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REPUBLIC OF KENYA

THE SENATE

THIRTEENTH PARLIAMENT | SECOND SESSION

.....

STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES

REPORT ON THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 1 OF 2023)

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DECEMBER, 2023

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3.1.1. COMMITTEE OBSERVATIONS 34

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LIST OF ABBREVIATIONS/ACRONYMS

AFA	-	Agriculture and Food Authority
AFC	-	Agricultural Finance Corporation
AIF	-	Agricultural Industry Forum
CoG	-	Council of Governors
DSS	-	Direct Settlement System
EATTA	-	East African Tea Trade Association
ETK	-	Eketerra Tea Kenya
KTB	-	Kenya Tea Board
KTDA	-	Kenya Tea Development Agency
KTGA	-	Kenya Tea Growers Association
TBK	-	Tea Board of Kenya
TRF	-	Tea Research Foundation
TRI	-	Tea Research Institute

ESTABLISHMENT AND MANDATE OF THE COMMITTEE

The Standing Committee on Agriculture, Livestock and Fisheries is established under standing order 228(3) of the Senate Standing Orders and is mandated to consider all matters relating to agriculture, irrigation, livestock, fisheries development and veterinary services.

In undertaking its mandate, the Committee oversees the following State Departments:

1. Ministry of Agriculture and Livestock Development;
    i. The State Department for Crops Development and;
    ii. The State Department for Livestock Development
2. Ministry of Sanitation, Water and Irrigation.
    i. State Department for Irrigation.
3. Ministry of Mining, Blue Economy and Fisheries.
    I. State Department for Blue Economy and Fisheries.

The Committee also oversees the following State Agencies among others: -

1. Agriculture and Food Authority (AFA);
2. Agricultural Finance Corporation (AFC);
3. Agricultural Development Corporation (ADC);
4. Kenya Seed Company (KSC);
5. Kenya Plant Health Inspectorate Services (KEPHIS);
6. Kenya Agricultural and Livestock Research Organization (KALRO);
7. Kenya Veterinary Vaccine Production Board (KVVPB);
8. Kenya Veterinary Board (KVB);
9. Kenya Meat Commission (KMC);
10. Kenya Dairy Board (KDB);
11. Kenya Leather Development Council (KLDC);
12. Kenya Fisheries Service (KFS);
13. Kenya Fish Marketing Authority (KFMA);
14. Kenya Marine and Fisheries Research Institute (KEMFRI);
15. Kenya Fishing Industries Corporation; and
16. National Irrigation Board (NIB).

The Committee also works closely with the Council of Governors (CoG), and the County Assemblies Forum (CAF) and non-state actors including among others-

1. Kenya Private Sector Alliance (KEPSA);
2. Agricultural Council of Kenya (AgCK)
3. Food and Agriculture Organization (FAO);

4. Kenya National Farmers' Federation (KENAFF);
5. Centre for Agriculture and Bioscience International (CABI); and
6. Agricultural Industry Forum (AIF).

MEMBERSHIP OF THE COMMITTEE

The Committee is comprised of the following Members-

1. Sen. James Kamau Murango, MP - **Chairperson**
2. Sen. Alexander Munyi Mundigi, MP - **Vice-Chairperson**
3. Sen. Moses Otieno Kajwang', MP - Member
4. Sen. Enoch Kiio Wambua, CBS, MP - Member
5. Sen. Daniel Kitonga Maanzo, MP - Member
6. Sen. Beth Kalunda Syengo, MP - Member
7. Sen. Wahome Wamatinga, MP - Member
8. Sen. Allan Kiprotich Chesang, MP - Member
9. Sen. David Wafula Wakoli, MP - Member

CHAIRPERSON'S FOREWORD

Mr. Speaker Sir,

The Tea (Amendment) Bill (Senate Bills No. 1 of 2023) seeks to amend the Tea Act (No.23 of 2020) to provide for direct sales of tea, the payment of tea proceeds, and for connected purposes. The object of the Bill is to amend certain provisions in the Tea Act, 2020 to protect the Tea growers' proceeds from mismanagement by factories. The Bill further seeks to liberalize the tea industry. This will be done through direct sales of tea overseas. The Bill also aims to incentivise value addition of tea by exempting value added tea from payment of the tea levy.

During the consideration of the Bill, the Committee observed that one of the gaps identified was the inordinate delay in transmission of sales proceeds from the auction centres to the producers. The Bill therefore seeks to streamline the process of payment through the introduction of the direct settlement system which will enable proceeds for sales to be directly deposited in the producers' accounts through the approved commercial banks.

The Bill also seeks to diversify the sale of tea through different channels to maximize returns. The current Act only provides for the sale of tea through the auction. In this regard, the Bill proposes to introduce direct sale of tea to protect farmers from exploitation. The Bill also proposes to set the prices for direct tea sale to be higher than the prevailing auction rates.

Mr. Speaker Sir,

The Tea (Amendment) Bill, 2023 was published *vide* Kenya Gazette Supplement No.1 of 6th January, 2023 and was introduced in the Senate by way of First Reading on 16th February, 2023. The Bill stood committed to the Senate Standing Committee on Agriculture, Livestock and Fisheries for consideration.

In compliance with the provisions of Article 118(1) (b) of the Constitution and Standing Order 145 (5) of the Senate Standing Orders, the Committee proceeded to undertake public participation on the Bill. In this regard, the Committee published an advertisement in the Daily Nation and Standard newspapers on Tuesday, 21st February, 2023 inviting members of the public to submit written memoranda to the Committee on the Bill. Additionally, the Committee sent invitations to key stakeholders inviting them to submit their comments on the Bill.

Mr. Speaker Sir,

The Committee held public participation on the Bill in six (6) counties - Bomet, Kericho, Bungoma, Kirinyaga, Nyeri and Embu Counties. In total, the Committee received written and oral submissions from twenty-eight (28) stakeholders, including submissions from Kenya Tea Development Agency (KTDA), Council of Governors (COG) and Tea Board of Kenya as key stakeholders.

The Committee thereafter proceeded to consider extensively the provisions of the amendment Bill and the submissions received thereon. Based on its deliberations, the Committee has made various observations and recommendations.

Summary of Committee Observations

The Committee made the following observations

1. Farmers have for the longest time been exploited by brokers. Issues of poor and delayed tea sales returns have been rampant. There is therefore a need to establish a system where farmers will receive their proceeds of sale of tea promptly and in the same currency. The Direct Settlement System proposes to remit proceeds of sale of tea directly to and promptly to farmers;
2. The price difference between farmers in the Eastern and Western regions of the rift is typically significant which leads to favoring of farmers in the East who receive considerably higher prices compared to their counterparts in the West;
3. Agriculture being a devolved function, the roles of each level of government should be well spelt out;
4. The money that is apportioned for infrastructure development will be remitted to tea producing counties as a conditional grant;
5. The role of research in the tea sector is crucial and therefore there is a call for establishing a robust research institute to address emerging issues;
6. The entire process of elections of directors to factories as representatives of farmers was raising concerns and called for a clear structure of the process which is farmers' centric;
7. Tea hawking affects the quality of Kenyan tea globally. Private owned factories therefore need to share the same quality of green tea they purchase with KTDA factories to maintain the quality of Kenyan tea;
8. There should be an outlined dispute resolution mechanism to settle disputes arising from the tea sector; and
9. The reintroduction of direct sales in the tea sector is revolutionary. Safeguard measures should be implemented to subject tea designated for direct sale through the tea exchange for price and quality discovery.

Summary of Committee Recommendation

The Committee having reviewed the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023) recommends that the House approves the Bill together with the proposed amendments.

Mr. Speaker Sir,

May I take this opportunity to acknowledge the time and considerable effort made by the institutions, organizations and individuals that prepared and submitted their memoranda to the Committee. I also wish to express my gratitude to my colleagues, Members of the Committee for their thoughtful insights and contributions towards the amendment Bill. The Committee acknowledges and appreciates the sponsor of the Bill, Sen. Wakili Hillary Sigei, MP. who accompanied the Committee to Bomet and Kericho Counties during the public participation on the Bill.

