discriminative as it targets only Kenya teas and not those from the neighboring countries.

2.2 Distribution and Uses of Ad valorem Levy

According to the Tea (Amendment) Act 2010, The Tea Board of Kenya receives 50% of the Levy amount, Tea Research Foundation of Kenya 40%, while 10% is to be used for infrastructure development in tea industry.

In the period 2014-2015, the allocation is anticipated to be as follows subject to price and quantity of export:

- Tea Board of Kenya- Kshs. 500 million
- Tea Research Foundation - Kshs. 430 million
- Infrastructure funds – Kshs. 105 million

In view of the implementation of the AFFA Act, 2013, Crops Act, 2013 and KALRO Act, 2013, there is concern on the distribution and utilization of the Ad Valorem levy once these Acts come into full operation.

2.3 A Case for the Review of the Ad Valorem Levy

Tea Task Force of 2006

In 2006, a task force was formed by the Minister for Agriculture to look into the challenges facing the tea industry and to offer solutions to the same. The task force among other recommendations proposed to introduce a tea promotion levy to fund the Tea Board of Kenya marketing activity. The levy was to be pegged at 54 cts per kilogram of made tea. This levy was to be added onto the already existing manufacturing cess charged at 46cts per kilogram of made tea

EATTA is of the opinion that the levy will hurt the

Tea industry for the following reasons

a) Ad Valorem Levy is a regressive tax

The ad valorem levy penalizes the higher priced finely picked quality tea produced by the small scale farmer. The result of the levy is to discourage the producer who produces quality tea for the producer who does not. This will have the unintended consequence of damaging the image of Kenya as a producer of premium quality tea that is in high demand worldwide for blending with lower quality teas.

b) Escalating costs of factor inputs

The tea industry is grappling with increased costs of factor inputs, for example labour costs have gone up an average of **173%** between 2001 and 2011. The cost of oil based fertilizer has gone up **146%** in that period. The cost of electricity has gone up **92%** and the cost of diesel has gone up **345%**. In that period the tea industry has benefited from a surge in average price of **175%** from the \$ **1.62** average price in 2001. Calculations reveal that if the average price of tea were to decline to \$ **1.80** based on the prevailing costs of production, most tea producers would have to close down as the business model would not be able to sustain the costs. The ad valorem levy is a punitive tax on an already overburdened sector.

c) Increased bureaucracy

In view of the many shipping instructions that an exporter processes, daily payments of the ad valorem levy will mean a lot of man hours are used making payments and following up with documentation. Also related to this Tea Board has to approve the export documentation before they are presented to Customs and Port Officials. These two work on 24 hour cycles while Tea Board of Kenya is still on an 8 hour work cycle. This discrepancy will result in exporters experiencing delays in loading their tea on vessels for export.

d) Inequitable treatment of Kenya teas

The enactment of the East Africa Community Common Markets Protocol in July 2010 paved the way for free movements of the factors of production across the five EAC signatories. The Partner States agreed to eliminate tariff, non-tariff and technical barriers to trade; harmonize and mutually recognize standards and implement a common trade policy for the Community. The Mombasa auction is a multi origin auction that has tea from 9 countries being bought weekly. The fact that the levy is specifically on Kenya tea goes against the objectives of the EAC Common market to widen and deepen cooperation among the Partner States in the economic and social fields for the benefit of the Partner States and their citizens.

e) Increased regulation

Vision 2030 states that Kenya will raise incomes in agriculture through **commercially oriented** and modern agriculture. The emphasis on commercially oriented is assumed to refer to private sector driven. The tea industry in East Africa is primarily driven by the private sector. Experience has shown that when properly regulated and operating under competitive market conditions, the private sector can generally achieve more than the public sector. It is unfortunate that in some cases licenses and levies are not used as a means to regulate business entry and activities in areas where business activities may have security, health or safety implications but are used as a mechanism to raise revenue for the regulatory authority.

f) Inadequate consultation

Tea Board of Kenya states that the ad valorem levy was introduced "following consultations with industry stakeholders" and that "a series of consultations were held with representatives of the East African Tea Traders Association (EATTA), Kenya Tea

Growers Association(KTGA) and the Kenya Tea Development Agency (KTDA) Ltd. The reality is that the only consultation was a meeting in August 2011 where the subject of ad valorem was raised and briefly discussed before the meeting moved onto other subjects. TBK's statement is contradicted by the sequence of events of the legislative process and timing of the Tea (Amendment) Bill and the Tea Amendment Act which preceded the August 2011 meeting.

If there was any will or wish by the TBK to open up the proposal of ad valorem to "stakeholder consultations" it should and would have been done prior to the relevant legislation being enacted- not after.

g) Departure from task force report recommendations

The Tea Task Force Report recommended a review of Section 18 (1) of the Act : " to provide for a Tea Promotion levy at an initial rate of Kshs 0.54 of made tea, to be charged at the point of sale and collected by the Kenya Revenue Authority. This will be in addition to the existing Manufacturing Cess of Kshs .0.46 per Kg charged to producers. According to the Task Force this would increase funding for the two operations from sh140 million per annum to sh340 million per annum- an increase of 143%.

Tea Board of Kenya has instead changed the calculation from being a fixed amount per kilo to one percent of the value of tea. At the prevailing prices in the auction in sale 34 of 21st August 2012 where the average price for 1 Kg of Kenya tea is \$ 3.43, one percent is Kshs 2.92 per kilo of made tea. This is an astronomical **520%** of the **46 cts** manufacturing cess. It only takes **4 months** to accumulate the Kshs 340 million envisaged as the annual collection of the promotion levy in the 2006 Task Force Report.

Instead of raising Kshs. 340 million based on production on an annual basis, Tea Board of Kenya stands to fetch an astronomical Kshs. 1 billion (based on 1% of the over Kshs. 100 billion of the value of tea exported in 2011.). It is not clear to the tea industry stakeholders how Tea Board of Kenya shall utilize the anticipated excess Kshs.660 million.

2.4 Impact of the Ad valorem Levy to the tea industry

There are several challenges arising from the introduction of Ad valorem levy on the tea industry in Kenya. The most affected in the value chain have been the producers and buyers of tea as follows;

Impact on the producer

- a) Impact on Kenyan teas: The introduction of the levy which is charged on Kenyan tea at the rate of 1% of customs value at the point of export means that the buyers in the auction prefer to buy non Kenya East Africa teas. The decrease in demand for Kenya teas has resulted in the Kenyan tea being discounted and directly affects farmers' earnings not only because of the payment of the levy but also because of the discounting by the buyers.

- b) Punitive to high quality teas: The ad valorem levy is charged as a percentage so that the higher the auction prices and the high levy charged and this discourages the producer of good quality tea and also makes Kenya tea less competitive.
- c) Reduced purchases: There is increased level of out lots as buyers are reducing their purchases during the auction.
- d) Bureaucracy and delays: The documentation required to process the payment of the levy gives rise to bureaucracy and delays. An important principal of any taxation levy or license is to ensure that payment process is simplified administratively.
- e) Cumbersome refund mechanism: The exporters pay the levy at customs value and refunded the difference between the customs value and the auction price.

Impact on the buyer (exporter)

- a) Cash flow: The levy has an impact on the exporter's business cash flow because most sale transactions are on 90 day credit. Many exporters obtain trade financing to cover their expenses. The fact that they have to pay for the levy upfront will impact on their cash flow.
- b) Cumbersome payment process: Daily payments of the Ad valorem levy take a lot of time used in making payments and follow up the documentation.
- c) Delay obtaining Commercial invoice: currently commercial invoice is required as part of the document of the levy to be charged. However, in the absence of the commercial invoice then a proforma invoice is used as basis of payment as long as the commercial invoice is produced within 7 days after release of the teas.
- d) Impact on the Mombasa Auction Centre: The levy is likely to discourage buyers from buying tea in the Mombasa auction which will make other tea auctions benefit. It will also encourage tea stakeholders such Dubai Tea Trade Centre set up a tea auction centre.

2.5 EATTA's Policy Position

Studies carried out the world over have shown that Governments that want to improve economic activity and growth prefer to create an enabling environment by facilitating the bottlenecks that businesses are exposed to. An example of what Tea Board of Kenya can do is harmonize the payments made by the tea industry to various bodies i.e. create a single window payment system. The government should be doing everything it can to reduce regulation. This is essential if growth, productivity and employment are to be the economic goals.

In relation to ad valorem levy we request that:

- a) The levy needs to be reviewed so that instead of being a percentage of the value of the tea it becomes a fixed amount per kilogram of tea as proposed in the 2006 Tea Task Force Report.
- b) The fixed amount should not exceed Kshs 1 per kilogram of made tea.
- c) The levy should be collected at the producer level just as was the case with the manufacturing cess and not at the point of export.
- d) The frequency of collection should be restored to monthly collection in arrears not in advance.
- e) There should be adequate representation of the stakeholders in the utilization of the levy, with clear cut budgetary provisions backed by prioritized activities that require implementation.

2.6 Interventions

In order to address the challenges on Ad Valorem, the following are proposed;

- a) **Level of payment:** There are four (4) options proposed to address the impact of Ad valorem levy besides the existing system as indicated below:
 - i. The levy could be withdrawn altogether and this implies that the Government fully funds the mandates of the Tea Board (TBK) and Tea Research Foundation of Kenya (TRFK).
 - ii. If the levy cannot be withdrawn altogether, review the levy payment and charge it at a fixed amount /kg of made tea at the factory. The fixed amount should not exceed Kshs. 1 /kg. A levy at Kshs.1 /kg, the tea industry would contribute Kshs. 432,452,700 in 2013.
- b) **Representation:** There should be adequate representation of the stakeholders in the utilization of the levy, with clear cut budgetary provisions backed by prioritized activities that require implementation. The Promotion component under the Tea Board of Kenya should be managed by a committee comprising of stakeholders.
- c) **Collection:** The definition of auction price should be included in the customs schedule and it should be taken as ex warehouse. That means that the levy should be collected at ex- warehouse value as opposed to customs value.
- d) **Ring fencing:** The levy should be ring fenced so that it is not utilized by other crops or directorates under AFFA Act 2013, Crops Acts, 2013 and KALRO Act, 2013 and the same applies to the assets of TBK and TRFK.
- e) **Rebranding:** The levy should be renamed to be tea levy or manufacturing cess and not ad valorem as is the case currently.

3.0 Value Added Tax (VAT) on the Tea Industry

3.1 Background

In Kenya, VAT was first introduced in 1988 and has since become the most important source of state finance, accounting for nearly 30% of state revenues. For the tea industry, business firms buy items which qualify for VAT payment. These items include; furnace oil, plant and equipment, vehicles and packaging materials.

The Mombasa Tea Auction Centre sells teas from Kenya, and other 11 countries in the region. The Auction centre is zero rated for VAT; approximately 95% of the Kenyan tea bought in the auction is destined for export while 5% is sold locally to tea packers. However, exporters buying directly from Kenyan tea producers through private sales are required to pay 16% VAT that is claimable.

Services rendered to tea in transit such as warehousing, blending and documents handling is currently subject to VAT. The same services rendered to tea owned by a Kenyan company whether bought in an auction or outside an auction is also subjected to VAT.

Under the VAT Act Cap 576, tea is currently classified as a trade item and therefore subjected to VAT and other levies that make it very expensive and unaffordable locally.

Currently there is a precedence set in the Kenya dairy industry, where all inputs to the dairy industry including feeds are zero rated. In addition in Tanzania, locally consumed teas are zero rated.

3.2 The Effect of VAT on Tea Industry.

There are various challenges emanating from levying of VAT across the value chain. The challenges are enumerated as below:

a) Tea Producers

The effect suppresses direct enquiries from local traders for private sales ex-warehouse Mombasa due to VAT payment and hence tea producers are not able to take as much an advantage of local demand as would otherwise be possible.

The application of VAT for locally packed teas effectively denies producers direct access to local tea markets.

b) Local Exporters

Application of VAT to directly sourced made teas denies the local exporter the ability to source additional volume for export from the local producers. Where buyers are not able to fulfill their orders, this leads to delays in shipments, which frequently result in cancellation of orders or additional costs

c) Application of VAT to directly sourced teas has disadvantaged the local exporter in relation to the offshore buyers.

The current tax regime restricts exporter-exporter trading. The trade between exporters enables those exporters with inadequate stocks to fulfill their export orders and ensure prompt shipments.

d) Local Private Sales

The imposition of VAT translates into high supply chain costs, which are ultimately borne by the farmers.

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

e) Local Tea Consumption

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

3.3 Interventions

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

- a) **Zero rating of tea:** In view of the insignificant VAT revenue generated from tea and considering the significant real and opportunity costs, tea should be zero-rated under Part B of the Fifth Schedule to the VAT Act.
- b) **Classify tea as a Food crop:** Tea is a beverage and forms part of the staple diet for most households like other food stuffs such as maize flour, rice, wheat flour. However, since most of the tea produced is exported, it would be advisable to zero-rated, rather than exempt it from VAT.
- c) **Warehouses service VAT waived:** Tea packing, repacking, mixing, blending and similar processes are carried out to enhance the quality of tea for export. The definition of manufacturer in the VAT Act considered such activities to constitute manufacture. It is recommended that such processes as carried out by tea warehouses be zero-rated to minimize unnecessary incidence of VAT.
- d) **Timely VAT Refunds:** Timely VAT refund and adopt a reverse VAT regime whereby businesses recover any refund claim before making their payments.
- e) **Exemption of VAT on packing material and machineries for value addition:** Government is to consider the removal of VAT charged on packing materials and machineries in order to encourage value addition initiatives.

4.0 Agricultural Produce Cess (APC) on Tea for road maintenance

4.1 Historical Background and the Role of APC

The condition of rural access roads is crucial to the tea producers as they determine the speed and efficiency with which green tea leaf is collected especially during the wet seasons.