Further, the Committee is indebted to the Office of the Speaker and the Clerk of the Senate for support extended to the Committee in facilitating all the actions and interactions that led to the production of this report.

Mr. Speaker Sir,

It is now my pleasant duty, pursuant to standing order 148 (1) of the Senate Standing Orders, to present the Report of the Standing Committee on Agriculture, Livestock and Fisheries on the Tea (Amendment) Bill (Senate Bills No. 1 of 2023).

Signed..... Date.....05/12/23.....

CHAIRPERSON: SEN. JAMES KAMAU MURANGO, MP,

STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES

CHAPTER ONE

1.1. BACKGROUND

1. The Tea (Amendment) Bill (Senate Bills No. 1 of 2023) seeks to amend the Tea Act (No.23 of 2020) to provide for direct sales of tea, the payment of tea proceeds, and for connected purposes. The object of the Bill is to amend certain provisions in the Tea Act, 2020 to protect the Tea growers' proceeds from mismanagement by factories. The Bill further seeks to liberalize the tea industry. This will be done through direct sales of tea overseas. The Bill also aims to intensify value addition of tea by exempting value added tea from payment of the tea levy. A copy of the amendment Bill is attached to this Report as ***Appendix 2***.

2. The Tea (Amendment) Bill, 2023 was published *vide* Kenya Gazette Supplement No.1 of 6th January, 2023 and was introduced in the Senate by way of First Reading on 16th February, 2023. The Bill stood committed to Senate Standing Committee on Agriculture, Livestock and Fisheries. Pursuant to the provisions of Article 118(1) (b) of the Constitution and Standing Order 140 (5) of the Senate Standing Orders, the Committee proceeded to undertake public participation on the Bill. In this regard, the Committee published an advertisement in the Daily Nation and Standard newspapers on Tuesday, 21st February, 2023 inviting members of the public to submit written memoranda to the Committee on the Bill. Additionally, the Committee sent invitations to key stakeholders inviting them to submit their comments on the Bill. A copy of the advertisement is attached to this report as ***Appendix 3***.

3. The Committee held public participation on the Bill in six (6) counties- Bomet, Kericho, Bungoma, Kirinyaga, Nyeri and Embu Counties. In total, the Committee received written and oral submissions from twenty-eight (28) stakeholders, including submissions from Kenya Tea Development Agency (KTDA), Council of Governors (COG) and Tea Board of Kenya as key stakeholders. The Committee thereafter proceeded to consider extensively the provisions of the amendment Bill and the submissions received thereon. Based on its deliberations, the Committee has made various observations and recommendations which are set out at Chapter Three of this Report.

1.2. SITUATIONAL ANALYSIS ON THE TEA SECTOR IN KENYA

4. Tea production in Kenya is divided between plantations and smallholders. The contribution of plantations and smallholder tea farms is divided relatively equally;

plantations account for 44.5 percent of tea produced, while smallholder tea estates in Kenya account for 55.5 percent. Through designated tea brokers, the Kenya Tea Development Agency (KTDA) which manages small-scale farmers, and the other tea producers distribute samples of tea to be auctioned to prospective buyers. The buyers, then, evaluating these samples visually and by texture and taste, determine the price range within which they would bid for the teas on offer at the auction.

5. Once purchased, exporters ship either in bulk directly to the clients where the tea is re-sold for retail, or to companies specializing in blending and packaging. These companies then sell the tea ready-packed under various brand names, offering a wide range of choices to tea-drinkers across the world.

1.2.1. Tea Marketing in Kenya

6. The marketing of tea in Kenya is led by the KTDA, the major tea marketer. KTDA markets tea mainly through the following outlets: Factory door sale of tea in polythene bags to farmers accounting for 3% of sales, through the Mombasa auction where it exports to other countries such as Britain, France, and Afghanistan. It accounts for 75% of sales and by dealing directly with interested buyers which accounts for 15% of sales.
7. The international buyers who buy Kenya's tea from the Mombasa Tea Auction blend the tea abroad and brand it in their individual company names. This has reduced Kenya's competitive advantage to the point where it is estimated that with the quality of tea in the country, branding could yield an additional 100 to 200 million dollars in GDP.
8. Tea companies in Kenya with significant market shares include:
    (a) KTDA Management Services Ltd with a 44.9% market share (USD 718 million annual revenue);
    (b) Williamson Tea Kenya Plc with a 1.72% market share (USD 27.5 million annual revenue);
    (c) Sasini with a 0.8% market share (USD 12.4 million annual revenue);
    (d) Kapchorua Tea Kenya Plc with a 0.6% market share (USD 10.3 million annual revenue); and
    (e) Limuru Tea PLC (Unilever) with a 0.1% market share (USD 0.9 million annual revenue).

1.2.2. Kenyan Tea in The Global Arena

9. The high quality of tea produced in Kenyan tea factories and production facilities meets global standards. The standards met by some Kenyan tea include: The ISO 22000 certification, hazard Analysis and Critical Control Points (HACCP), Rainforest Alliance and Fair-Trade Federation.

10. Some of the top five tea exporters in Kenya include: The Kenya Tea Development Agency Ltd. (KTDA), Kenya Tea Packers Ltd. (KETEPA), Unilever Tea Kenya Limited, James Finlay (Kenya) Limited and Eastern Produce Kenya Limited.

1.3. INSTITUTIONAL FRAMEWORK

1.3.1. The Tea Research Foundation of Kenya (KTRF)

11. The Tea Research Foundation of Kenya invests in the research and development of new tea varieties. Such research focuses on improving tea's flavor, color, taste, and health-supporting attributes. This foundation has played a major role in scientific development in the tea sector in Kenya. It surveys for pest and diseases with an aim of safeguarding the likelihood of outbreaks of new pests and disease problems. Fertilizer and general advisory surveillance are also done by the foundation.

1.3.2. The Kenya Tea Development Agency (KTDA)

12. Kenya Tea Development Agency's predecessor the Kenya Tea Development Authority, was established in 1964 by an act of Parliament as a parastatal charged with the responsibility of developing and fostering the young and nascent small scale tea growers' sector. The task of managing the small-scale holder lies with the Kenya Tea Development Agency (KTDA). It oversees the production and sale of most Kenyan tea. In addition, KTDA also oversees Kenya's specialty tea production, an increasingly important segment. Of all tea produced in Kenya, KTDA members produce over 60% while the rest is produced by large-scale producers.

1.3.3. Tea Board of Kenya (TBK)

13. The Tea Board of Kenya is a State Corporation in the Ministry of Agriculture and Livestock Development established by Tea Act No. 23 of 2020 to develop, regulate and promote tea sub-sector. The Board is governed by a Board of Directors appointed by the Cabinet Secretary in charge of Agriculture and Livestock Development while day to day operations is directed by the Chief Executive Officer.
14. The main role of the Board is to guide the development, promotion, and regulation of the tea industry, to coordinate activities of organizations in the tea industry, to register tea factories and other operators in the industry, license tea manufacturers, to promote best practices and standards along the value chain, regulate the sale import and export of tea, to develop a national tea marketing strategy and to regulate the sale import and export of tea.

1.3.4. East Africa Tea Trade Association (EATTA)

15. The East African Tea Trade Association is a voluntary organization bringing together Tea Producers, Buyers (Exporters), Brokers, Tea Packers and Warehouses, all working to promote the best interests of the Tea Trade in Africa. Currently, membership comprises over three hundred companies extending across the East and Central African borders. EATTA mandated to promote and facilitate the interests of all the stakeholders in the tea trade in Africa by creating an enabling business environment geared towards maintaining global standards and delivering tea products to the customers in the most profitable way.