The APC on tea is levied at one per cent on the value of tea produce. Eighty percent of all monies collected as Cess is used in maintaining roads and other services, in the tea catchment areas, while the remaining twenty percent is remitted to the County Government for general use.

The Tea Board of Kenya is the appointed collecting Agent for Agricultural Produce as per legal notice No. 339 and remits the same to the then councils. This framework is likely to change following the implementation of the new Constitution and Crops Act, 2013, as rural access roads have been devolved to the county governments. At the same time, the Kenya Rural Roads Authority has, since 2007 taken over the management of rural tea roads.

4.2 Current Status

Following the coming into effect of the new constitution the legal framework for the Local Governments and the Agriculture sector has changed with the repealing of the Agriculture Act and the Local Government Act which have been replaced with the Agriculture Fisheries and Food authority Act, the Crops Act 2013 and the County Governments Act, respectively.

The Tea Board of Kenya organized a forum for Tea Industry stakeholders to consult on the way forward regarding the Agricultural produce cess and develop a framework for collection, disbursement, evaluation and monitoring. The framework aimed at ensuring there is a streamlined collection, disbursement and evaluation and monitoring mechanisms for an accountable, transparent and efficient management of APC on tea. This is in line with the provisions in the Financial Management Act, 2012 and the Public Audit Act.

4.3 Interventions

- a) Retain the current status quo on Agricultural Produce Cess (APC) with respect to collection, disbursement and utilization of the funds. However, there is need to anchor this arrangement in law.
- b) There is also need to ensure coordination, monitoring and evaluation of the funds to enhance transparency and accountability
- c) There is need for national reclassification of roads and the roles of all parties in the maintenance of the road network. These parties include Kenya Rural Access

Roads (KERA), Kenya Urban Roads Authority (KURA), County government, Tea cess committees and tea factory companies.

- d) There is need to involve all stakeholders; farmers, county governments and national government to address the potential conflict between the two arms of government and ensure sustainability of agriculture under the devolved government environment. This will ensure solutions geared towards cushioning farmers against multiple taxation/levy regimes amongst other challenges facing them are found.

5.0 Multiplicity of taxes and levies

There are more than 41 taxes and levies affecting the tea industry in Kenya.

5.1 Intervention for the Multiplicity of taxes and levies

- a. **Use of a Single Industry Licensing Regulation for a Single Tax Regime per Base for the Tea Industry** : It is recommended that the tea industry should consider adopting the use of smart regulation which entails the use of one tax regime per base and simple tax administration. A single tax base regime is applicable when all other levies other than income tax are lumped together and charged as one. Under such a regime, levies like National social security, NHIF, NEMA, KEBs, fuel levy, land rents and rates, and training and business permits fees are lumped together and charged as one levy.
- b. **Review the KEPHIS charges in Legal Notice No 48 of 3rd April 2009:** KEPHIS gazetted new charges of tea grading and inspection under Legal Notice No 48 of 3rd April 2009 that increased levies by up to 500%). The new charges took effect from 1st June 2010 and industry stakeholders were not adequately consulted before their gazettment. Upon industry consultation with the management team at KEPHIS on 28/05/2010, it was resolved that the charges for multiple custom entries be reduced to Kshs 10,000 from Kshs 20,000. This agreement has however not been formalized legally to date.
- c. **Policy Framework for an Incentive Scheme for the Tea Industry.**

The industry recommends an incentive scheme that is favorable and grants the industry special fiscal tax and concessionary financing incentives.

Annexes

1. TOP TEN DESTINATIONS FOR KENYAN TEA IN 2013

Country	Export Volume
Egypt	95,536,630
Pakistan	95,055,555
United Kingdom	63,373,909
Afghanistan	61,975,587
Sudan	30,253,269
United Arab Emirates	28,059,046
Russia	21,736,794
Yemen	18,438,063
Kazakhstan	14,196,852
Iran	10,400,419

2. COMPARATIVE ANALYSIS OF THE IMPACT OF THE TEA LEVY

Based on Per Kilogram Rate against 1% on Value

Year	Quantity of tea (Kgs)	Manufacturing cess 0.46 cts per Kg (Kshs)	Value of Teas in Kshs	New levy if charged at 1% on value in Kshs
2007	369,606,176	170,018,840	43,146,406,584	431,464,066
2008	345,816,830	159,075,741	62,199,689,001	621,996,890
2009	314,198,371	144,531,250	69,603,265,870	696,032,659
2010	399,006,377	183,542,933	97,740,139,239	977,401,392
2011	377,912,178	173,839,601	109,408,775,996	1,094,087,760
2012	369,561,924	169,998,485	112,255,886,576	1,122,558,865
2013	432,227,727	198,824,754	114,408,328,090	1,144,083,280

ANNEXES

ANNEX 3. KENYA GOVERNMENT LEVIES AND TAXES CHARGED ON TEA INDUSTRY

	ITEM	Type	Payee	Rate of payment	Frequency	Impact-National or tea sector
Government Taxes						
1	Corporate Tax	Tax	KRA	30 % on profit	Paid in installments	National
2	Value Added Tax	Tax	KRA	16% on Vatable products	Monthly	Tea sector
3	Import Declaration Fee	Tax	KRA	2.75 % of Value	At point of export	National
4	Furnace Oil import tax	Tax	KRA	Kshs 0.6/litre	Daily	National
5	Vehicle advance tax	Tax	KRA	1500/ ton of commercial vehicle	Annually	National
6	Motor Vehicle Inspection Booking Fee	Tax	KRA	1000/ per commercial vehicle	Annually	National
7	Withholding Tax	Tax	KRA	5% of dividends	Annually	National
8	Fuel for agric operations	Duty	KRA	Kshs 10,305 per Cbm	Daily	National
Registration fees						
9	Buyers at Tea Auction	Fees	TBK	10,000	Annual	Tea sector
10	Tea producer	Fees	TBK	10,000	Annual	Tea sector
11	Tea Auction Organizers	Fees	TBK	10,000	Annual	Tea sector
12	Tea Packers	Fees	TBK	2,000	Annual	Tea sector
13	Management agent	Fees	TBK		Annual	Tea sector

Memorandum on the need for a Review of the Tea Ad Valorem Levy Regulation and Multiplicity of taxes

Levies						Tea sector
			TBK	1% customs value of tea	For each consignment	
14	Ad valorem levy					Tea sector
15	Green Leaf Cess	Levy	County Council	1% of gross value of green leaf	Monthly	Tea sector
16	Mombasa Municipal Port Health Charges	Levy	County council	Kshs 5,000	Annual	National
17	Mombasa Municipal Annual License Fee	Levy	County council	Kshs 10,000	Annual	National
18	Land Rates	Levy	County Council	0.3-0.75% percent of undeveloped value	Annually	National
19	Inspection and Grading Fee (KEPHIS)	Levy	KEPHIS	5,000/= per single consignment & 10,000/= per multiple consignment to one consignee inspected	Weekly	National
20	KEPHIS SPS Certificate	Levy	KEPHIS	Kshs 1000	Weekly	National
21	KEBS Product Conformity	Levy	KEBS	0.2% of value of made tea ≤ Kshs 400,000	Annually	National
22	KeBS Quality Standard	Levy	KeBS	0.2% of value of made tea ≤ Kshs 400,000	Quarterly	National
23	Waste Water Regulations	License	NEMA	Kshs 100,000	Annually	National
24	NEMA Environmental audit	Levy	NEMA	0.1% of investment costs	Annual	National

Memorandum on the need for a Review of the Tea Ad Valorem Levy Regulation and Multiplicity of taxes

25	K.P.A Port Charges (40 feet Container)	Levy	Ports Authority	Kshs 9,000	At time of loading	National
26	K.P.A Port Terminal Handling Charges (20Feet Container)	Levy	Ports Authority	Kshs 2000	At time of loading	National
27	Directorate of Industry Training Levy (DIT)	Levy	DIT	Kshs 50 per employee	Monthly	National
28	MSS FEE	Levy	MSS	Kshs 10 per tonne	Annual	National
29	Chamber of Commerce Certificate of Origin	Levy	Chamber of Commerce	0.025 % of the gross value tea sold	Annual	National
	Cess					
30	APC					Tea sector
	Licenses					
31	Fuel wood Movement	License	County Council	300 per vehicle trip	Daily	National
32	Department of Occupational Health & Safety license	License	DOHS	Kshs 2,060	Annually	National
33	Seizure of scales	License	Weights & Measures	Kshs 2,010	Annually	National
34	Water Permit	License	Water Resources Board	Kshs 4,600	Annually	National
35	Underground Water Tank license	License	Ministry of Health	Kshs 1000	Annually	National

Memorandum on the need for a Review of the Tea Ad Valorem Levy Regulation and Multiplicity of taxes

36	Food & Drugs	License	F&D Board	Kshs 1000	Annually	National
37	Mombasa Municipal Parking Ticket per truck	Levy	County council	Kshs 1,700 per day	Annually	National
38	Management Fees					
	KTDA			2.5%		Tea sector
	Williamson Tea					Tea sector
	EPK					Tea sector
39	Member subscriptions					
	EATTA					Tea sector
	KTGA					Tea sector
	Fees					
40	Tea Brokers			0.75% Producers and 0.5% Buyers		Tea sector
41	Other taxes levied by other Countries			As per Table No		

Source: Tea Task Force Compilation

ANNEX 4. COMPARISON OF TAXES APPLIED ON TEA INDUSTRY IN DIFFERENT COUNTRIES

INTERNAL TAXES						IMPORTS	
No.	Country	Tax Type & Rate	Tax Type & Rate	Tax Type & Rate	Tax Type & Rate	Tax Type & Rate	Tax Type & Rate

Memorandum on the need for a Review of the Tea Ad Valorem Levy Regulation and Multiplicity of taxes

1.	India	Tea cess - 50 paise per kg produced 1 Paise is 100 th of 1 Rupee 1 Rupee is 0.016 US\$				Import duty – basic duty of 100% CIF value; countervailing (CV) duty Re.1 /- per kg; cess on CV 3%; Educational cess- 3% (basic + cess on CV); Special additional duty -4% (Assessable value + basic +CV + cess on CV + educational). Nil when imported for re-export under duty exemption scheme and /or export oriented Unit(EOU) Special economic rate of 7.5 % basic duty plus other surcharges apply to imports from Sri Lanka up to 15000 MT per calendar year; imports from Nepal do not attract import duty under the Indo –Nepal treaty but tea cess is applicable. Instant tea 30%	
2.	Sri Lanka	Tea Cess 0.0035 cents per kg	Value added teas cess Rs.4 per kg	Bulk tea w.e.f march 2013 Rs. 10 per kg or 2.5 % of the auction average price (during the previous 3 months period, whichever is higher	Promotional and marketing levy Rs.3.50 per kg	Import duty 28% subject to approval by Tea Board; imports for re-exports are exempt from duty	
3.	Kenya	VAT- 16% on local sales	Ad Valorem levy - 1% of customs value (with exemption of imported tea for blending for re-export as well as made tea packed in accordance with KS 1927:2005 Tea	Agricultural Produce cess at 1% of Gross income to the farmer		Import duty 25% per kg; instant tea 25%; Mate 25% per kg NB: imports from COMESA and EAC Group are free of duty	

Memorandum on the need for a Review of the Tea Ad Valorem Levy Regulation and Multiplicity of taxes

				Packers and containers specifications and on other value added teas					
4.	Bangladesh	VAT - 15% of Auction price of tea (for internal consumption)	Cess- 1% Ad Valorem Auction price	Export duty 4%	Other taxes - educational & local development funds 3%	Import duty 15% (from countries with MFN status with further concession of 50% for imports from APTA member countries) and 30% for others	VAT on imports 13%		
5.	China	VAT -13% VAT(on exports) 13%				Import duty 5%			
6.	Indonesia	VAT 10% on local sales of jasmine tea							
7.	Tanzania		Tea cess on imports us\$ cents 1.25 per kg from EAC countries						
8.	Malawi	VAT 17.5 % on domestic sales	Cess charged at US\$ 0.0135 (Malawi kwacha) per kg of made tea	Surtax 10% on domestic sales;		Charged ad valorem- 10% on green tea, other green tea ; 50% for black tea not exceeding 3kg and 50% for other black tea			
9.	Pakistan	-Sales tax 16% -Attestation fee 1 % per consignment	Ad valorem 10% on black teas	Income tax 5%	Infrastructure fee @0.8% on c& F value				
10.	UK	Nil							

ANNEX 5: TEA LEVY – BASED ON KILOGRAMMES AND VALUE OF EXPORTS AND IMPORTS

		2009	2010	2011	2012	2013	2014
Production in Kilogrammes	Cess/Ad Valorem Scenario	314,198,371	399,006,377	377,912,178	369,561,924	432,452,700	410,000,000
	K.shs. 0.46	144,531,251	183,542,933	173,839,602	169,998,485	198,928,242	188,600,000
	Kshs. 1	314,198,371	399,006,377	377,912,178	369,561,924	432,452,700	410,000,000
	Kshs. 1.50	471,297,557	598,509,566	566,868,267	554,342,886	648,679,050	615,000,000
	Kshs. 2	628,396,742	798,012,754	755,824,356	739,123,848	864,905,400	820,000,000
	Kshs. 2.5	785,495,928	997,515,943	944,780,445	923,904,810	1,081,131,750	1,025,000,000
	Kshs. 3	942,595,113	1,197,019,131	1,133,736,534	1,108,685,772	1,297,358,100	1,230,000,000
Exports in Value (K.sh)	Cess/Ad Valorem Scenario	69,603,265,870	97,740,139,239	109,408,775,996	112,255,886,576	114,408,328,090	108,687,911,685
	0%	-	-	-	-	-	0
	0.50%	348,016,329	488,700,696	547,043,880	561,279,433	572,041,640	543,439,558
	0.75%	522,024,494	733,051,044	820,565,820	841,919,149	858,062,461	815,159,338
	1.00%	696,032,659	977,401,392	1,094,087,760	1,122,558,866	1,144,083,281	1,086,879,117
	1.50%	1,044,048,988	1,466,102,088	1,641,131,640	1,683,838,300	1,716,124,921	1,630,318,675
	2.00%	1,392,065,317	1,954,802,785	2,188,175,520	2,245,117,732	2,288,166,562	2,173,758,234
	4.00%	2,784,130,635	3,909,605,570	4,376,351,040	4,490,235,463	4,576,333,124	4,347,516,467



REPUBLIC OF KENYA

MINISTRY OF AGRICULTURE

Sessional Paper No. 2 of 1999

ON THE
**LIBERALIZATION AND RESTRUCTURING
OF THE TEA INDUSTRY**

REFORMS IN THE TEA BOARD OF KENYA

AND

PRIVATIZATION OF THE KENYA TEA
DEVELOPMENT AUTHORITY

MARCH, 1999

MINISTRY OF AGRICULTURE

SESSIONAL PAPER ON THE LIBERALIZATION AND
RESTRUCTURING OF THE TEA INDUSTRY

Reforms in the Tea Board of Kenya and
Privatization of the Kenya Tea Development
Authority

March, 1999

1.0 INTRODUCTION AND HISTORICAL BACKGROUND

Tea was introduced in Kenya in 1903 when a few tea plants were planted at Limuru in Kiambu District by the white settlers for experimental purposes. Pursuant to the annexation of the land policies through the Registration of Documents Ordinance of 1901 and the Crown Lands Ordinance of 1915, the European agricultural settlement schemes in the Kenyan highlands started. The European agricultural settlement schemes were re-affirmed when the European Agricultural Settlement Ordinance was enacted and by 1924 tea cultivation had attained commercial production level.

The first legal instrument to govern the production of tea was enacted as the Tea Ordinance, 1934 (No 46 of 1934). This Ordinance was revised by the Tea Ordinance, 1948 (No. 52 of 1948) which became effective on 25th August, 1948. The objectives of the Tea Ordinance, 1948 were to provide for the control of the production of tea in the Colony. The institution of the Directorate of Agriculture was responsible for controlling the production of tea by issuing licences and permits to farmers until 1950 when the Tea Board of Kenya was established to regulate the industry.

Following the agitation for independence from 1947 onwards, a study of the african agriculture was made and the Swynnerton Plan of 1954 was drawn up to be implemented by the Government to help improve the african agriculture. By 1960, the European Agricultural Settlement Ordinance, 1955 (No. 38 of 1955) was repealed and the Agriculture Ordinance (No.8 of 1955) was amended by the Ordinance No. 47 of 1960 in order to reflect the new changes in the agricultural sector. At that time the European farmers were already experienced in the cultivation of tea but African farmers were only beginning to grow tea. They started planting tea, among other cash crops, between 1956 and 1959.

To promote the cultivation of cash crops the Special Crops Development Authority (SCDA) was formed under the Agriculture Act in 1960. This body was replaced by the KTDA in 1964 when the Kenya Tea Development Order 1964 was promulgated. At the time of independence in December 1963, the tea estates and the few smallscale farms had 21,448 hectares of planted tea. The area planted has increased over the years to stand at 113,892 hectares by 1997.

The Tea Ordinance, 1948 was repealed by the Tea Act of 1960 (No.61 of 1960). Since then, the legal framework has been used without major amendments. While great strides have been made in the development of the tea industry, especially under the small holder sub-sector under the KTDA, the relevant institutions, the policy and legal framework need to be reviewed particularly now under a liberalized economy. The substantial growth and structural changes experienced by the industry over the last 34 years is evidently due to the

very conducive policy environment that has encouraged continued investment in the estates sub-sector and the smallholder sub-sector.

Kenya is famous the world over for its production of high quality tea. The Government recognizes the important role of agriculture as the major sector in the Kenyan economy in terms of feeding the nation, creating employment, generating increased income and foreign exchange and providing raw materials for industry. To effectively manage and enhance the ability of the sector to play this important role, the Government has undertaken significant structural adjustment reform measures such as liberalization and privatization of the various agricultural sub-sectors. In view of accelerating this process within the tea sub-sector, the Government has developed a detailed action plan on the structural reforms within the tea industry, and in particular the privatization of the Kenya Tea Development Authority (KTDA) which has been managing the tea activities in the smallholder sub-sector. The modalities to strengthen the Tea Board of Kenya to enable it undertake its mandated role as the main regulatory body of the industry.

2.0 OVERVIEW OF THE TEA INDUSTRY

Tea is currently the leading agricultural foreign exchange earner for the country. In 1996 tea accounted for 20% of total exports earnings followed by coffee which accounted for 15% and horticultural produce which accounted for 9%. In terms of world ranking, Kenya is the third largest producer of black tea after India and Sri Lanka and for some time now Kenya has been the second largest exporter of black tea after Sri Lanka, having overtaken India in 1993. Though India is the leading producer it consumes much of its produce due to high domestic demand.

- 2.1 Tea production and the planted area has expanded rapidly since independence as made evident by the fact that tea production rose from 18,032 metric tonnes in 1963 to 257,000 metric tonnes in 1996 before dropping to 220,722 metric tonnes in 1997 due to drought. The 1998 projected production will surpass the Government targeted production of 264,000 metric tonnes by the year 2000, in the Sessional Paper No.1 of 1986 on Economic Management and Renewed Growth. The planted area at the time of independence was 21,448 hectares and this had increased to 113,890 hectares in 1997. Tea exports volume grew from 15,917 metric tonnes in 1963 to 244,500 metric tonnes in 1996 before dropping to 209,682 metric tonnes in 1997. The respective values for these years were KShs. 100 million, KShs. 18.0 billion and KShs. 20.0 billion.
- 2.2 The substantial growth and structural change experienced by the industry over the last 34 years is evidently due to the very conducive policy environment that has encouraged continued investment in the estates sub-sector which is managed on private basis and the smallholder sub-sector under the management of the Government through the Kenya Tea Development Authority (KTDA).

2.3 Due to the rapid increase in area expansion and the high rate of tea production, the Government has invested heavily on infrastructural development particularly in the rural areas where the industry is based. The industry has 83 tea factories for the manufacture of tea spread out in the growing districts and served by numerous buying centres and tea leaf bases.

2.4 The tea industry is also a major employer with current estimates of over 2 million people in direct tea farming, manufacturing, marketing and indirectly in retail outlets and transportation.

✓3.0 MAJOR OBJECTIVES PURSUED IN THE TEA INDUSTRY

3.1 To maintain its forward momentum as the best organized establishment in the world for tea which is the most widely consumed non-alcoholic refreshment.

3.2 To attain adequate processing capacity, particularly for smallholder tea farmers estates and to bridge the gap between the takings of smallholder and large estates at farm level.

3.3 To generate financing required to expand tea processing capacity and for the maintenance of tea roads, warehousing and farmers logistics to enable efficient leaf transportation.

3.4 To generate higher levels of value-added tea through enhanced technological application in order to improve farm level incomes and ultimately foreign exchange earnings from tea.

3.5 To expand the international market for Kenya tea through aggressive strategic marketing within the various regional economic blocks (e.g. Common Markets for Eastern and Southern Africa, Economic Commission for West Africa States, South African Development Co-operation among others), South East Asia, the Middle East, Eastern Europe, Americas and Kenya's traditional West European markets.

3.6 To improve the management of tea factories by allowing farmers to play their rightful role in decision making.

✓4.0 LIBERALIZATION/PRIVATIZATION MEASURES IN THE TEA INDUSTRY

4.1 Prior to liberalization initiatives, the Ministry was charged with the role of decision making in agriculture and its functions spanned the entire sector, leaving little, if any, individual entrepreneurial decision making in the hands of farmers, especially for scheduled crops. While this arrangement was useful in those times, with the globalization of the economies, it has become necessary to restructure some of the economic sectors with a view to enhancing the private sector involvement.

- 4.2 The process to liberalize the tea industry started in 1992 when the Government of Kenya (GOK) and the World Bank (IDA) signed an agreement under the Public Enterprise Reform Programme covering five (5) major parastatals. Kenya Tea Development Authority (KTDA) was included among the five strategic parastatals earmarked for liberalization and restructuring under the programme.
- 4.3 Currently, the Government has agreed that the process of liberalization of KTDA and smallholder sub-sector should result into incorporation of KTDA under the Companies Act (Cap 486) as an independent and private tea enterprise, owned by smallholder tea farmers through their respective tea factory companies
- 4.4 The Ministry of Agriculture in conjunction with other stakeholders in the tea industry has consequently developed a detailed restructuring strategy for the tea industry that defines the roles of the various actors in the industry such as the Tea Board of Kenya and the Tea Research Foundation as regulatory and research development agencies, the Kenya Tea Development Authority (KTDA), the Nyayo Tea Zones Development Authority and the large estates as self-regulatory apex bodies and the tea factory companies and farm units as private entities in their own capacities. The thrust of this strategy is to restructure and eventually privatize the entire tea industry.

5.0 ROLE AND FUNCTIONS OF THE TEA BOARD

The Tea Board of Kenya was established on 13th June 1950 with the mandate to regulate the tea industry to the best interests of the stakeholders. In discharging its responsibility the Board acts in accordance with general or specific directions given to it by the Minister for Agriculture.

- 5.1 The functions of the Board in particular, but without prejudice to the generality of the foregoing include:-
- (a) the licensing of tea growers;
 - (b) the licensing of tea factories;
 - (c) the regulation, control and improvement of the cultivation and processing of tea;
 - (d) the control of pests and diseases;
 - (e) the control of the marketing of tea;
 - (f) the investigation of and research into all matters relating to the tea industry;

- (g) advertising the Kenya tea and increasing its sale by efforts to extend existing markets and exploiting new markets, and matters incidental thereon;
- (h) the promotion of exhibitions for the display of tea and the processes for manufacture thereof and the provision of the facilities thereto;
- (i) the collection and dissemination of statistics and other information relating to tea and its production, distribution and consumption.

5.2 To finance the activities outlined above, the Board levies cess on area planted with tea and on manufactured tea delivered for sale to the market. In order to strengthen the Board and ensure that it lives up to its expectations, the following measures would be undertaken :-

- 5.2.1 the Board will licence tea growers to ensure that tea is grown only in suitable areas, and ensure that growers have manufacturing facilities for their tea once it matures.
- 5.2.2 the Board will licence tea manufacturing factories to ensure that new tea factories have sufficient leaf from their own estates and would not create over-capacity in a given area or interfere with any established system by "poaching" farmers who may already be delivering leaf to an already established factory in the same area;
- 5.2.3 the Board will regulate and control tea cultivation, processing, pests and diseases and to carry out investigation of and research into all matters relating to the tea industry;
- 5.2.4 the Mombasa auction will be for export only. The Board will only register tea sales whether for the domestic or export market so as to maintain proper national statistics on tea trade;
- 5.2.5 the Board will place more emphasis on its role of advertising Kenya tea and increasing its sale by efforts to extend existing markets and exploiting new markets, and matters incidental thereon;
- 5.2.6 to encourage consumption of tea in the domestic market and to educate the general public, the Board will enhance its effort of promotion of exhibitions for the display of tea and the process for manufacture thereof and the provision of the facilities thereto.
- 5.2.7 the Board will collect and disseminate statistics and other information relating to tea and its production, distribution consumption and exports.

6.0 MEMBERSHIP OF THE TEA BOARD OF KENYA

For the Board to meet the challenges of a free economy, the following measures will be put in place :-

- (i) the membership of the Board will be increased from 16 to 18 members.
- (ii) the Chairman of the Board will be appointed by the Minister from among the tea producer members of the Board;
- (iii) the Permanent Secretary, Ministry of Agriculture be appointed under a substantive section of the Tea Act and not under Section 3(f) as in the past;
- (iv) those appointed to the Board must be people with extensive knowledge and experience in tea matters;
- (v) the Chief Executive of Tea Board of Kenya will be elevated to full membership of the Board.
- (vi) Government representatives to the Board will be senior officers not below the level of Deputy Secretary and should be familiar with Government policies on tea;
- (vii) the Board derives its income from cess levied on growers and as such growers need to be well represented. The smallholder sub-sector, having more area under tea and producing more tea than the estate sub-sector should have one extra member over the estate sub-sector;
- (viii) the Chairman and all members of the Board other than the ex-official members will be appointed for a period of three years, and would be eligible for reappointment. Previously, only the Chairman, four members representing KTDA, and the member representing EATTA were required to conform to this provision;

6.2 Consequently the membership of the Board will be:-

- (a) the Chairman, who will be elected by the members of the Board and appointed by the Minister from among the tea producer members of the Board;
- (b) the Permanent Secretary, Ministry of Agriculture;
- (c) the Director of Agriculture;
- (d) one Member appointed by the Minister to represent tea trade sector;

- (e) six members appointed by the Minister after consultation with the organization representing smallholder tea growers;
 - (f) five members appointed by the Minister after consultation with the organization representing plantation tea growers;
 - (g) the Chief Executive, Tea board of Kenya;
 - (h) one member appointed by the Minister to represent Nyayo Tea Zones Development Corporation.
 - (i) not more than two members to be appointed by the Minister with advice from the Board from amongst persons who, possess knowledge and experience likely to be of benefit to the Board;
- 6.3 The membership in the Tea Board of Kenya will be based on democratic, fair and equitable representation of the stakeholders in the tea industry.

The Board may co-opt to serve on it any person or persons whose assistance or advice it may require, but a person so co-opted shall not be entitled to vote at any meeting of the Board or be counted as a member for the purpose of forming a quorum.