1.4. OVERVIEW OF THE BILL

16. The Bill amends the Interpretation section of the Act by introducing the term **a** Special Economic Zone in the definition of both import and export. The Bill initially defined import and export of Tea to mean *"to bring tea or cause tea to be brought into or to take tea or cause to be taken out of Kenya customs territory, or an Export Processing Zone."*

17.. The Bill further amends the definition of Value addition to include the words *"into a packet or a container holding not more than ten kilograms"*. The Act defined value addition to mean *improvements on made tea through packaging, blending, flavouring, tea extracts, tea aroma and branding.*

18. In addition, the Bill introduces new definitions, which include-

"direct sales" means a contractual arrangement between a factory and an overseas buyer or local buyer for the sale of made tea based on mutually accepted terms and conditions enforceable in law;

"direct sales overseas" means bulk tea sales exported directly by a tea factory to an export market;

"direct settlement system" means a banking facility provided by a commercial bank regulated by the Central Bank of Kenya for the clearing and settlement of tea sales proceeds;

"green leaf" means leaf detached from tea plants but not dried or processed in anyway and includes purple leaf"; and

"tea factory limited company" means a tea factory collectively owned through shares by small scale tea growers.

19. The Bill amends Section 7 of the Act by deleting subsection (2) and substituting it with a new subsection. The amendment seeks to correct a typographical error which

requires the Principal Secretary for Treasury to be appointed by the Cabinet Secretary through a notice in the gazette. The Principal Secretary does not require a fresh appointment since he is already in service.

20. The Bill further proposes to amend Section 7(3) of the Act by requiring the Cabinet Secretary, while making appointments under paragraph (h), to take into consideration the aspect of gender balance. Paragraph (h) provides for the appointment of a representative for the tea farmers.

21. The Bill also amends section 8 of the Act by deleting paragraph (d) and by adding paragraph (h) to the list. The section provides for the term of service of the members of the Board.

22. The Bill also amends Section 22(4) of the Act by inserting the word factory. The purpose of the amendment is to clarify on the appointing authority, which is the factory board as opposed to the Board appointed under Section 4 of the Act.

23. The Bill amends section 31 of the Tea Act to introduce a new section 31A which requires that tea brought into a Special Economic Zone Enterprise or an Export Processing Zone to be declared to the Board in the prescribed form.

24. The Bill also amends Section 32(4) and 34 the Tea Act to remove the word **limited company** so as to provide clarity on the application of the sections. The section is applicable to all tea factories as opposed to limited companies. Section 32 provides for the Registration and remuneration of a tea broker, while section 34 provides for management agent agreements.

25. The Bill further amends Section 34 of the Act to provide for the sale through either direct sales or auction. Currently the Act provides for the sale of tea to be done only through auction. The Section further provides for all tea processed and manufactured in Kenya for the export market to be registered with the Board prior to exportation.

26. The Bill also amends section 36 of the Act to provide for sale through direct sale and auction. The Bill further provides that all tea exports offered through direct sales shall be registered by the Board and shall be sold at prices above the prevailing auction rate. Finally, the Clause delegates powers to the Cabinet secretary to make regulation on auction sales and establishment of auction centres in the counties.

27. The Bill further amends Section 36 of the Act by inserting a new Section 36A which provides for the process of direct sales. The Section provides –

36A. *(1) A licensed factory or any other entity representing growers may undertake direct sales.*

(2) The prices offered at the direct sales shall be competitive and shall be sold at a price above the prevailing reserve price at the auction.

(3) If the tea fetches a higher price at the auction than the direct sales price offered, then the prospective direct sale buyer shall have pre-emptive rights to purchase the tea at the auction price failing which the tea will be sold to the highest bidder.

(4) The Cabinet Secretary shall, in consultation with county governments, prescribe regulations for the procedure of direct sales of tea.

28. The Bill also amends the Act by inserting a new section 36B which provides for a direct settlement system. The clause provides that all sales proceeds shall be remitted through the DSS. The clause requires a Direct Settlement System provider to remit tea sales proceeds to the tea growers and settle statutory charges, service provider's fees and other liabilities within five working days from the receipt of the proceeds of sale of tea.

29. The section further obligates the Cabinet Secretary to make regulations providing for the operation of a Direct Settlement System and the requirements to be met by commercial banks that express an interest in the establishment of a Direct Settlement System.

30. The Bill amends Section 37 of the Act to remove the registration of green leaf transports from the purview of the Board to that of the respective county governments.

31. The Bill Amends Section 53 of the Act by –
    (a) pegging the rate of the levy at per kilogram as opposed to one per centum auction value;
    (b) exempting from levy, speciality and value-added tea packed into packets or containers holding not more than ten kilograms; and
    (c) revising the apportionment of levy as follows-

Table 1: Table comparing apportionment of levies

APPORTIONMENT	ACT	NEW BILL
Price stabilization	50%	40%

Functions of the Board	15%	30%
Tea Research Foundation	20%	20%
Infrastructure Development	15%	10%

32. The Bill amends Section 76 by transitioning assets of the former Tea Board of Kenya and the former Tea Research Foundation of Kenya to vest in the Board and the Foundation respectively.

1.4.1. Consequences of the Bill

33. The Bill will streamline the Tea market by introducing an alternative channel for sale of tea other than by auction in order to maximize sales and optimize price realization. The Bill proposes to introduce direct sale of tea. Further the Bill introduces the Direct settlement system which will ensure that the proceeds of sale of tea by growers are directly transmitted to tea growers.

CHAPTER TWO

2.1. OVERVIEW OF THE PUBLIC PARTICIPATION ON THE BILL

2.1.1. INTRODUCTION

34. The Committee pursuant to the provisions of Article 118 of the Constitution and Standing Order 145 (5) of the Senate Standing Orders, proceeded to undertake public participation on the Bill. In this regard, the Committee published an advertisement in the *Daily Nation* and *Standard* newspapers on Tuesday, 21st February, 2023 inviting members of the public to submit written memoranda on the Bill. The advertisement was also posted on the Parliament website and social media platforms. A copy of the advertisement is attached as ***(Appendix 3).***

35. Additionally, the Committee sent invitations to five (5) key stakeholders inviting them to submit their comments on the Bill. The Key stakeholders included – Ministry of Agriculture and Livestock Development, Council of Governors (COG), Tea Board of Kenya (TBK), Kenya Tea Development Agency (KTDA) and Agriculture and Food Authority (AFA).

36. In response to the advertisement and invitations, the Committee received submissions from a total of eighteen (18) stakeholders, while the detailed submissions by stakeholders, organized clause-by-clause, are set out in a matrix attached as ***(Appendix 4)***

37. Oral and written submissions were also received from ten (10) areas in six (6) Counties: -
    (1) Bomet County- Mogogosiek Tea factory and Motigo Tea Factory
    (2) Kericho County- Sosiot Girls High School and Kericho Golf Club
    (3) Bungoma County- Kimilili Boys High School
    (4) Kirinyaga County- Kerugoya Catholic Church and Kianyaga Youth Empowerment Center
    (5) Nyeri County- Nyeri Cultural Center
    (6) Embu county- Manyatta Constituency and Runyenjes Constituency.

38. Additionally, copies of the stakeholder submissions on the Bill are attached collectively as ***(Appendix 5)***

2.2. SUBMISSIONS FROM STAKEHOLDERS AND COMMITTEE RESOLUTION

2.2.1. Submissions on the Clause 2 of the Bill- Interpretation

39. Clause **2** of the Bill on Interpretation, Ekaterra Tea Kenya PLC proposes that the current amendment bill should not limit the definition of value-added tea to ten kilograms because there are forms of value-added tea that are packaged in drums.

    The Committee accepted this proposal.

40. **The East African Tea Trade Association (EATTA)** also proposes removing the definition of **"direct sales overseas"** as it is redundant. According to their submission, the terms are already defined within the definition of **"direct sales,"** making it unnecessary to have two separate definitions for the same words.

    The committee accepted this proposal.

41. **The Kenya Tea Growers Association (KTGA)** proposes that the definition of **"value addition"** should remain unchanged. According to KTGA, limiting the definition to a maximum of 10 kilograms ignores other types of value-added teas that involve investments in value addition but may not be packaged as specified.

    The Committee accepted this proposal.

42. **The Kenya Tea Growers Association (KTGA)** proposes adding the phrase **"or its appointed agent"** after the term "factory" in order to permit factories to use agents for direct sales.

    The Committee accepted this proposal.