7.0 STAFF OF THE TEA BOARD OF KENYA

An adequate and effective Secretariat headed by a Chief Executive who will also be the Secretary to the Board at the level of Managing Director, will be constituted to discharge the responsibility bestowed upon the Board. The Board will be called upon to set staffing levels in the light of its duties and work-plan and in line with the restructured industry. In view of this and in order to be able to retain highly qualified personnel and take timely decisions, the Board will be exempted from the provisions of the State Corporations Act with the exemption of provisions relating to the auditing aspects of its accounts.

✓8.0 OVERVIEW OF THE SMALL-SCALE TEA SUB-SECTOR AND KENYA TEA DEVELOPMENT AUTHORITY (KTDA)

- 8.1 KTDA was established in January 1964 with the objective of fostering and promoting the country's tea growing by the smallholder tea farmers. In order to realize its goals and objectives, the Authority developed centralized operational and administrative systems extending from the headquarters in Nairobi to the tea growing areas. KTDA has made the small-holder tea sub-sector one of the most successful agricultural ventures in the developing world. Since its formation the Authority has achieved over 73,000 ha. The total number of small tea producers involved under KTDA umbrella is about 300,000 and process

their tea through 45 tea factories. KTDA and the smallholder tea factories are fully owned by the smallholder tea growers.

- 8.2 KTDA has been rendering managerial, production, transportation and marketing services which includes among others management of tea factories, green leaf transportation, procurement of production goods, marketing and payment of tea proceeds to the small scale tea growers. This was as provided by the KTDA Order under the Agriculture Act (Cap.318).
- 8.3 The Government has been assisting the smallholder tea sub-sector by providing guarantees on external loans borrowed by KTDA for smallholder tea development and giving the Authority special status so that it is exempted from payment of taxes. The surpluses realized from its operations were supposed to be ploughed back to improve smallholder tea sub-sector. In addition the Government has been paying salaries and allowances of the tea extension staff assigned to perform extension service under KTDA.

9.0 PRIVATIZATION/LIBERALIZATION OF KENYA TEA DEVELOPMENT AUTHORITY (KTDA)

- 9.1 The liberalization/privatization and restructuring of KTDA will be handled carefully in a smooth manner in order to ensure that the necessary changes do not disrupt the operations of the Kenya Tea Development Authority (KTDA) and the small-holder tea sub-sector as a whole.
- 9.2 KTDA is 'de facto' owned by all small-holder farmers who now number about 300,000 and it is 'de jure' owned by the Government since it was established under the Agriculture Act Cap. 318. It is therefore correct to state that all the small-holder tea farmers would be entitled to a share of the net assets of KTDA in the event that the Authority were to be liquidated. Modalities will be worked out between the Government, KTDA and small-holder tea farmers on the best method of transferring ownership of KTDA to the farmers with the privatization and incorporation of KTDA under the companies Act.
- 9.3 The major steps already taken in the direction of a privatized Kenya Tea Development Authority (KTDA) are:-
 - 9.3.1 exemption of the Authority from provisions of the State Corporations Act Cap.446.
 - 9.3.2 divestiture of the KTDA from the tea factory companies through the following measures:-
 - i) election by farmers of 6 directors (majority) out of the maximum 9 directors in each Factory Company Board.

- ii) transfer of chairmanship of factory company boards from the KTDA to elected tea farmers' representatives.
- iii) direct participation by elected directors in management decisions regarding procurement of goods and services by each factory company.
- iv) direct participation by elected directors in recruitment of factory company employees.
- v) direct participation by elected directors in formulation of annual budgets and monitoring of financial expenditures.
- vi) transfer of green tea leaf collection and payment to farmers from the KTDA to the individual factory companies.
- vii) sales of KTDA equity in factory companies to the tea farmers.
- viii) empowerment of the tea farmers through their elected company directors who are now responsible for governance and policy making in their respective factory companies.
- ix) allotment of ownership shares to all small-holder tea growers in their respective tea factory companies.
- x) strict information and data disclosure by the KTDA to factory companies regarding marketing of tea by the Authority.

9.3.3 repeal of all previous Kenya Tea Development Authority (KTDA) Orders and replacement with Legal Notices No.109 to 112 of 1997. The new legal Notice No.109 of 1997 effectively placed control of the KTDA Board under the farmers elected representatives who number 12 out of a total KTDA Board membership of 17 including the Managing Director.

9.3.4 removal of provisions in the Kenya Tea Development Authority Orders which in the past required the Board to seek the Minister's approval before making important investment decisions.

✓10.0 PRIVATIZATION AND TRANSFER OF OWNERSHIP OF KTDA TO SMALL-HOLDER TEA FARMERS

10.1 Despite the above mentioned measures which have resulted in greater empowerment of farmers, major restructuring of the KTDA will be undertaken to enable the Authority to fully

face the challenges of new international financial lending requirements, modern management techniques and the increasingly more competitive international tea market place.

10.2 KTDA will be incorporated under the Companies Act. This means that the KTDA will be removed from, the auspices of the Agriculture Act and be established under the Companies Act as a public company with limited liability.

10.3 The structure of a privatized KTDA will be as follows:-

10.3.1 Incorporation and Shareholding

- i) KTDA will be incorporated under the Companies Act (Cap 486) as an independent and private tea enterprise, owned by all smallholder tea farmers through their respective factory companies. The company's shareholding will therefore be held indirectly by individual tea farmers through their tea factory companies.
- ii) The name of the new company will be "Kenya Tea Development Agency (KTDA) Limited". The new KTDA limited will offer management services to the individual factory companies and the latter as an independent company may opt if it wishes to contract any other management agent to manage their operations/activities. Under the new arrangement, KTDA will charge a competitive management fee based on minimal percentage of the net value of the proceeds.
- iii) The constitution of shareholding will be based on the current valuation of the assets of KTDA, allotted in accordance with the contribution of each factory company in creation of the KTDA assets.
- iv) The net worth of KTDA will therefore be distributed to the tea factory companies relative to their contribution in form of management fees from the 1983/84 to 1996/97 period. This is the period during which relevant annual financial accounts of the Authority have continuously reflected positive annual surpluses. Prior to that period, the development account of the Authority was in deficit but has remained in surplus since then.

10.3.2 Governance

The small-holder tea farmers will be real owners of the KTDA Limited but their influence will be exercised through their factory companies. The KTDA Board of Directors will comprise of a minimum of 13 and a maximum of 19 directors. 12 will be elected by the shareholders and the Managing Director of the Company. The Permanent Secretary, Treasury will be co-opted as a member of the Board in view

of the Government loan guarantees. They will be responsible for policy and management but the factory companies will be in control as the shareholders and owners of the company. The KTDA Board will direct the work of the management and other staff of the Company.

The Board of the company will elect its own chairman from amongst the elected directors. Elections of the new directors will be carried out within a period of six months after the repeal of the KTDA order by around January, 2000. The new directors will be elected on the following basis :-

- i) Small-holder tea growing areas will be divided into zones;
- ii) each zone will comprise a minimum of three factory companies but special provision will be given to zone xii until a third factory is built in the area. The zone will therefore comprise two factory companies i.e. Chebut and Mudete.
- iii) each zone comprising between three and five factories will elect one director of the KTDA Limited.
- iv) a zone with more than five but less than ten factories will elect two directors of KTDA Limited.
- v) Maximum number of directors representing a single zone will be two directors.
- vi) KTDA Limited will work detailed modalities of how the directors will be elected.

The envisaged date for the full privatization of KTDA would give sufficient time to enable a smooth transition from KTDA authority to a limited company.

10.3.3 Action Plan/Implementation.

The process towards full privatization of KTDA will be implemented as follows:-

- a) the on-going liberalization and restructuring of the small-holder tea sub-sector and the KTDA will be finalized by January, 2000.
- b) repeal of the Kenya Tea Development Authority (KTDA) Orders and any other legislative amendments will be undertaken and effected by January, 2000.

10.3.5 Associated Companies

Companies closely associated with the KTDA Limited will include:-

- i) all the current 45 smallholder factory companies and any future ones managed by the KTDA Limited;
- ii) the Majani Insurance Brokers Limited which is a private company wholly owned by the KTDA;
- iii) the KTDA Farmer's Company Limited whose shares are held directly by smallholder tea farmers. The company owns the "KTDA Farmers Building" while the KTDA owns the "KTDA Plaza" formerly known as Rahmutulla Trust Building and Diamond Trust Building. The two buildings house the KTDA Headquarters;
- iv) the (Chai) Warehousing Limited (in formation) to be located in Mombasa;
- v) the Kenya Tea Packers (KETEPA) Limited.

These KTDA associated companies will therefore constitute a large tea development, management and marketing conglomerate. In due course, the proposed value adding tea factory company will join the KTDA group of companies. This will indeed be a useful addition to what will have already become a formidable economic and commercial entity both locally and internationally.

11.0 EMPLOYMENT OF TEA EXTENSION STAFF

With the privatization of KTDA, the Government will not employ the extension staff as was the case in the past in the small scale tea growing areas. The KTDA and the smallholder tea factory companies will recruit staff to undertake the extension service. The field extension service will be an integral part of the KTDA and the smallholder tea factory companies. In future the tea extension personnel would be located only in the KTDA Limited headquarters and at the factory companies.

- 11.1 KTDA will absorb 47 tea officers and 188 technical assistants. Tea officers and technical assistants should have a degree and an agricultural certificate respectively. In view of this a committee composed of officers from the personnel departments of KTDA and the Ministry of agriculture will be constituted to work out the necessary personnel service translation modalities.
- 11.2 Tea officers will serve under the respective factory companies on secondment from the

KTDA. All Tea Technical Assistants will however be directly employed by the tea factory companies. The Government will continue financing extension service to smallholder tea sub-sector until June, 2000.

- 11.3 KTDA serves the farmers, who will, indirectly, employ the extension staff that will guide them to produce tea leaf. In case of another management agent, it will be expected that the agent would provide the full services to smallholder tea farmers as KTDA has been doing in the past.

12.0 LEAF BASES WITHOUT SISTER PROCESSING FACTORIES

In future the leaf base and the tea processing factory will constitute one entity. The KTDA Limited will not acquire any new leaf bases but will retain and operate the existing ones. At present, the leaf bases in Cherangani and Olenguruone have no sister processing factories. The affected tea growers will therefore become shareholders of the Chebut and Kapkoros respectively when the process of allotment of factory company shares to all growers is completed. The growers will therefore exercise influence over KTDA Limited through the two factory companies as will be the case in other areas. As regards the subsidies to the two leaf bases and the affected tea growers, these will be terminated by June, 2000. By that date, full fledged leaf base facilities will have been constructed at both Cherangani and Olenguruone.

The KTDA Limited will however continue to operate the two leaf bases even after that date but the affected tea growers will meet the full cost of these leaf bases through normal deductions by the KTDA Limited.

13.0 FINANCING OF NEW TEA FACTORY COMPANIES

The financing of construction of new tea manufacturing factories has become difficult since the prospective and traditional lenders have put tough lending conditions. Previously lenders provided loans on basis of Government Guarantees and without requiring any mortgage agreements and without any equity contribution by the smallscale farmers. In future, the KTDA Limited, in consultation with the farmers, will provide guarantees for these loans on behalf of the farmers. The Government, without directly being involved in the utilization of the funds even in cases where it is a guarantor, will encourage joint ventures between farmers and the private investors towards construction of new tea factories. It is noted that some investors are willing to invest in new tea factories without Government guarantees while others may require the Government guarantees.

The requirement for small-holder farmers to provide equity as part of the financing arrangement for new factory companies is another constraint. Even with the proposed sale of shares by farmers transferring to a new factory company, the amount raised will not be sufficient. The KTDA Limited will temporarily acquire the shares and pay for them in an effort to provide part of the equity requirement. Currently, there are nine proposed tea factories in the small scale subsector.

In future the following measures will be taken:-

- KTDA will provide necessary guarantees for loans;
- Government and KTDA Limited will look for alternative lenders.
- the minimum 30 percent equity required from the smallholder tea farmers in advance will be provided by KTDA Limited through temporary acquisition of the shares.
- assets of the new factory companies will be mortgaged to cover the factory construction finance loans.

In view of the agreement to incorporate a private KTDA, KTDA Limited will re-open negotiations with the prospective lenders with regard to the issue of equity requirement.

✓14.0 EXISTING LOANS AND GUARANTEES

With a privatized KTDA, additional changes especially in the area of loan financing will arise as explained here below:-

The Kenya Government currently provides guarantees on external loans borrowed by KTDA for its development programmes. As at 31st December, 1997 the balance of the external loans where the Government had given guarantees was about Kshs.1 billion. This facility is now not easily available to parastatals. Consequently some other form of security will be put in place to replace the Government guarantees for future factory development projects. The existing Government guarantees will however not be affected by the privatization of KTDA. These (guarantees) will remain in force until the subject loans are repaid in full.

Likewise KTDA limited will continue to service existing loans on the old terms until the same are fully repaid. As per the financial agreements, KTDA will be managing agents for those factories that have outstanding loans. Because of this arrangement it is expected that no lender will deem it necessary to exercise their right to demand repayment of the loan in full before the due date.

Where KTDA has guaranteed loans borrowed locally by the factory companies for the expansion programme, that obligation will remain as long as the loans are outstanding. Any factory that may decide to do away with KTDA's management agency will be required to repay the loan in full.

15.0 TAX IMPLICATIONS OF PRIVATIZATION OF KTDA

KTDA is a non-profit making organization. Any surplus realized from its operations is supposed to be ploughed back to improve the smallholder tea sub-sector. Because of this special status KTDA was exempted from paying tax since 1964 and therefore does not pay taxes to the Government. This has been a major boost to the development of the smallholder tea sub-sector.

However, according to the Finance Bill, 1998, as stated in the Budget Speech of 11th June, 1998, KTDA shall be required to pay corporation tax with effect from January, 1999. This means that KTDA has now to budget for corporate tax amounting to over Kshs. 70 million a year which otherwise would have been ploughed back to the development of the smallholder sub-sector. The taxation has been effected even before the privatization of KTDA. It may be desirable that the implementation of the decision be deferred until KTDA is fully privatized. It is however not clear why KTDA has been singled out while public bodies dealing with other crops are not taxed.

Once privatized KTDA will lose that status and will therefore pay taxes just like any other company operating under the Companies Act.

The following taxes will become payable:-

- i) Stamp Duties
- ii) Corporation Tax/withholding tax

The effect of the above taxes will be a reduction of the surplus (profit) by as much as 35%. It will therefore be necessary to introduce cost-cutting measures in order to break even.

16.0 GROWING OF TEA

The regulatory functions dealing with licensing of tea planting shall remain in the Tea Act and the Board will continue issuing group licences to tea factory companies on behalf of the smallholder growers. The tea factory companies will then be required to maintain a register of growers falling under them on behalf of the Board. The individual small tea plantations associated or being served by tea factories owned by other organizations and the large tea

estates will be issued with individual licences directly by the Tea Board of Kenya. Whereas the Board's Inspectorate Department will be monitoring to ensure the holders of the group licences do comply with the set rules by its members, they will also be acting as the Board's agents in this regard. In order to encourage new tea factory companies coming up and establishing their own catchment areas the licence issued will not specify the area to be planted with tea.

In future therefore, the smallholder tea growers supplying green tea leaf to smallholder tea factory companies will not be required to obtain licences as individuals.

The planting licence will be assessed on the following criteria:-

- (a) the area being suitable for tea growing;
- (b) adequate processing arrangement being ascertained by the Tea Board of Kenya.

Licence holder will make an annual return to the Board indicating the total area planted and the number of tea farmers and also pay an annual fee which will be based on the current Regulations on planting tea. The fee to be charged will be determined by the Board.

The Board will liaise with tea manufacturing companies in verifying the area planted by individual growers delivering tea to the factory for the purpose of maintaining correct statistics on area planted nationally.

17.0 MANUFACTURE OF TEA

Manufacturing of high quality Kenya tea whether by sun-drying or otherwise will be Tea Board's primary objective. While licensing a new tea manufacturing factory, Tea Board will ensure that adequate tea leaf is available corresponding to the proposed tea factory processing capacity.

To ensure that no person manufactures tea for sale, whether by sun-drying or otherwise, other than according to the rules and regulations set, the tea manufacturing company will be issued with an annual licence by Tea Board of Kenya. The licence will attract a manufacturing cess which would be set by the Board in consultation with the Minister. The foregoing will be achieved through the following stringent measures :-

- i) when licensing a new manufacturing factory due consideration will be taken to ensure that processing over-capacity is not created in a given local area or zone. In case of a private investor, Tea Board would arbitrate to decide how the farmers are distributed between the existing and the new factory before issuing a licence. A licence for a new factory will only

be issued to companies who satisfy the Board that they have sufficient leaf to process with regard to factory capacity;

- ii) the Board in consultation with the Minister may cancel, vary or suspend any licence issued to a company if any company fails to abide with the terms and conditions of the licence;
- iii) the duration by which the tea manufacturing factories are to submit their returns with the monthly cess will be extended to 14 days and a payment of interest on outstanding arrears after the 14th day of the following month at bank interest rates will be charged.
- iv) Manufacturing licence may be suspended where a manufacturing licensee without any good reason acceptable to the Board continues to default on manufacturing Cess payments beyond a period of 21 days of the following month. The Board is at liberty to use its powers under (ii), above or could recover the same amount as a civil debt.

18.0 AGRICULTURAL PRODUCE CESS ON TEA

The agricultural produce cess is collected by the Local Authorities under the powers conferred to them under sections 201 to 211 of the Local Government Act Cap.265. The Local Authorities are empowered to make adoptive by-laws after the Minister has made subsidiary legislation in consultation with the Minister for Agriculture as provided in Section 192A of the Agriculture Act.

The Minister for Local Government issued a Legal Notice No. 202 of 20th May, 1988(L.N. 202/1988) and amended the same through Legal Notice No. 339 of 4th August, 1988(L.N.339/1988) and L.N 165/1989 under Section 210 of the Local Government Act effectively empowering the Local Authorities to make Adoptive By-laws to collect the agricultural produce cess on tea and other ten crops.

According to the Agriculture Act, the revenue realized form part of the general revenue of the respective Local Authorities. The Local Authorities did not utilize the cess funds in the maintenance of roads as originally intended. This prompted the Government in 1990 to intervene and developed modalities of cess utilization towards the improvement of the tea roads. The District Tea Cess Committees were formed by the Government to maintain the tea roads and their activities were monitored by the National Tea Roads Monitoring Committee. However, the District Tea Cess Committees were not very successful in maintaining the tea roads. The Government then directed that the cess funds for tea and coffee be channelled through the respective farmers' organizations to maintain the roads. However, the law needs to be amended to regularize the position. Tea and coffee are grown in the same agro-ecological zones and transitional areas.

There is a need to amend the relevant legal provisions in the Local Government Act and the Agriculture Act together with the relevant legislation to place the collection and utilization of the agricultural produce cess entirely under the auspices of the Agriculture Act Cap.318;

Policies and guidelines pertaining to the collection and utilization of cess funds should be harmonized for their effectiveness.

District Tea Cess committees and the National Tea Roads Monitoring Committee should be abolished since the cess funds are now channelled to the respective farmers' organizations.

✓ 19.0 MARKETING OF TEA

As Kenya continues to increase its share of the world tea market which is currently about 22% compared to Sri Lanka's 21.0% and India's 14.0% the key role and function of the Board will be in tea market promotion. Tea Board will provide the necessary leadership in the industry by laying more emphasis on marketing and promotion of tea without compromising on production and quality. This will be achieved through :-

- i) allowing tea manufacturers to sell part of their tea directly to overseas markets.
- ii) making Mombasa auction an export market only.
- iii) ensuring all tea exporters, whether manufacturers, buyers, brokers or packers make a return on their exports on a newly designed registration form to the Tea Board to enable the Government collect statistics on tea exports.
- iv) ensuring that transparency plays its rightful role in the industry by harmonizing all the rules and regulations of the various sub-sectors for the greater interest of the stakeholders.
- v) monitoring of tea sales through registration of buyers, brokers and packers.
- vi) adopting a more aggressive promotion strategy with more emphasis being focused on uni-national tea promotion and value added teas from Kenya;
- vii) encouraging all stakeholders in the industry to undertake promotion activities independently to supplement Government's effort.
- viii) laying more emphasis on promotion strategy focused to developing countries of Asia, Middle East, Africa and in Eastern Europe where projections show consumption is on the increase and is expected to rise in future while maintaining our share in our traditional

markets,

- (ix) liaising with other relevant Government bodies especially the Export Promotion Council involved in promotion of Kenya's products abroad to market Kenya tea through their regular trade fairs and exhibitions and through commercial representation in Kenya Missions abroad.
- x) collaborating with other tea producer countries and specialized international agencies for generic promotion of tea globally;
- xi) encouraging production of high quality tea in order to capture new export markets and maintain the traditional markets. Towards this end the Kenya bureau of standards will be more active in enforcing standards on tea for both the domestic and export markets.

20.0 OTHER TEA SUB-SECTOR INSTITUTIONS/ORGANIZATIONS

20.1 Tea Research Foundation of Kenya (TRFK)

TRFK was established in 1980 as a company limited by guarantee with guarantors being the Ministry of Agriculture and Tea Board of Kenya to carry out the investigation of and research into all matters relating to the tea industry. It was a successor to the Research Institute of East Africa.

Since then the Foundation has obtained funding for its research activities almost entirely from the tea industry through the Tea Board of Kenya. The Foundation receives about Kshs. 52 million annually for its research activities from the Tea Board of Kenya.

For a long time the Foundation has operated under the Tea Board of Kenya and its parent Ministry of Agriculture until 1988- when it shifted to the Ministry of Research and Technology.

According to the Tea Act, one of the core functions of the Tea Board of Kenya is to carry out research on tea through its technical arm the Tea Research Foundation of Kenya.

To enable the Foundation advise producers through the Tea Board on the best clone selection to suit the various ecological zones and how to care for their tea in order to improve production and attain the best quality for their tea, Tea Research Foundation of Kenya (TRFK) will be transferred back to the Ministry of Agriculture from the Ministry of Research and Technology so that it can now report to Ministry through the Tea Board of Kenya. This will remove the communication bottleneck as policy guidelines on the operations of TRFK will only emanate from Ministry of Agriculture which is charged with responsibility of all agricultural crops. The Board will also be able to follow the activities of TRFK and advise

the Foundation accordingly for the benefit of the tea farmers who are the financiers of the Foundation through the Tea Board of Kenya.

Efforts will be made to assist Tea Research Foundation of Kenya (TRFK) in establishing its own tea research factory together with the required research equipment and facilities to facilitate the carrying out of more research in tea manufacturing and related aspects by the foundation. In addition the foundation will be encouraged to formulate their own proposals and plans for attracting money from both external and internal sources for training fellowships, research activities and other development activities.

There is need to exempt Tea Research Foundation of Kenya (TRFK) from the provisions of the State Corporations Act to enable it set salary scales and other benefits to its staff provided the TRFK is not exempted from the provisions related to auditing of accounts.

20.2 Nyayo Tea Zones Development Corporations (NTZDC)

The major objective of NTZDC was to protect and conserve gazetted high altitude forests against human encroachment. The Nyayo Tea Zones belts provides physical a buffer to forest reserves. Other than meeting the intended purpose the Zones also generate revenue and create employment to Kenyans in addition to providing infrastructure to rural areas.

Due to their geographical spread and absence of a processing facility, the Corporation will sign agreements with smallholder tea companies or KTGA member companies to process its green tea leaf. Management of some estates will be leased out to smallholder tea companies or to individual private tea companies until such a time that the Corporation will be able to take over these functions effectively

20.3 Kenya Tea Growers Association (KTGA)

Kenya Tea Growers Association (KTGA) is a private, voluntary association whose role is to promote the interests of large and medium private tea growers in Kenya. Some of the leading members of KTGA have been active in the development of the Kenya tea industry for over 50 years. Members of KTGA are also very active not only in tea production but in tea trade through the East African Tea Trade Association (EATTA) and the Mombasa Auctions. The Association accounts for over 40% of tea production with the other balance of 60% coming from smallholder farmers.

The government will encourage Kenya Tea Development Authority (KTDA) and Kenya Tea Growers Association (KTGA) to work closely to assist smallholder farmers willing to transfer to KTGA managed tea factories or in cases where the KTDA managed tea factory companies does not have adequate processing capacity. This will be done through agreements between individual smallholder tea factory companies and KTGA member

companies.

✓20.4 Kenya Small Scale Tea Growers= Association (KSSTGA)

The Kenya Small Scale Tea Growers' Association (KSSTGA) was registered in 1998. The membership is open to all elected members of the 47 leaf bases and all farmers. The leaf bases pay Kshs. 500,000/= while the farmers pay annual subscription of Kshs.10/=. KTDA, like the leaf bases, is a member of the Association. All 312,000 smallscale tea farmers are eligible to be members of the Association. In future the KTDA and KSSTGA will strive to promote the interests of the smallholders in the tea industry. Some of the objectives of the Association include:

- ♦ taking over all functions associated with the tea buying centre, tea base and zonal committees;
- ♦ promote and represent common interests of all smallscale tea growers and their factories;
- ♦ regulate and improve relations among members of the association and employees;
- ♦ recommend rules and regulations for the maintenance of tea cultivation, manufacturing, packaging, transportation and warehousing standards;
- ♦ set tea plucking rates in smallscale areas;
- ♦ collect, collate and circulate statistics;
- ♦ negotiate on behalf of members;
- ♦ cooperate with other similar associations;
- ♦ establish and maintain funds to further the objects of the Association.

Currently, KSSTGA office holders are not members of the Tea Board of Kenya. In future the KSSTGA and KTDA will collaborate in providing the representation of the smallholder tea farmers in the Tea Board of Kenya.

✓20.5 The East African Tea Trade Association (EATTA)

The East African Tea Trade Association is a voluntary Association whose rules and regulations would facilitate free trade in tea. The association comprises of tea producers, buyers, brokers and other interested tea traders in Eastern Africa. To achieve the foregoing objective the association will :-

- i) run the Mombasa Auctions which is the third largest in the world after Calcutta in India and Colombo in Sri Lanka;
- ii) ensure that representation at the association Management Committee is equitable and special consideration is accorded to large single producers like KTDA who represent all the smallholder in Kenya;
- iii) ensure that the sale of tea at the auctions and other operations of the trade is fair, efficient and transparent;
- iv) ensure that tea producers determines the currency of sale depending on whether the tea is for local or export sale.
- v) ensure that Payment of the tea sold at the auction is made within ten days.

The membership of the East African Tea Trade Association consists of tea producers, buyers, brokers; packers and warehousemen in Eastern Africa. There are about 300 corporate members of EATTA who come from Kenya, Uganda, Tanzania, Rwanda, Burundi and Malawi. The entrance fees and annual subscriptions are as follows:

- ♦ brokers produce banker's guarantees that they are good for Kshs. ten (10) million, pay entrance fee of Kshs. 365,000/= and Kshs 35,000/= annual subscription each;
- ♦ producer member's entrance fee is Kshs. 20,000/= and annual subscription is graduated as Kshs. 25,000/-, Kshs 55,000/=, Kshs.82,000/=, Kshs.93,000/= Kshs. 165,000/= and Kshs. 440,000/= depending on the amount of tea produced
- ♦ buyer's entrance fee is Kshs. 65,000 and annual subscription of Kshs. 25,000/- to Kshs 50,000/= based on the amount of tea bought annually;
- ♦ packer's entrance fee is Kshs. 10,000/- and annual the subscription of Kshs. 25,000/=
- ♦ warehousemen pay Kshs.10,000/= entrance fee and Kshs. 50,000/= annual subscription

- ♦ associate members join after paying Kshs. 10,000/- and annual subscription fee of Kshs. 15,000/=.