43. **The Kenya Tea Growers Association (KTGA)** proposes removing the definition for the term **"direct sales overseas"** since it is already defined within the definition of "direct sales."

    The Committee accepted this proposal.

44. **The Kenya Tea Growers Association (KTGA)** recommends removing the term **"professional"** from the definition of **"management agent."** KTGA argues that this adjustment aligns with accepted business practices.

    The Committee rejected this proposal, the provision is meant to ensure factories appoint persons who are qualified.

45. **The Kenya Tea Development Agency Holdings Limited (KTDA)** proposes the removal of the definition of **"tea factory limited company"** stated in paragraph (e). Their argument is that the existing definition of "tea factory" in Section 2 of the Act is comprehensive enough. KTDA wishes to keep this definition intact so that it can

be applied to all tea processing factories, regardless of whether they are owned by small holders or other entities.

The Committee rejected this proposal since the distinction is important.

46. **Murang'a Tea Factory** proposes including the phrase "and which is not destined for a producer warehouse for auction purposes" in the definition of the term "export," right after mentioning "a special economic zone enterprise or an export processing zone."

The Committee rejected this proposal.

47. **Murang'a Tea Factory** proposes that the term "**Tea Distribution Hub**" refers to the storage of Kenyan tea, whether in processed or larger quantities, in a foreign country. The purpose is to sell the tea to local traders and packers within that country for domestic sales or re-exportation.

The Committee rejected this proposal.

48. **Murang'a Tea Factory** also suggest the inclusion of the term "**Direct Settlement System provider**," which is a financial or technology service organization appointed through a contractual agreement between the organization and a tea factory.

The Committee rejected this proposal. The Bill already defines DSS to mean "a banking facility provided by a commercial bank regulated by the Central Bank of Kenya for the clearing and settlement of tea sales proceeds;

49. **The Tea Board of Kenya** agrees with clause 2(b) but recommends removing the term **'Enterprise'** that follows the phrase 'special economic zone.' The aim, as stated by TBK, is to ensure consistency with other applicable laws.

The Committee accepted the proposal to delete the word enterprise since it is misplaced.

50. **The Tea Board of Kenya** agrees with clause 2(d), but proposes changing the word 'ten' to 'three.' According to the Tea Board of Kenya, this is necessary to ensure that the definition is consistent with the terminology commonly used in the global tea industry.

The Committee rejected this proposal, the definition is in the context used in the sub-sector and the Kenya Standards 1927 on tea packaging

51. **The Tea Board of Kenya** agrees with clause 2(e) but proposes amending it as follows: The term 'Direct settlement system' refers to a banking service offered by a commercial bank regulated by the Central Bank of Kenya for the purpose of clearing

and managing the proceeds from tea sales. The intention behind this amendment is to bring clarity to the term as it pertains to the tea industry and to ensure its alignment with section 36 of the Tea Act 2020.

"direct settlement system" means a banking facility provided by a commercial bank regulated by the Central Bank of Kenya for the clearing and settlement of tea sales proceeds;

The Committee rejected this proposal. The definition that is provided is adequate.

52. **The Tea Board of Kenya** recommends incorporating the term "medium-scale tea growers" into the definition of "tea factory limited company" in order to enhance clarity regarding its usage within the Act.

The Committee accepted this this proposal for clarity

53. **The Tea Board TBK** is suggesting changes to the definitions of two terms as follows:

A "small-scale tea grower" is someone who cultivates tea on a piece of land that is smaller than ten acres and supplies green leaves to a tea factory limited company.

A "medium-scale tea grower" is someone who cultivates tea on a piece of land and supplies green leaves to a tea factory limited company. This proposed amendment aims to bring clarity to the usage of these terms in the Act.

The Committee rejected this proposal. The definition that is provided is adequate.

54. **Bomet Tea Farmers** propose amending the definition of a **"Tea factory limited company."** Their suggestion stems from the fact that the revised definition restricts its application solely to small-scale tea cultivators. Consequently, they advocate for retaining the original definition stated in Section 2 of the Tea Act.

The committee accepted this proposal to include medium scale tea growers.

2.2.2. Membership of Board

55. **The Tea Board of Kenya (TBK)** proposes that clause 3 should include the following provisions:

1. The Cabinet Secretary should appoint members of the Board through a transparent and competitive process.
2. The names of the appointed individuals should be published in the Kenyan Gazette and a newspaper that circulates nationwide.

Publishing the names of the appointees serves the purpose of keeping the public well-informed about the appointments. This measure promotes transparency and fairness in the recruitment process, minimizing the possibility of biasness and fostering diversity and inclusion.

The committee rejected this proposal since the Kenya Gazette supersedes the national dailies, therefore is no need of publishing in the national dailies.

56. **EATTA** suggests maintaining clause 3 in its original form. The proposed amendment to clause 3 eliminates the requirement stated in the main Act, which mandates the Cabinet Secretary to appoint the Principal Secretary for National Treasury or a nominee chosen by the Principal Secretary through a notice in the Gazette. Additionally, the amendment suggests removing the need to consider gender, regional, and other diversities of the Kenyan population when making this appointment. It is crucial that this appointment continues to be a public appointment in its current state.

The Committee rejected this proposal since Principal Secretary is already present in the Bill.

57. **EATTA** also suggests that the Board should consist of a member from the Independent Tea Producers Association of Kenya, ensuring their inclusion. This association is responsible for producing 90 million kilos of tea annually and provides support to 210,000 farmers. Therefore, it is crucial to have their representation on the Board.

The committee rejected this proposal. The farmers should be small scale and large scale only.

58. **The Tea Farmers of Momul Factory** propose the removal of Clause 3(2) through an amendment. Their rationale is that the Cabinet Secretary possesses greater authority compared to the company's stakeholders and directors.

The Committee rejected this proposal the amendment is meant to correct t a typographical error.

2.2.3. Term of Appointment

59. **KTGA** proposes removing the phrase "on account of good performance" due to its unclear and subjective nature. The individuals nominated for the Board are already accomplished principals within their respective organizations, which is why they are being nominated in the first place.

The committee rejected this proposal and resolved to leave the decision of nominating on account of good behaviour and performance to the person appointing.

60. **EATTA** proposes the removal of the phrase "on account of good performance" from the clause, as there is no clear standard to objectively define what qualifies as good performance.
61. *The committee rejected this proposal. The proposal seems to be misplaced.* **The Murang'a Tea Factory** proposes a revision to clause 4 of the Bill, suggesting the following rephrased version:

    " All tea processed, manufactured and value added in Kenya for the export market shall be registered with the Board prior to exportation."

    The Committee rejected this proposal since it seems to be misplaced.

2.2.4. Board of Directors of tea Factory limited

62. **On Tea Imports, KTGA** proposes inserting the clause " subject to the approval of the Ministry of Trade " immediately after the phrase " in the prescribed form." Importation without restrictions is permitted within EPZ establishments. These establishments are also exempt from regulations imposed by the Tea Board of Kenya, as per the government's foreign trade policy and the Export Processing Zones Act. Therefore, the declaration should only serve the purpose of providing information to the board, ensuring compliance with the law and trade policies concerning EPZ operations.

    The Committee rejected this proposal. The provision is meant to facilitate collation of tea industry data and for the purposes of monitoring local and global supply and demand situation.

63. **EATTA** notices that the Tea Board's demand for EPZ enterprises to disclose tea imports into the EPZ goes against the EPZ Act and undermines the advantages that EPZs are used to. Section 29(f) of Part VIII of the EPZ Act states that EPZ enterprises are exempt from quotas, restrictions, or prohibitions on import or export trade, except for firearms, military equipment, or other illegal goods. The Bill and the EPZ Act conflict with each other, as EPZs benefit from unrestricted imports and thus fall outside the jurisdiction of the Tea Board.

    The Committee rejected this proposal. The purpose of the provision is to facilitate collation of tea industry data and for the purposes of monitoring local and global supply and demand situation.

64. **TBK** suggests the removal the term 'enterprise' appearing after the words 'special economic zones' to align the definition with other relevant legislations.

The Committee accepted this proposal.