EATTA will remain a voluntary association while the representation of producers at the management committee level should be fair and equitable.

KTDA will in future re-examine how best the small scale tea growers can be represented in EATTA while taking cognisance that KTDA has currently only one vote in EATTA and yet it represents over 312,000 tea farmers owning 45 tea factory companies and also producing over 60% of the Kenyan tea. The rules and regulations of the EATTA should facilitate free trade without restrictive practices and should not conflict with the rules and regulations governing the tea industry in Kenya.

20.6.1 Tea Brokers

The tea brokers are appointed by the tea producers and buyers. The broker guarantees the sale of tea by negotiating between the producers and the members of the tea trade who are buyers. The tea broker's functions include receiving tea from producers and selling it at the best possible price, negotiating sales by private contract on behalf of the producers, receiving tea samples from producers, tasting, valuing, and distributing samples to potential buyers, preparing and printing catalogue and effecting payment to the producer among others. Brokers taste tea for purposes of ascertaining the price of tea in the auction and visit the tea factories informing the factory management on the quality of their tea. The tea brokers are not quality controllers, since quality sustenance is an in-built process in tea production and manufacturing.

There are currently eleven tea brokerage firms operating at the Mombasa auction. These are Combok Tea Brokers Ltd, African Tea Brokers Ltd, Tea Brokers of East Africa Ltd, Anjeli Tea Brokers Ltd, Venus Tea Brokers, Union Tea Brokers Ltd, Choice Tea Brokers, Bicorn Tea Brokers, Prudential Tea Brokers, Centre Line Tea Brokers, and Victory Tea Brokers. By 1990, each brokerage firm was serving between seven and eight tea factories. Currently, out of the eleven brokers, three brokers control 45% of the business while the other eight serve KTDA which is a producer. There should be strong criteria to be used to assess the brokers

before registering them. The tea brokers are members of the East African Tea Trade Association and they operate under the EATTA regulations. In future all tea brokers operating at the Mombasa auction shall be required to register with the Tea Board of Kenya.

The KTDA as a managing and marketing agent will continue to appoint brokers in consultation with individual Tea Factory Companies on competitive basis at 3-4 tea factories per broker.

In future the Tea Board will be involved in the registration of tea brokers. Currently, EATTA demands letters of appointment from the producers before licencing a tea broker in addition to checking the applicant's financial and management capability positions including physical facilities. Under the revised Tea Act, the Tea Board will have powers to register or deregister tea brokers who do not abide with the set rules and regulations. The Tea Board will also ensure that rules and regulations of any organisation dealing in or involved in tea trade, including EATTA and their activities are in harmony with the provisions of the Tea Act and the interests of the tea industry.

20.6.2 Tea Brokerage Commissions or Fees.

The brokerage charges have been 1% commission on gross sales value of tea paid by producers and a further 0.5% commission on gross sales value of the same paid by the buyers. In addition, the broker receives a further Kshs.30 per Alot@ in form of catalogue printing expenses. One Alot@ is a garden (factory) invoice of 20, 40, 60, 80 or 100 packages (57 kg to 78 kg each depending on grade) which is counted as a single line in the catalogue. Some catalogues, may have 30, or 40 lots or as many as 1000 lots depending on the amount of tea offered. The payment may add up to about Kshs. 1000/- or 1500/- or even 30,000/- per catalogue each week depending on the amount of tea offered. In total, the broker gets more than 1.5% of the gross sales value of tea he sells at the auction.

The current rates of commission were developed in the 1960s by EATTA. At the time, the volume of made tea was very low. There has been no review of these rates whereas all these costs are being borne by tea producers and the electronic trading in tea is yet to be adopted at the auction. In 1997/98, the brokers sold through the Mombasa auction system 243,566,481 kilograms of made tea at an average price of US\$1.89 per kilogramme. Out of this total, Kenyan crop was 212,619,990 kilograms at an average price of US\$1.97 per kilogramme. The total value of Kenya tea through the auction was US \$418,861,380 or Kshs. 25,969,405,578/=. Brokers' commission at 1.5%, amounted to Kshs.389,541,082/= for all eleven brokers. On average each broker received about Kshs.35.4 million. In general, a tea broker's organization has a small staff compliment. The costs associated with tea brokerage cover personnel costs, office maintenance costs and the capital costs depreciated every five years. This is approximately Kshs.25.8 million showing a gross profit to the broker of Kshs.9.6 million per year.

The Tea Board will review the tea brokerage rates and recommend the best appropriate rates for the brokers in their role as marketeers of tea in the tea trade. This is also expected to reflect a positive gain to the farmers in the tea industry.

✓20.7 Tea Packers

The tea packers in Kenya are yet to be organized as an association. Currently, the single largest packer in the local market is the Kenya Tea Packers Limited (KETEPA). Prior to October 1992, KETEPA had the monopoly of tea packing and distribution in the domestic market. With the repeal of the Price Control Act and the complete liberalization of tea trading, there are over 60 registered tea packers who are free to blend and pack tea for local as well as the export markets.

Local packers will be encouraged and assisted where necessary to develop the value added tea market.

Packers should use high quality packaging material to be able to capture the export market for value added tea and policies on the packaging of the value added tea for export should be developed by the Tea Board in liaison with the Government.

In order to capture a bigger segment of the market packers have to aggressively promote their own tea brands both locally and internationally.

All tea blended and packed in Kenya will contain 70 percent of the Kenya's produced tea.

All tea packers based in Kenya will be required to register with the Tea Board of Kenya.

21.0 TRAINING AND HUMAN RESOURCE DEVELOPMENT IN TEA INDUSTRY

Training and human resource development is the key to scientific, technical know-how and break-through in all sectors of the economy. To cater for the agricultural sector, there are public universities and agricultural training institutions offering general courses in agriculture among others. The tea sub-sector draws its manpower from these institutions.

It is proposed that Tea Board of Kenya will liaise with institutions of higher learning and other training institutions in order to develop a training manual and curriculum on various aspects of tea. The objective will be to train the under graduate and post-graduate students and officers and, eventually the training of farmers and other stakeholders. The Board in this way, will develop the technical knowledge and expertise required to steer forward the tea industry.

The Tea Board will also undertake a study on the human resource needs in the tea industry with a view to developing the training plans and projections. A training Committee consisting of all stakeholders to examine all training issues and facilities in the various institutions will be constituted under the auspices of the Tea Board of Kenya.

The current training activities being undertaken in the tea industry will also be intensified especially through tea field days at the factory level and the extension services.

The estates have been conducting in-house training for their workers and officers whereas the smallholder sub sector has been undertaking its training activities at the existing Farmers Training Centres spread across the country and at the Kagochi Farm and Training School which was established in 1950. Kagochi school is situated near Ragati Tea Factory at a place 11 km from Karatina Town in Mathira Division, Nyeri District, Central Province. There is a tea demonstration farm on tea husbandry and a training school. The main objectives were to train farmers on management and maintenance of tea farms, introduce better cultural and

crop husbandry aspects on tea planting and farm management practices within the smallholder sub sector. The farm has a total area of 67.3 hectares of which 42.5 hectares are under mature tea bushes. The farm finances its activities from the sale of its green tea leaf and from the sale of other farm products e.g the sale of milk among others.

The training of small scale tea growers on tea planting and husbandry started in 1960 at Kagochi. With the formation of KTDA in 1964, Kagochi farm and the institute were taken over by KTDA. The training of the farmers continued on regular basis up to 1976. With the introduction of new training systems in the agricultural extension service in 1976, training of farmers at Kagochi was stopped. However, refresher courses as well as some upgrading courses for technical staff in tea extension service continued to be undertaken at Kagochi. It has also been training clerks, farmers and tea workers from the smallholder tea farms. There has not been any major review of the training programmes and also no major infrastructural development has been undertaken at Kagochi since its establishment.

Kenya Tea Development Authority (KTDA) plans to develop and fully finance a modern training institute at Kagochi to replace the existing school which is old and dilapidated. The school will be rehabilitated and upgraded to a national institute which will cater for the training needs of farmers as well as the lower and middle level personnel in both the smallholder and the estates sub sectors.

The rehabilitation work is estimated to cost KShs. 210 million which will be financed solely by KTDA from its reserves. The works have been tendered and are expected to be completed within a period of fifty six (56) weeks. Although there will be no contributions from the Tea Factory Companies and also no direct deductions from the farmers' proceeds for this project, it is and it will remain one of the smallholders' assets. The training school will jointly be owned by KTDA and the smallholders.

The institute's operational costs will be financed through cost recovery and it will be self-financing. It will be a national tea training institute that will undertake training programmes in liaison with the Tea Research Foundation of Kenya (TRFK).

The Tea Research Foundation of Kenya is situated at Timbilil, 12 km from Kericho Town, in Kericho District, Rift Valley Province. In addition to undertaking research as its primary

function, TRFK will also be providing specialized training courses for senior managers and high level personnel as a secondary function under the auspices of the Tea Board of Kenya.

Currently, there is a small training unit at TRFK. The unit supports the training of smallholder tea growers and the estates sub sectors. The unit consists of a twelve hostel capacity, a guest wing and a training hall. There is a need to improve these facilities so that the unit can carry out the specialised training activities more effectively. However, to ensure effective use of the available training facilities and also avoid wastage of resources, the Board will liaise with the respective training institutions to ensure that the training being undertaken at Kagochi is not duplicated at TRFK.

TRFK will carry out more research in tea manufacturing and other related aspects. In this regard the Government will assist TRFK to establish its own tea research factory and a major workshop. The workshop will be fabricating the machinery needed in the tea factory companies which are currently imported. The construction of the tea factory and the workshop was estimated at Kshs.300 million and Kshs.50 million respectively. The Government will finance the construction of these facilities either from its own resources or through soliciting donor support or co-financing it with the tea industry.

✓22.0 CONCLUSION

The various programmes and plan of action in this Sessional Paper, after their implementation, will result in efficient and effective operations of the institutions in the industry. The existing constraints, problems and challenges will be addressed through the new policies. The new decision-making framework will empower the stakeholders to be involved in the industry. The Government will continue to support the industry through the existing institutions to enable the various actors and stakeholders to fully play their rightful roles under an enabling environment in the liberalized tea industry.

As/4
REPUBLIC OF KENYA

MINISTRY OF AGRICULTURE

Corrigenda/Addenda To The Sessional Paper No.2 of 1999

ON THE

LIBELARIZATION AND RESTRUCTURING
OF THE TEA INDUSTRY

REFORMS IN THE TEA BOARD OF KENYA

AND

*PRIVATIZATION OF THE KENYA TEA
DEVELOPMENT AUTHORITY*

JULY, 1999

The Sessional Paper No.2 of 1999 on the LIBERALIZATION AND RESTRUCTURING OF THE TEA INDUSTRY, REFORMS IN THE TEA BOARD OF KENYA AND PRIVATIZATION OF THE KENYA TEA DEVELOPMENT AUTHORITY was tabled in Parliament on 8th April, 1999. It was debated up to 9th June, 1999. During the debate, the members made valuable comments and raised some issues which were pertinent. The Departmental Committee on Agriculture, Land and Natural Resources also commented on the Paper and made suggestions on the same.

The Sessional Paper No.2 of 1999 and Tea (Amendment) Bill, 1999 have been harmonized and the corrections to both the Sessional Paper and some clauses in the Bill have been made. The following are the corrigenda and addenda to the Sessional Paper No.2 of 1999 with respect to various sections or chapters of the Sessional Paper :-

1. Section 3.0 Major Objectives

Section 3.0 is amended by inserting a new paragraph, 3.7-

- "3.7 To re-emphasize that tea farmers/growers are the owners of green tea leaf and also the owners of made tea until it is sold and they are paid for it."

2. Section 4.0 Liberalization/Privatization Measures

Section 4.0 is amended by inserting a new paragraph, 4.5-

- "4.5 The Government will encourage private investors to set up new tea factories as joint ventures with tea farmers/growers."

3. Section 5.0 Role and Functions of the Tea Board

Paragraph 5.1 is amended by deleting the first phrase and replacing it with the following-

- "5.1 The current functions of the Board include the following:-"

Paragraph 5.2 is amended by deleting "5.2" and renumbering it to read "j" and amending it further to read as follows-

- "j" To finance the activities outlined above, the Board levies cess on area planted with tea and on manufactured tea delivered for sale to the market."

- "5.2 In order to strengthen the Board and ensure that it lives up to its expectations, the following measures will be undertaken:-"

Paragraph 5.2.1 is amended by deleting the words "licence tea growers to ensure that tea is grown" and replacing them with the words "register tea growers that plant tea"

Paragraph 5.2.4 is amended by deleting the words "the Mombasa auction will be for export only."

4. Section 6.0 Membership of the Tea Board

Section 6.0 is amended in -

- (i) by deleting the words "increased from 16 to 18" and inserting the words "decreased from 16 to 15"
- (ii) by deleting the words "appointed by the Minister" and inserting the words "elected by the members of the Board"
- (v) by deleting the words "elevated to full membership of the Board" and inserting the words "an ex-officio member of the Board"

Paragraph 6.2 is amended in -

- (d) by deleting the words "appointed by the Minister" and inserting the words "nominated by the tea trade"
- (e) by deleting the words "appointed by the Minister after consultation with the organization representing smallholder tea growers" and inserting the words "elected by the directors of the tea factory companies at a meeting convened by the Minister, to represent;"
- (f) by deleting the words "five members appointed by the Minister after consultations with" and inserting the words "four members nominated by"
- (g) by inserting the words "who will be an ex-officio" immediately after the word "Kenya"
- (h) by deleting paragraph (h) altogether and inserting the new paragraph (b) by renumbering paragraph (i) as (h) and amending -

by deleting the words "appointed by the Minister with the advice of the Board" and inserting the words "nominated by the Board"

8. Section 13.0 Financing new Tea Factories

Section 13 is amended by inserting a new paragraph at the end of the section-

"However, considering the importance of tea in the economy, the Government will continue to guarantee loans for the construction of the tea factories where it is in the public interest."

9. Section 16.0 Growing of Tea

Section 16.0 is amended by deleting the 1st, 2nd and 3rd paragraphs and inserting the following three paragraphs-

"The Tea Board of Kenya will now register tea growers directly or indirectly. The licensed tea manufacturing factories managed by the respective tea factory companies will be required to maintain registers of growers falling under them on behalf of the Board. The individual tea growers served by tea factories owned by the tea estates and the large tea plantations will be registered directly by the Tea Board of Kenya. Whereas the Board's Inspectorate Department will be monitoring to ensure that the licensed tea factories under the tea factory companies comply with the set rules by its registered grower members, they will also be acting as the Board's agents in this regard.

In future therefore, the smallholder tea growers supplying green tea leaf to smallholder tea factory companies and the large scale tea growers will not be required to obtain licences to grow tea. In addition the tea growers will no longer be required to pay cess on area planted with tea.

The licensed tea factory companies will make annual returns to the Board indicating the total area planted with tea and the number of tea farmers registered with them."

10. Section 18.0 Agricultural Produce Cess

Section 18.0 is amended by inserting the following new paragraph at the end of the section-

"In view of the importance of tea in the economy, the Government will supplement the produce cess funds to maintain the tea roads."

11. Section 19.0 Marketing of Tea

Section 19.0 is amended in section 19 (ii) by deleting the words "making Mombasa auction an export market only" and inserting the words "removal of the requirement for tea export licence"

12. Section 20.2 Nyayo Tea Zones Development Corporation (NTZDC)

Section 20.2 is amended by deleting the last sentence and inserting a new sentence-

" It is recommended that these estates be leased out to smallholder tea companies or to individual private tea companies or local authorities."

13. Section 20.4 Kenya Small Scale Tea Growers Association (KSSTGA)

Section 20.4 is amended by deleting the last paragraph of the section (in page 22)

14. Section 20.6.1 Tea Brokers

Section 20.6.1 is amended by deleting the words in the 3rd paragraph and inserting the following new paragraph -

"The tea factory companies will appoint their own tea brokers in consultation with their management agents"

15. Section 20.6.2 Payment for Tea

Section 20.6.2 is amended by deleting the last sentence at the end of paragraph 20.6.2 and inserting the following new sentences-

"This should reflect a positive gain to the farmers in the industry."

"After the sale of tea at the auction, the broker should remit the proceeds to the tea factory bank account within ten (10) days prompt while the proceeds from private treaty sales should be remitted by the marketing agent within ten (10) days. In both cases, the proceeds will be for onward payment to the tea growers by the company directors in accordance with the respective company regulations."

ASSET FINANCE LOAN BALANCES AS AT 31ST JULY, 2014						
USD LOANS TRANSLATED TO KSH						Appendix 1
		87.80	87.80	87.80	87.80	
FACTORY NAME	COOP(KSH) 10.439%	COOP USD(5.5%)	ECO BANK (4.924%)	BANK OF AFRICA(4.00%)	BANK OF AFRICA(5.65%)	TOTAL LOAN
GACHARAGE	1,103,821.70	5,165,396.25	1,847,833.24	10,203,357.30	6,888,121.83	25,208,530.33
MOMUL	4,406,937.54		4,883,413.22			9,290,350.76
NDUTI-RUCHU	346,642.82	47,367,156.83	1,055,808.63			48,769,608.27
WERU	957,045.78	17,100,024.04	2,679,104.14	3,041,592.80	4,935,974.57	28,713,741.33
THETA			2,648,723.45		3,538,403.89	6,187,127.34
NDARUGU(KURI)		4,703,193.07			3,538,403.89	8,241,596.97
GITUGI		15,218,655.94				15,218,655.94
GATUNGURU	1,506,337.08	26,776,133.02			10,504,523.95	38,786,984.05
KIEGOI	9,886,357.05	20,912,040.93	1,617,986.43		8,525,877.38	40,942,261.80
KIONYO	1,615,407.67		2,225,278.04		7,076,467.11	10,917,152.81
CHEBUT	1,723,280.32	44,418,742.39			3,069,953.56	49,211,976.27
KAPTUMO		16,506,297.51			3,072,512.18	19,578,809.69
KINORO	164,887.56	17,386,770.81	2,455,984.45	10,939,921.27		30,947,564.09
NJUNU	3,580,674.36	9,240,283.93	2,813,121.01	8,412,315.82	5,310,356.88	30,356,761.80
MUDETE		20,203,220.23	1,742,215.33		3,438,442.33	25,383,877.88
RAGATI	1,255,838.80	17,471,155.04	1,055,808.63		3,537,739.22	20,330,251.65
GIANCHORE	1,782,266.10	14,391,852.77	618,393.57		9,461,775.32	56,460,561.71
KAPKOROS	4,609,419.91	42,389,466.47			5,936,013.48	23,143,760.65
KEBIRIGO	632,565.93	10,812,944.57	2,195,587.05	3,566,649.63	4,163,021.02	21,119,367.32
SANGANYI		16,956,346.30			4,121,808.37	25,157,645.52
KANGAITA		15,655,207.19	1,895,622.43	3,485,007.53		34,915,930.56
KOBEL		34,915,930.56				34,915,930.56
GITHONGO		14,087,395.12	5,664,978.59		3,468,791.85	23,221,165.56
KANYENYAINI	3,133,333.82	11,410,222.20	1,598,200.63		3,949,680.52	20,091,437.17
KIAMOKAMA		4,950,379.88	2,448,579.92		7,313,692.99	14,712,652.79
KIRU	998,921.23	44,136,384.57	2,875,431.26		2,218,219.46	50,228,956.52
MAKOMBOKI	2,187,953.88	19,683,136.81		3,796,159.27		11,107,822.51
LITEIN	1,329,010.84	5,982,652.41		3,882,072.17		29,736,718.10
EBEREGE		22,760,737.63	3,092,908.30			20,989,884.64
OGEMBO		17,989,787.22	3,000,097.42		2,475,792.20	28,288,374.32
NDIMA	1,513,627.00	22,103,368.07	2,195,587.05			4,745,712.83
TEGAT	104,815.69	4,840,897.14				21,923,855.51
KAPSARA	3,656,444.62	17,531,947.99	735,462.91			23,481,735.18
TOMBE		16,070,491.73	7,411,243.45			28,326,785.12
TIRGAGA	1,825,273.63	26,501,511.48			2,355,977.22	16,228,419.62
KATHANGARIRI	1,589,986.35	12,282,456.05				20,724,336.48
IKUMBI	1,552,671.36	17,641,820.06	1,529,845.06			29,289,097.38
IRIAINI		11,883,306.43	905,897.00	11,025,744.61	5,474,149.34	5,545,427.95
MATAARA	95,842.71	5,449,585.23				33,951,746.82
IMENTI		32,763,550.53	1,188,196.29			25,483,698.15
KAPKATET	243,409.32	19,793,928.64	5,446,360.19		2,125,587.78	33,763,706.32
KAPSET	1,779,484.91	29,858,633.63			6,107,877.91	11,655,815.55
KAPSET(ROROK)		5,547,937.65				2,163,893.61
KIMUNYE	831,737.07		1,332,156.54		2,972,533.92	29,390,908.04
NYANSIONGO	9,092,945.56	17,325,428.56				21,724,506.71
NGERE	3,172,045.58	7,730,505.67		10,821,955.45		33,696,698.21
MICHIMIKURU	4,416,672.34	11,079,599.00		5,260,845.72	12,939,581.15	64,679,682.44
MOGOGOSIEK	2,830,033.02	61,849,649.42				25,753,957.28
MUNGANIA	2,293,866.32	23,460,090.96				7,142,376.12
NYANKOBA		4,493,652.67	2,648,723.45		4,166,975.72	18,999,951.46
RUKURIRI	1,918,227.82	8,771,474.94	4,143,272.98			47,816,609.82
CHINGA		29,239,768.99	4,587,432.28	13,989,408.56		32,395,895.35
MUNUNGA	1,003,644.37	17,647,888.14	816,783.64		12,927,579.19	3,683,930.84
GITHAMBO	2,626,082.52		1,057,848.32		7,196,190.77	48,500,144.12
GATHUTHI		40,248,144.72	1,055,808.63		7,639,140.13	23,101,202.11
KAMBAA	304,231.97	12,824,967.25	2,332,862.77			28,866,204.38
NYAMACHE	4,143,082.24	18,488,342.58	1,246,075.06	4,988,704.50		16,827,969.45
ITUMBE	1,697,164.21	8,039,205.95		4,934,670.67	2,156,928.61	20,172,859.22
THUMAITA	2,250,750.67	15,823,812.07			2,098,296.48	1,488,950,657.60
GRAND TOTALS	90,162,741.69	1,037,683,479.24	87,049,631.34	98,348,405.31	175,706,400.02	
		1,127,846,220.93			274,054,805.33	