2.2.5. Registration of a tea brokers

65. **KTGA** suggests expanding the requirements for broker registration and imposing limits on broker payments to encompass the entire industry rather than just limited companies (KTDA factories). Alternatively, clause 7(4) could be modified to state that the remuneration paid to a tea broker by a tea factory may be subject to review through Regulations, as deemed appropriate. The proposed provision should be outlined in Regulations to facilitate consultation with relevant stakeholders who may be affected before determining the specific amount. This approach, according to KTGA, would also enable prompt and effective periodic evaluations of the remuneration in case of changing circumstances. It is recognized that the remuneration should adequately cover the cost of service and the benefits derived from brokerage services.

The Committee rejected this proposal

66. **EATTA** suggests that the scope of clause 32(4) in the Tea Act should be restricted to the Tea Regulations since it establishes restrictions on the payment amount for service providers mentioned in the Act.

The Committee rejected this proposal as it's important for the clause to be retained in the Act.

67. **Rono,** a farmer hailing from Bomet County, suggests altering Clause 7 of the Bill by removing it entirely, while emphasizing the importance of keeping the phrase "Limited Company" intact.

The Committee rejected this proposal. The amendment is meant to provide clarity on the application of the provisions of Section 32 (4) as being applicable to all tea factories and not only to tea factory limited companies (small holder tea factories).

2.2.6. Management Agent Agreement (Clause 8)

68. **KTGA** suggests keeping Section 34 (2) of the Act but limiting its scope to small-scale factories operated by KTDA and excluding privately owned factories. The regulations, according to KTGA, should primarily cover specific issues such as the contents of the management agreement, its duration, conditions for renewal, and similar matters. Rather than imposing duplicate requirements on the entire industry,

any perceived non-compliance within the affected segment can be addressed by improving the overall monitoring of regulatory compliance by the Regulator.

The Committee rejected this proposal.

69. **KTGA** also recommends removing the proposals listed in sub-clauses 4, 5, 6, 7, 8, 9, and 10. Instead, they should be incorporated into the regulation or management agreement as applicable. The Tea Board of Kenya can provide improved supervision by implementing a regulatory requirement for reviewing and approving the agreement. This measure will effectively address the concerns or issues that these requirements aim to resolve.

The Committee rejected this proposal.

70. **EATTA** suggests that Sections 34(3)(a) and 34(4) of the Principal Act need additional modification concerning the payment of management agents. These two provisions should be included in the regulations. Furthermore, the concerns raised are specific issues that can be appropriately dealt with by existing laws such as the Companies Act, the Competition Act, and the Law of Contracts Act. These concerns are also limited to a particular sector of the industry. Additionally, any perceived non-compliance by the affected sector can be addressed by the Regulator through improved monitoring of overall compliance with the law, rather than imposing duplicated requirements that would apply to the entire industry.

The Committee rejected this proposal. Section 34 and 74 provides that the Cabinet Secretary shall prescribe the procedure of registration and fees to be charged for offering services through regulations

71. **According to EATTA**, they propose that the Act needs additional modifications to eliminate the obligation of presenting management agreements to the Board. In their statement, they contend that the Tea Board of Kenya lacks the authority to scrutinize contracts entered into voluntarily by companies. They argue that enforcing such a requirement, particularly through legislation, imposes limitations on the freedom of contracts, which is safeguarded by the Law of Contract and the Constitution.

The Committee rejected this proposal. The purpose of this provision is to protect the interest of growers.

2.2.7. Tea Sales (Clause 9)

72. **Ekaterra Tea Kenya PLC** disagrees with clause 2 of the registration requirement that mandates the registration of all teas prior to exportation. According to ETK, the clause lacks clarity regarding whether the Tea Board will issue a license or if there

will be an additional registration for each tea meant for export. The feasibility of such a process is also uncertain, particularly concerning physical inspections or other forms of verification. Currently, all tea produced for export is already registered with the relevant government authorities, including the Kenya Revenue Authority. ETK firmly believes that introducing another governing body could result in increased bureaucratic procedures and additional expenses, potentially rendering the tea production process unsustainable.

The Committee rejected this proposal. The purpose of the registration is for collation of data for proper planning.

73. **KTGA** acknowledges that the proposal is acceptable and aligns with current practice.

The Committee noted this comment.

74. **Mr. Rono** suggests amending clause 9 by removing 34A 1(b), thereby eliminating direct sales. By allowing direct sales, he argues that it would be equivalent to openly endorsing questionable practices.

The Committee rejected the proposal and Direct sale is meant to offer alternative avenue of selling tea which will increase competitiveness.

75. **Mr. Erick Kimutai Langat** proposes keeping clause 9 unchanged. Factories had previously attempted to advocate for in the Tea Act 2020 but were unsuccessful.

The Committee rejected this proposal. Direct sales are meant to offer alternative avenue of selling coffee which will increase competitiveness and maximize sales and optimize price realization.

76. **Mr. Alfred Njagi** has proposed that clause 9 should remain unchanged.

The Committee accepted this proposal. Direct sales are meant to offer alternative avenue of selling coffee which will increase competitiveness and maximize sales and optimize price realization.

2.2.8. Auction Process

77. **KTDA** is proposing an amendment of Clause 10(2)(b) in order to make the use of management agents mandatory in the auction process. According to KTDA, the involvement of management agents would improve farm management practices, enable stronger negotiation positions, and provide access to new and favourable markets. By utilizing professional management services, farmers would have control over operational costs, increase productivity, enhance tea quality, and

ultimately achieve higher profit margins, resulting in economic sustainability. KTDA argues that the current provision in the proposed amendment of the Tea Act 2020 imposes significant costs on farmers. The exclusion of management agents during direct sales by tea factories would negatively impact the tea market, placing farmers at a disadvantage. Farmers would bear the burden of risks and expenses, leading to a reduction in their earnings.

The Committee rejected this proposal. To provide clarity on the application of the provisions of Section 36 (2) as being applicable to all tea factories and not only to tea factory limited companies. The purpose of barring management agents is to protect growers from being exploited and also reduce the cost of production.

Auctions to remain in Mombasa. No management Agents in the Auction.

78. **Bomet Tea Farmers** proposes a change to Clause 10(2)(b) by adding the option of Participation through management Agents. They argue that involving management agents would improve farm management practices, enable better negotiation positions, and provide access to new advantageous markets. Therefore, they believe that companies should have the freedom to decide whether they want to sell directly or through management agents.

The Committee rejected the proposal. The Committee rejected this proposal. The purpose of barring management agents is to protect growers from being exploited and also reduce the cost of production.

79. **Momul Tea Factory Co. Ltd.** proposes an amendment to Clause 10(2)(b) to incorporate the involvement of management agents in the participation process. The factory's directors' express concerns that implementing this change and discontinuing the use of the KTDA brand name could have repercussions on the tea sales. They emphasize that KTDA is recognized globally as a well-established tea brand with established markets.

The Committee rejected the proposal. The purpose of barring management agents is to protect growers from being exploited and also reduce the cost of production.

80. **Erick Kimutai Langat** proposes the complete removal of clause 10(2)(b) as an amendment. He asserts that factories directly sell their tea at the Auction without involving KTDA, making the amendment redundant.

The Committee rejected the proposal and Neither the Act or the amendment is advocating for use of agents.

81. **Bomet Tea Farmers** propose amending Clause 10(2)(c) and (d) by removing them, while keeping Sections 36(5) and (6) intact in the Tea Act. The farmers believe that the suggested changes will diminish the advantages they currently have, as they receive payment by the 5th of each month. Consequently, this could lead to disarray with payments being made on different days for each farmer.

The committee rejected this proposal, DSS is meant to ensure that the due proceeds from tea sales are paid promptly to the tea producers

82. **KTDA** are against the removal of Section 36 (5) and (6) from the payment regulations regarding tea proceeds. They believe that this proposed change will diminish the advantages the farmers have previously experienced. KTDA is committed to ensuring timely payments to the growers. Initially, payments to farmers were made in the third week of each month, but now they are made by the fifth day of the month, a change that farmers highly value. Introducing separate and individual payments on different days will cause disagreements and conflicts.