FACTORY	FINANCER	PART A		INTEREST RATE	REPAYMENT PERIOD	GRACE PERIOD	TERMS OF PAYMENT	LOAN AMOUNT	PRINCIPAL INSTALLMENT	REPAYMENT AS AT 31.07.2014	BALANCE AS AT 31.07.2014	ex-rate	BALANCE AS AT 31.07.2014 IN KSH EQUIVALENT	LOAN RECEIVED
		CURRENCY	UNIT											
1 BANOKHAMA	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	4,686,300.00	78,105.00	1,874,700.00	185,520.00	87.80	164,590,728.98	20/2010
2 BANOKHAMA	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	854,000.00	14,233.35	668,967.38	165,032.62	87.80	16,246,841.17	13/09/2010
3 BANOKHAMA	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	4,100,000.00	48,315.28	3,451,586.30	448,413.70	87.80	56,833,446.20	8.04.2006
4 THEIA-KURI	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	2,700,000.00	45,000.00	2,475,000.00	225,000.00	87.80	19,755,945.00	23.12.2008
5 NYANOKA	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	675,944.33	14,082.17	605,533.25	70,410.88	87.80	6,182,335.67	21/12/2009
6 BANOKHAMA	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,172,862.23	24,436.71	1,050,777.99	122,184.24	87.80	10,728,289.45	21/12/2009
7 KEBERIGO	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	178,328.90	12,822.17	152,709.51	24,620.39	87.80	21,390,893.45	18/02/2009
8 KEBERIGO	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,291,323.00	21,505.40	1,075,270.00	216,053.00	87.80	19,370,360.82	8/7/2009
9 KEBERIGO	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	3,975,903.65	55,220.00	3,816,206.10	165,697.55	87.80	14,548,940.82	11/11/2007
10 KAPBARA	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,127,822.93	18,793.72	920,892.28	206,730.65	87.80	18,151,819.34	7/1/2010
11 KAPBARA	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	888,454.16	11,440.90	840,300.51	125,850.06	87.80	11,050,103.84	7/1/2010
12 LITER	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	115,139.61	1,918.99	94,030.51	21,109.10	87.80	8,519,359.67	7/1/2010
13 THEIA	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	529,237.66	8,822.63	432,210.87	87,026.79	87.80	37,100,791.06	7/1/2010
14 TIRGAGA	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	2,304,762.84	38,412.71	1,882,227.79	422,535.05	87.80	37,100,791.06	7/1/2010
15 TIRGAGA	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	2,903,224.00	48,387.07	2,370,966.43	532,257.57	87.80	46,734,450.13	7/1/2010
16 LEBERGE	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	2,083,312.00	34,721.87	1,701,371.63	381,940.37	87.80	33,535,968.64	7/1/2010
17 HADATI	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	355,080.48	5,818.01	269,982.49	85,097.99	87.80	5,715,876.93	7/1/2010
18 MUGETE	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	652,557.08	10,209.28	569,254.72	156,302.36	87.80	7,359,990.73	7/1/2010
19 MICHIMURU	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	457,214.41	7,207.24	373,391.76	83,822.65	87.80	5,898,869.67	7/1/2010
20 TOSIRE	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	385,447.63	6,107.46	299,265.54	86,182.09	87.80	7,246,976.72	7/1/2010
21 KATYENAI	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	450,194.87	7,003.25	367,659.22	82,535.65	87.80	2,022,566.43	7/1/2010
22 MICHIMURU	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	125,645.00	2,094.09	102,610.41	23,035.19	87.80	7,713,756.14	7/1/2010
23 MICHIMURU	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	479,190.76	7,886.51	391,338.99	87,851.79	87.80	7,713,756.14	7/1/2010
24 KAMBARA	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	219,335.35	3,655.59	179,123.91	40,211.44	87.80	3,530,233.32	7/1/2010
25 KAMBARA	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	2,016,000.00	33,631.35	1,744,833.75	271,166.25	87.80	103,096,728.25	21/07/2011
26 KAPKATET	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,478,700.00	24,640.00	1,250,302.30	228,397.70	87.80	75,740,780.98	10-Aug-11
27 MUMUL	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	150,618.61	2,510.35	125,052.30	25,566.31	87.80	26,990,302.50	1-Sep-11
28 NGUTI	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	558,894.23	9,314.90	448,117.92	90,776.31	87.80	45,027,797.26	14-May-12
29 GACHIGI	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	981,538.46	16,025.64	812,512.82	168,025.64	87.80	46,517,666.83	23-Aug-12
30 KORTO	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	749,831.00	11,910.19	628,920.82	120,910.18	87.80	68,032,843.61	23-Aug-12
31 NYANOKO	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,001,655.00	13,141.74	869,515.83	132,139.17	87.80	89,400,198.99	23-Aug-12
32 MATANIA	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,421,274.00	17,269.21	1,208,000.00	213,274.00	87.80	45,186,712.34	23-Aug-12
33 TIRGAGA	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	718,583.00	8,730.54	603,338.69	115,244.31	87.80	52,896,907.71	23-Aug-12
34 KAPKOROS	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,000,000.00	12,148.66	869,815.83	130,184.17	87.80	87,426,466.78	23-Aug-12
35 NYAMAGIE	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	869,815.83	10,697.02	767,918.81	101,897.02	87.80	87,426,466.78	23-Aug-12
36 OGEBO	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	869,815.83	10,697.02	767,918.81	101,897.02	87.80	87,426,466.78	23-Aug-12
37 KAMOKHAMA	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	540,162.95	74,102.88	466,060.07	74,102.88	87.80	40,922,031.60	7-Jan-13
38 KAMOKHAMA(NYAMAMU)	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	544,615.95	350,197.98	194,621.57	350,197.98	87.80	30,748,853.48	7-Jan-13
39 NYAMACHUTIMBER	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	2,707,797.75	331,486.14	2,376,313.61	331,486.14	87.80	208,650,315.48	7-Jan-13
40 KAPKOROS(OLINGURIONE)	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,199,068.65	1,089,503.16	93,028,827.36	93,028,827.36	87.80	93,028,827.36	7-Jan-13
41 NGERE	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,586,938.30	139,265.48	1,447,672.82	139,265.48	87.80	121,716,598.32	7-Jan-13
42 MUNDANA	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	499,185.05	89,836.12	409,348.93	89,836.12	87.80	27,698,530.32	7-Jan-13
43 MAMKORONI	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	295,126.97	22,725.31	272,401.66	22,725.31	87.80	23,918,099.83	26-Mar-13
44 KAMBAA	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,126,744.45	89,836.12	1,037,112.79	89,836.12	87.80	91,062,858.84	20-Mar-13
45 KUMBI	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	559,824.15	559,824.15	559,824.15	559,824.15	87.80	134,047,138.02	5-Feb-13
46 KUMBI	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,685,447.00	27,757.45	1,657,689.55	27,757.45	87.80	89,045,575.78	5-Feb-13
47 CHINGA	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,118,228.00	18,637.15	1,099,590.85	18,637.15	87.80	90,003,102.53	5-Feb-13
48 CHEBIT	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,106,333.00	16,439.00	1,089,894.00	16,439.00	87.80	91,152,084.39	5-Feb-13
49 DUKU	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,132,504.00	18,875.05	1,113,628.95	18,875.05	87.80	94,571,168.72	22-May-13
50 MUNDANA	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,132,504.00	18,875.05	1,113,628.95	18,875.05	87.80	94,571,168.72	22-May-13
51 TIRGAGA	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,132,504.00	18,875.05	1,113,628.95	18,875.05	87.80	94,571,168.72	22-May-13
52 KUMBI	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,132,504.00	18,875.05	1,113,628.95	18,875.05	87.80	94,571,168.72	22-May-13
53 KATYENAI	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,132,504.00	18,875.05	1,113,628.95	18,875.05	87.80	94,571,168.72	22-May-13
54 BANGANYI	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,132,504.00	18,875.05	1,113,628.95	18,875.05	87.80	94,571,168.72	22-May-13
55 TOMBE	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,132,504.00	18,875.05	1,113,628.95	18,875.05	87.80	94,571,168.72	22-May-13
56 GACHIGI	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,132,504.00	18,875.05	1,113,628.95	18,875.05	87.80	94,571,168.72	22-May-13
57 KEBERIGO	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,132,504.00	18,875.05	1,113,628.95	18,875.05	87.80	94,571,168.72	22-May-13
58 NYANOKA	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,132,504.00	18,875.05	1,113,628.95	18,875.05	87.80	94,571,168.72	22-May-13
59 NYANOKO	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,132,504.00	18,875.05	1,113,628.95	18,875.05	87.80	94,571,168.72	22-May-13
60 NYANOKO	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,132,504.00	18,875.05	1,113,628.95	18,875.05	87.80	94,571,168.72	22-May-13
61 NYANOKO	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,132,504.00	18,875.05	1,113,628.95	18,875.05	87.80	94,571,168.72	22-May-13
62 NYANOKO	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,132,504.00	18,875.05	1,113,628.95	18,875.05	87.80	94,571,168.72	22-May-13
63 NYANOKO	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,132,504.00	18,875.05	1,113,628.95	18,875.05	87.80	94,571,168.72	22-May-13
64 NYANOKO	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,132,504.00	18,875.05	1,113,628.95	18,875.05	87.80	94,571,168.72	22-May-13
65 NYANOKO	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,132,504.00	18,875.05	1,113,628.95	18,875.05	87.80	94,571,168.72	22-May-13
66 NYANOKO	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,132,504.00	18,875.05	1,113,628.95	18,875.05	87.80	94,571,168.72	22-May-13
67 NYANOKO	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,132,504.00	18,875.05	1,113,628.95	18,875.05	87.80	94,571,168.72	22-May-13
68 NYANOKO	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,132,504.00	18,875.05	1,113,628.95	18,875.05	87.80	94,571,168.72	22-May-13
69 NYANOKO	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,132,504.00	18,875.05	1,113,628.95	18,875.05	87.80	94,571,168.72	22-May-13
70 NYANOKO	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,132,504.00	18,875.05	1,113,628.95	18,875.05	87.80	94,571,168.72	22-May-13
71 NYANOKO	IBK	USD	USD	4.00%	5 YRS	1 YR	MONTHLY	1,132,504.00	18,875.05	1,113,628.95	18,875.05	87.80		

TEA GROWERS PAYMENT

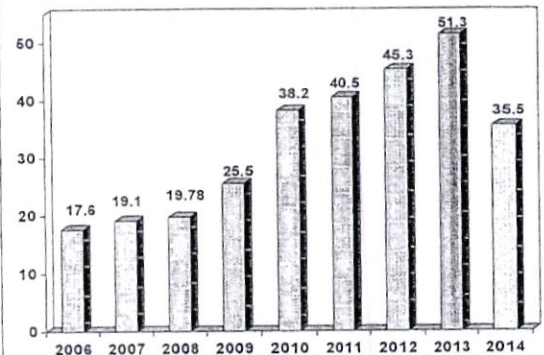
JUNE 2014 FINANCIAL YEAR



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FACTORIES	JUNE 2013 2ND PAYMENT (BONUS)	JUNE 2014 2ND PAYMENT (BONUS)		TOTAL PAYMENT JUNE 2014 Initial monthly payment at Ksh 14 Kg /GL Plus 2nd payment (Bonus)		% of Revenue Paid to Farmers
	APPROVED RATE PER KG/GL (BONUS) KSHS	APPROVED RATE PER KG/GL (BONUS) KSHS	AMOUNT OF BONUS IN KSHS MILLION	TOTAL PAY RATE PER KG/GL IN KSHS	TOTAL AMOUNT IN KSH MILLION	
REGION 1						
KAMBAA	35.50	20.50	343	34.50	578	68%
KAGWE	36.20	23.05	543	37.05	872	73%
KETA / KURI	30.05	16.20	426	30.20	794	64%
KICHEGE	30.10	16.00	235	30.00	441	65%
KITAARA	34.70	17.40	238	31.40	430	65%
KIJUNU	37.00	19.00	300	33.00	522	68%
KIGERE	39.40	23.30	733	37.30	1,174	74%
KIMBI	38.10	20.10	372	34.10	630	68%
KICHARAGE	35.60	19.10	296	33.10	513	68%
KUTU	35.70	17.10	242	31.10	440	64%
MAKOMBOKI	37.10	22.65	560	36.65	905	72%
Average/Sub-Total	35.40	19.49	4,288	33.94	7,299	68%
REGION 2						
KITUNGURU	32.00	18.10	347	32.10	615	66%
KIRU	30.00	18.00	381	32.00	678	69%
KANYENYAINI	31.25	17.70	336	31.70	602	67%
GITHAMBO	31.00	18.50	405	32.50	711	70%
KIINGA	34.00	18.00	330	32.00	587	67%
KIUGI	38.00	23.50	297	37.50	474	70%
KITHUTHI	41.20	26.00	431	40.00	663	73%
KIRAINI	33.05	17.00	262	31.00	478	66%
RAGATI	33.00	15.81	239	29.81	450	63%
Average/Sub-Total	33.72	19.18	3,029	33.01	5,259	69%
REGION 3						
KIRIGAITA	36.81	23.00	438	37.00	704	74%
KIRIMA	35.35	21.05	402	35.05	669	70%
KIRIAIYE	40.20	26.10	571	40.10	878	74%
MUNUNGA	40.21	26.00	637	40.00	980	73%
KIJAMITA	37.60	22.50	463	36.50	751	73%
KIRISANIA	38.00	24.00	479	38.00	758	73%
KIRIRI	38.70	25.30	498	39.30	774	74%
KIRIHANGARIRI	37.00	23.00	341	37.00	548	72%
Average/Sub-Total	37.98	23.87	3,828	38.00	6,062	73%
REGION 4						
KIRIRO	37.00	21.65	427	35.65	703	71%
KIRURU	31.00	21.20	356	35.20	591	71%
KIRIMENTI	41.00	26.50	533	40.50	814	76%
KIRIONYO	35.20	22.00	536	36.00	876	73%
KIRIHONGO	34.00	21.15	239	35.15	398	69%
KIRIGOI / IGEMBE	30.50	19.00	374	33.00	650	67%
KIRIHIMIKURU	33.25	17.75	337	31.75	603	65%
Average/Sub-Total	34.56	21.32	2,801	35.39	4,634	70%
REGION 5						
KIRIBAT / TOROR	26.50	14.00	444	28.00	889	66%
KIRIBIN / CHELAL	24.00	12.00	341	26.00	739	62%
KIRIPKATET	28.20	14.20	362	28.20	720	67%
KIRIMUL	28.30	15.85	417	29.85	785	68%
KIRIPKOROS / TIRGAGA / OLENGURUONE	28.15	14.25	814	28.25	1,614	66%
KIRIPSET / ROROK	27.50	13.45	437	27.45	891	64%
KIRIGOGOSIEK / KOBEL	26.00	13.25	634	27.25	1,303	64%
Average/Sub-Total	26.95	13.86	3,449	27.83	6,941	65%
REGION 6						
KIRANSIONGO	32.05	15.90	248	29.90	467	65%
KIRYANKOBA	27.20	10.50	163	24.50	380	60%
KIRIMBE	29.69	15.00	250	29.00	483	64%
KIRIRIGO	26.10	11.10	167	25.10	378	60%
KIRINCHORE	27.00	13.00	168	27.00	350	63%
KIRISANGANYI	26.15	11.30	189	25.30	423	59%
KIRIOGEMBO / EBEREGE	23.50	8.50	218	22.50	577	54%
KIRIMACHE / ITUMBE	28.00	12.10	302	26.10	652	60%
KIRIMOKAMA / RIRANYAMWAMU	26.15	11.10	223	25.10	505	56%
Average/Sub-Total	27.32	12.06	1,929	25.82	4,214	60%
REGION 7						
KIRICHEBUT / KAPTUMO	23.00	10.10	261	24.10	624	56%
KIRIDETE	24.00	10.10	142	24.10	338	58%
KIRISARA	21.00	11.00	76	25.00	172	52%
Average/Sub-Total	22.67	10.40	479	24.23	1,134	55%
AVERAGE/GRAND TOTAL	31.65	17.61	19,803	31.61	35,544	67%

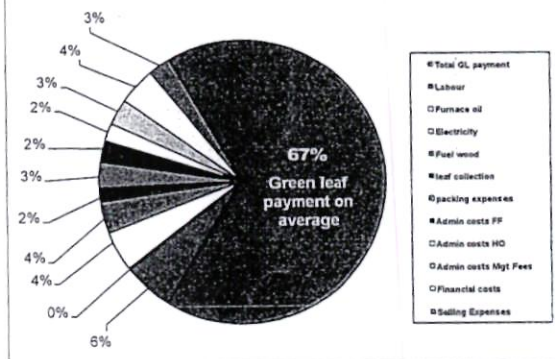
TOTAL PAYMENT IN BILLION (KSH)



In the last 9 years total cumulative payments to the farmers is Ksh 292.8 Billion.

OVERALL FACTORIES AVERAGE NET INCOME/KG
AVERAGE % PAID TO THE FARMER

JUNE 2014



HIGHLIGHTS

- Tea prices were depressed due to global tea over production and political instability in our key markets in Africa and Middle East.
- Gross revenue totalled Ksh 52.97 Billion for the year to June 2014.
- Total payment (initial Monthly pay and 2nd Payment) to the growers is Ksh 35.54 Billion at an average rate of Ksh 31.61 per Kg/Green leaf.
- The amount to be released to the growers as second payment is Ksh 19.8 Billion.
- Ksh 15.74 Billion has been paid to all growers as initial monthly payment at an average rate of Ksh 14.00 per Kg/Green leaf.
- The total production of green leaf to June 2014 increased to 1.124 Billion Kilogrammes.

NOTE:

- GL denotes Green leaf (which is the basis of payment to the tea farmers)
- On average 4.4 kilograms of greenleaf tea is used to produce 1kg of made tea.
- The KTDA factory network has 66 tea processing factories owned by 54 factory companies

About 560,000 small scale tea farmers are both suppliers of Green leaf to the respective tea processing factories and shareholders in the factory companies.