The Committee rejected this proposal. DSS is meant to ensure that the due proceeds from tea sales are paid promptly to the tea producers

83. **COG** propose revising Section 10(8) as follows: "In consultation with the Council of Governors, the Cabinet Secretary shall establish regulations or procedures for tea auction sales." Due to the implementation of the Integrated Tea Trading System, there is no longer a need to decentralize the auction process by setting up auction centres in tea-growing counties. The digitalization of the auction has enhanced the efficiency and transparency of the tea industry while reducing the duration of trade cycles and administrative expenses. As a result, producers and farmers at the farm level have experienced increased incomes. The Council of County Governors (COG) serves as a platform for consultation among County Governments.

The Committee accepted this proposal to delete subclause 8. Regulation of conduct of tea auction is provided for under Section 74(h).

84. **Ekaterra Tea Kenya PLC**, proposes the removal of the newly introduced subsection 8, which proposes the establishment of auction centres in counties where tea is grown. ETK argues that this provision lacks clarity regarding the framework, criteria for selection, and its potential impact on the widely used Mombasa Auction. Creating multiple auction centres in various tea-producing counties will result in increased costs and inconvenience. Moreover, this decentralized approach will compromise the economies of scale and competitiveness that a centralized auction system provides.

The Committee accepted then proposal. By having a centralized auction, farmers will benefit on the economies of scale.

85. **The Bomet Tea Farmers** are proposing an amendment to clause 10(8) by deleting the proposed amendment. They argue that due to the implementation of an integrated tea trading system that digitizes the tea auction process, there is no longer a need to create auction centres in tea-growing counties as a means of decentralization.

    The Committee accepted then proposal. By having a centralized auction, farmers will benefit on the economies of scale.

86. **Mr. Seth Agala**, a tea grower, proposes the removal of the newly introduced provision in the proposed amendment bill, Clause 10(8). He argues that the establishment of auction centres will raise business expenses for buyers, potentially leading them to relocate to Tanzania, where a Tea Auction is currently being established.

    The Committee accepted then proposal. By having a centralized auction, farmers will benefit on the economies of scale.

87. **Momul Tea Factory CO. LTD** proposes the deletion of Clause 10(8) through amendment. They argue that implementing separate regulations for various tea-producing counties in Kenya will negatively impact the market's appeal, potentially causing buyers to migrate to Tanzania.

    The Committee accepted then proposal. By having a centralized auction, farmers will benefit on the economies of scale.

88. **Mr. Erick Kimutai Langat** proposes an amendment to Clause 10(8) by removing the proposed amendment. He contends that since 95% of Kenyan Tea is sold overseas, having an Auction centre located at the Coast would be advantageous for buyers. If the centre is moved away from the coast, it may lead buyers to seek alternatives in Tanzania.

    The Committee accepted then proposal. By having a centralized auction, farmers will benefit on the economies of scale.

89. **Farmers from the Gathuthi Tea Factory** propose a modification to Clause 10(8) to involve the incorporation of tea factories' input through a consultative process.

    The committee resolved to delete the clause.

90. **The Murang'a Tea Factory** suggests including the phrase "or through an electronic auction system" right after the statement "Tea processed and manufactured in Kenya for the export market may be offered for sale at the tea auction floor." They also

recommend adding the phrase "relevant stakeholder Associations" immediately after the sentence "The Cabinet Secretary shall, in consultation with the county governments." Additionally, they propose removing the phrase "for the procedure for auction sales of tea and" immediately after the sentence "prescribe regulations."

The committee resolved to delete the clause.

91. **TBK** supports the concurs with the amendment but suggests incorporating the amendments proposed in Section 34(A) with the following wording:

    (11) *All Tea processed and manufactured in Kenya shall be traded through:*

    (a) The auction; or

    (b) Direct sales;

    (2) All tea processed and manufactured in Kenya for the export market must be registered with the Board before being exported."

    The committee rejected this proposal, the intention of the clause is to regulate the sale of Kenyan tea.

92. **EATTA** proposes removing the word "not" from clause 10(2)(b), which would allow tea factories to participate in an auction either independently or through management agents. Their argument is that this change would grant tea factories the freedom to choose how they participate in the auction.

    The Committee rejected this proposal. The purpose of barring management agents is to protect growers from being exploited and also reduce the cost of production.

93. Furthermore, EATTA opposes the establishment of auction centers in tea-growing counties. They claim that having a centralized auction that includes all teas from the region offers economies of scale, resulting in reduced auction selling costs for the producers. It also provides convenience to buyers who need easy access to different origin teas when blending them.

    The Committee agreed with the EATTA and resolved to delete clause 10(8)

94. **Mr. Alfred Njagi** proposes the removal of Clause 10(8), arguing that it is unnecessary. He contends that factories directly sell their tea at the Auction under their own names, without involving KTDA.

    The Committee accepted this proposal. Direct Sales of Tea/Tea Proceeds.

95. **KTDA** opposes the inclusion of the Direct Settlement System (DSS) in the proposed Section 36B due to concerns about increased bureaucracy and financial burdens for tea farmers.

The Committee rejected this proposal. There is need to ensure that farmers receive their dues promptly and without intermediaries.

96. They argue that implementing the DSS would require additional expenses, such as establishing a secretariat to provide services. Under the DSS, tea growers would need to open and maintain accounts where proceeds from tea sales would be deposited to recover advance payments. This process carries the risk of losing money during currency exchange and incurring interest charges since tea is sold in dollars and banks compete for exchange rates. The current interconnectedness and benefits enjoyed by smallholder tea factories, such as economies of scale, borrowing, and deposits, would be lost with the introduction of the DSS. KTDA's treasury management ensures prompt payment to growers through good deposit rates. These amendments would undermine the aggregation model that has supported small-scale tea farmers for years, which guarantees timely payments regardless of factory cash flows. Disrupting this arrangement would lead to high levels of farmer dissatisfaction. KTDA believes that the proposed changes create loopholes that could be exploited to the detriment of farmers in the sector. They also highlight the negative impact of the DSS on the coffee trade and emphasize the need to prevent similar disruptions in the tea sector.

The Committee rejected this proposal. The receiving banks will offer the secretarial services. Further, the farmers accounts do not necessarily need to be in the mainstream bank but can also be Sacco account.

97. **KTGA** argues that Clause 36A, which pertains to procedures for direct sales, should be removed because it limits trade. KTGA believes that eliminating the clause would promote free trade. Alternatively, they suggest that direct sales contract negotiations lasting over three months could be based on the average sale price over a historical period, while weekly spot offers could be determined by the weekly auction top hammer price for any grade.

The Committee rejected this proposal. There is a need to provide for safeguards.

98. Regarding Clause 36B, KTGA contends that a distinction should be made between industry players, such as KTDA, and other private producers/players, and appropriate measures should be implemented by the Regulator to address any issues. According to KTGA, this proposal would be impractical due to several reasons.

Firstly, requiring all teas to be presented at the Auction floor for price assessment would result in increased logistical and administrative costs and marketing inefficiencies. Secondly, if forward contracts are entered into and the market experiences price fluctuations, it would be impossible to adjust the terms of the direct sales agreements accordingly. Retroactively administering price changes would also be impractical, and projecting future contract prices is not feasible.

The Committee rejected this proposal. Clause 36 B provides for remittance of sales proceeds through the DSS.

99. KTGA asserts that the competitiveness of tea prices in direct sales is achieved by meeting the specific requirements of buyers and ensuring that producers' costs are adequately covered for business sustainability. Profitability is crucial for any business, and it cannot be assumed that producers would willingly sell teas at prices lower than the best possible ones. They argue that previous attempts to stipulate prices at the Auction in 2021 were unsuccessful, so price stipulation should be avoided, and market factors should determine prices. This approach would encourage competitive business practices and ensure sustainability and profitability.

The Committee accepted this proposal and resolved to amend the Bill to make the provision only applicable to Limited tea factories that are owned by small scale and medium scale farmers.

100. KTGA emphasizes that producers should have the freedom to sell their tea at an appropriate or self-set price. They argue that imposing such stipulations would restrict free trade and put Kenyan producers at a disadvantage compared to producers in other regions. KTGA also points out that other countries do not impose minimum price requirements for direct sales. Furthermore, the proposal assumes that all tea sales proceeds benefit smallholder farmers whose leaf is processed by KTDA (MS). However, there are producers who operate their own estates with consolidated operations and internal financial practices. KTGA argues that the proposal is overly intrusive and impractical, considering the diverse financial and statutory practices of private industries.

The Committee accepted this proposal and resolved to amend the Bill to make the provision only applicable to Limited tea factories that are owned by small scale and medium scale farmers

101. **EATTA** proposes the removal of clauses (3) and (4) from the new clause 36A. They argue that including the clause about the direct sale buyer's pre-emptive rights to purchase the tea at the auction price is confusing because pre-emptive rights refer to the right of first refusal, which is not the intended meaning. It is uncommon for

tea to be offered both in an auction and as a direct sale simultaneously. Furthermore, this clause is not practical when producers have already entered into forward contracts with buyers.

The Committee accepted this proposal.

102. EATTA also argues that the proposal for a direct settlement scheme lacks clarity regarding its intended beneficiaries and interferes with the freedom of contracts. They highlight that EATTA already has a tea sales collection account with two banks, Stanbic Bank and Equity Bank. Producers can choose to be paid through the bank or directly by the broker. Currently, EATTA has established minimum requirements for any commercial bank interested in participating in the system. Therefore, if the Cabinet Secretary is required to create regulations for the operation of a Direct Settlement System, it raises questions about the continuation of the existing system. The purpose of introducing another payment system is unclear, and there may be challenges in implementing it. As a significant participant in the tea value chain, EATTA believes it should be consulted during the formulation of regulations for the Direct Settlement System by the Cabinet Secretary.

The Committee rejected this proposal. Farmers have for the longest time been exploited by brokers. The purpose of this provision is to ensure farmers are protected and that they receive the proceeds of their sales directly and promptly.

103. Tea producers who are not Tea Factory Limited Companies have obligations that could be disrupted by the imposition of the settlement scheme.

The Committee rejected this proposal. These obligations will be presented to the DSS Provider so that they can be deducted before the money is disbursed to the farmers.

104. **Ekaterra Tea Kenya PLC** expresses its support for the amendment that introduces direct sales, but it strongly opposes the regulation of direct sales prices. The company believes that imposing additional conditions as stated in subsections (3) would lead to unfair regulation within a free market economy.

According to their argument, Sections 36 (2), (3), and (4) infringe upon the right of freedom of contract. They assert that once a contract is established, it binds both parties, and any price changes would require mutual agreement. They claim that introducing such a system would create uncertainty. Additionally, they argue that buyers would not be willing to purchase tea at a higher price than what was agreed upon in the contract. Therefore, any regulations regarding direct sales should only

be applicable to the Kenya Tea Development Agency (KTDA) and not to large-scale tea growers.

The Committee accepted the proposal.

105. Furthermore, there is a lack of clarity regarding who will determine the reserve price and whether teas designated for direct sales must still go through the auction to determine if the sale price exceeds the reserve price.

The Committee accepted this proposal.

106. Ekaterra Tea Kenya PLC opposes the implementation of the direct settlement system and suggests that it should be limited to KTDA factories rather than being applicable to every company in the value chain. They argue that this provision would excessively interfere with the operations of private companies, as they may be required to disclose their trade secrets, contracts, and other proprietary information. Ekaterra Tea Kenya PLC is concerned that its obligations will be affected by the imposition of the Direct Settlement System (DSS).

The Committee rejected this proposal.

107. **KTDA** proposes the inclusion of the following provisions in clause 11: "Rules and regulations pertaining to the safety of food, marketing obligations, and labeling criteria." Moreover, they argue that it should be considered an offense if an individual fails to adhere to these specified requirements. According to KTDA, these suggestions involve additional modifications that were not originally incorporated into the Bill.

The Committee rejected this proposal. Details of how the direct sale will be undertaken will be provided for in the regulations.

108. In relation to the DSS, KTDA recommends a proposition for establishing a regulatory body responsible for conducting regular inspections and audits of the direct settlement system. The aim is to guarantee compliance with legal and regulatory prerequisites, as well as to identify potential risks and vulnerabilities. Their intention behind this proposal is to introduce oversight measures that safeguard growers' earnings from risks and ensure the safety and effectiveness of payment systems.

The Committee rejected this proposal because one of the functions of the board is to coordinate activities of persons and organizations within the tea sector.

109. **The Murang'a Tea Factory** recommends the inclusion of the expression "contracted through a legally binding agreement" directly following the phrase "A licensed factory or any other entity." They propose the elimination of the phrase "representing growers" right before the phrase "may undertake direct sales." They have also submitted a proposal to remove clause 11(3) and insert the phrase "tea factories and relevant tea associations" immediately after the phrase "The Cabinet Secretary shall, in consultation with county governments." Additionally, they suggest substituting the term "tea growers" with "tea factories." Furthermore, they propose the addition of the phrase "This shall not apply in case of a prepayment made to the factory by a buyer whose proceeds shall be processed and made available to the factory within one day." Their reasoning is that it is impractical and should await the development of regulations.

The Committee rejected this proposal.

110. **Bomet Tea Farmers** is advocating for the amendment of Clause 11-36B (1) by removing it. They argue that the implementation of the DSS (Direct Settlement System) would result in an excessive amount of bureaucracy and impose an extra financial burden on the farmers in terms of administrative costs.

The Committee rejected this proposal. Farmers have for the longest time been exploited by brokers. The purpose of this provision is to ensure farmers are protected and that they receive the proceeds of their sales directly and promptly.

111. **Seth Agala,** a tea grower, proposes a revision to Clause 11-36B (1) through the act of removing certain elements. According to him, if the Direct Settlement System (DSS) is implemented for all service providers along with deductions made at the source, there is a possibility that farmers will experience delays in receiving their payments.

The Committee rejected this proposal. Sales proceeds from either direct sale or auction will be promptly deposited to DSS which will in turn effect the disbursements.

112. **The Momul Factory** tea farmers from propose a modification to Clause 11-36B (1) by deleting it.

The Committee rejected this proposal. Farmers have for the longest time been exploited by brokers. The purpose of this provision is to ensure farmers are protected and that they receive the proceeds of their sales directly and promptly.

113. **Erick Kimutai** Langat proposes removing Clause 11-36B (1) as he believes that the inclusion of the clause is unnecessary. His argument is based on the complexity of implementing the DSS due to the involvement of various stakeholders.

The Committee rejected this proposal. Farmers have for the longest time been exploited by brokers. The purpose of this provision is to ensure farmers are protected and that they receive the proceeds of their sales directly and promptly.

114. **TBK** disagrees with clause 11(1) because the term "any other entity" is not clearly defined in the Tea Act. This lack of definition could introduce ambiguity and confusion, allowing the sale of teas to entities that are not specified or regulated by the Tea Act. Consequently, this situation may result in conflicts of interest.

The Committee accepted this proposal

115. TBK agrees with sub clause 2 but proposes an amendment to state "the prices provided for direct sales should be competitive and higher than the current auction price for similar tea on the exact auction date." TBK believes this amendment will guarantee fairness and promote competitive pricing in the direct sales process. Additionally, it will ensure that tea producers receive better prices than the existing reserve price set during the auction.

The Committee rejected this proposal. The proposals are already captured in the bill.

116. TBK proposes the addition of a new clause, 2A, which states that

*"All direct sales forward contracts must specify quantities, while leaving the determination of prices to the prevailing auction prices as outlined in Section 36A (2)."*According to TBK, this addition will ensure fairness and promote competitive prices in forward contracts executed through the direct sales channel.

The Committee rejected this proposal.

117. TBK disagrees with subclause 3 arguing that granting pre-emptive rights to buyers poses a risk of stifling competition during auctions.

The Committee accepted this proposal.

118. Additionally, TBK opposes subclause 4. Their reasoning is based on the fact that tea is predominantly an export crop, with 95% of the tea produced being destined for international markets. They argue that international trade falls under the purview

of the National Government in accordance with the Fourth Schedule of the Constitution of Kenya 2010.

The Committee rejected this proposal. Agriculture is a devolved function. The counties will protect the economic interests of farmers especially the small-scale farmers who are based in the counties.

2.2.9. Registration of Commercial Green Leaf Transporters

119. **KTDA** proposes a thorough examination of the proposed provision to address the lack of consistency with other laws. KTDA claims that the proposed change replicates responsibilities by mandating both the Tea Board of Kenya and the County Government to register commercial transporters of green tea leaves. Moreover, it conflicts with the role assigned to the Tea Board of Kenya as outlined in Section 5(e) of the Tea Act, 2020. Additionally, the counties will be responsible for setting different rates of levies, which could potentially result in increased licensing costs.

The Committee rejected the proposal and resolved to leave the issuing of licenses to the County Government since Agriculture is devolved and also include the requirement of specific counties passing County legislations for registration of Tea. The committee further resolved to amend Section 5(1) (e) of the Act to align the provision with the amendment.

2.2.10. Establishment of Tea Levy

120. **KTDA** opposes the newly proposed tea levy and suggests removing the entire amendment in section 13(a). KTDA argues that the introduction of a fixed levy of Ksh.3.85 per kg will result in a genuine increase in costs for small-scale tea farmers who sell their produce at the Auction. KTDA asserts that instead of using the levy for this purpose, the government should focus on lowering the prices of agricultural inputs to support the tea industry.

The Committee accepted the proposal to amend the levy from 3.85 shillings to 2 shillings.

121. The proposed amendment seeks to reduce the allocation for price stability from 50% to 40% and increase the allocation for the Tea Board from 15% to 30%. Additionally, it suggests lowering the allocation for infrastructure in the tea sector from 15% to 10%. The allocation for tea research remains unchanged at 20%. KTDA argues that with 70% of the levy going to the Tea Board of Kenya and the Tea Research Foundation, this subsidization of government organizations will be costly for tea growers. KTDA believes that since tea research is a national function, it

should be funded by the National Government. This amendment would also put factories at a disadvantage as they are already using a portion of their earnings for road maintenance.

The Committee rejected this proposal but resolved to amend clause 13(d) to provide that the money that are apportioned for infrastructure development will be remitted to tea producing counties as a conditional grant.

122. To address these concerns, KTDA proposes deleting clause 131 and replacing it with a new provision that establishes a Fund Management Committee responsible for overseeing infrastructure development in the tea subsector. The committee should include representation from the respective county's tea factory. KTDA suggests this change to ensure accountability for the Tea Levy. They emphasize the importance of transparency by introducing a fund management committee with tea factory representation and the creation of separate accounts for the levy funds.

The Committee rejected this proposal but resolved to amend clause 131(d) to provide that the money that is apportioned for infrastructure development will be remitted to tea producing counties as a conditional grant.

123. **COG** proposes a revision of Section 131 to state the following

(b) ten per centum shall be applied by the Board in the furtherance or exercise of any function or power of the Board.

(d) thirty per centum shall be remitted directly to the tea growing counties to be applied for infrastructure development in the tea subsector on a pro rata basis.

The Committee rejected this proposal but resolved to amend clause 131(d) to provide that the money that is apportioned for infrastructure development will be remitted to tea producing counties as a conditional grant.

124. According to COG, this change is necessary to align the Act with Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution, which states that County Governments are responsible for the development and regulation of agriculture. In order to adequately fund the counties for this purpose, we suggest that 30% of the levy be disbursed directly to them for the development of the tea sector.

The Committee rejected this proposal.

125. **KTGA** suggests initiating the quantum (kg) levy at Kshs. 1 per kilogram of tea produced, with a gradual improvement based on the budgetary needs of TBK and TRF. They contend that while a quantum-based levy is acceptable, the proposed

amount of Kshs. 3.85 is too high and will adversely affect the earnings of small-scale farmers, a vital group the Bill aims to support.

The Committee accepted this proposal to lower the levy to two shillings per Kilo.

126. KTGA proposes reallocating 20% of the levy towards enhancing and maintaining tea catchment road networks that are currently unclassified. Of this, 20% would directly benefit the tea-growing counties, while the remaining 80% would be allocated to Tea Roads Management Committees (TRMC) consisting of tea stakeholders within specific geographical zones, similar to the former Cess Committees.

The Committee rejected this proposal. But resolved to amend clause 13(d) to provide that the money that is apportioned for infrastructure development will be remitted to tea producing counties as a conditional grant.

127. Additionally, KTGA suggests reducing the allocation to TBK from 40% to just 10%. They argue that the practicality of price stabilization, as stated in the FAO report, is doubtful and has proven to be unfeasible in previous attempts. Instead, the focus should be on aiding smallholder farmers in replacing their unproductive tea bushes with more productive clones. KTGA proposes allocating 10% of the 40% designated for TBK, and only beneficiaries of the income stabilization scheme should contribute to the amounts applicable to the income stabilization program.

The Committee rejected this proposal.

128. **Ekaterra Tea Kenya PLC** opposes the imposition of a levy at the suggested rate of Kshs. 3.85 per kilogram of bulk-exported tea. They point out that the previously suggested tea levy, which was supposed to be 1% of the auction values for tea sales was halted by the Court. Furthermore, they believe that implementing a levy based on the weight (in kilograms) is excessively high and an extra expense that could jeopardize the competitiveness of Kenyan tea.

The Committee accepted this proposal to lower the levy to two shillings per Kilo.

129. **EATTA** recommends a reconsideration of the current levy rate of 3.85% per kilo, stating that it is excessively high. They support the idea of implementing a levy based on the weight of tea (kilograms), but believe that a more reasonable rate would be 1 Kenyan Shilling (Kshs) per kilo. They suggest that regulations should be established to provide additional guidance on the budgetary requirements for the Tea Board of Kenya (TBK) and the Tea Research Institute (TRF).

The Committee accepted this proposal to lower the levy to two shillings per Kilo.

130. Regarding the allocation of the levy funds, EATTA proposes the following distribution: 40% to the TBK, 40% to the Tea Research Institute, and 20% to be shared among the county government, Tea Roads Management Committee, and Mombasa County, where the Tea Auction is located.

The Committee rejected this proposal.

131. EATTA argues that relying solely on price stabilization as a means of compensating margins is not sustainable. Therefore, they suggest that 40% of the levy should be allocated to the TBK to cover their operational expenses. They emphasize the importance of research for the industry's long-term viability and propose allocating 40% of the funds to the Tea Research Institute.

The Committee rejected this proposal.

132. EATTA also suggests granting the Tea Research Institute autonomy and separating it from the Kenya Agricultural and Livestock Research Organization (KALRO) by establishing its own governance structure.

The Committee rejected this proposal. The Section that is proposed to be amended is not within the areas that are proposed to be amended by the Bill.

133. As for the remaining 20% of the levy, EATTA recommends directing it towards infrastructure development. They propose the following breakdown for its distribution: 15% to the county government for the improvement and maintenance of tea catchment road networks in tea-growing counties, and 80% to Tea Roads Management Committees (TRMC), which consist of tea stakeholders in specific geographical zones or regions, similar to the former Cess Committees. EATTA further suggests allocating a portion of the levy to Mombasa County, where the Tea Auction is located, to enhance road infrastructure and ensure timely transportation of tea to the market. They draw a parallel to the practice of allocating royalties to counties with oil extraction as a precedent.

The Committee rejected this proposal.

2.2.11. Transfer of Assets And Liabilities

134. KTDA proposes including movable assets in the clause. With this, it will guarantee that the Board and Foundation, respectively, possess all movable assets belonging to the former TBK and the Tea Research Foundation.

The Committee accepted the proposal.

2.3. GENERAL COMMENTS

2.3.1. Tea Farmers of Momul Factory

135. They submit that Tea Amendment Bill of 2023 failed to adhere to the provisions outlined in the Articles of Association of the Company, which require that it be formally presented to the farmers within 21 days and in a language that they can comprehend effectively. This oversight resulted in a lack of timely communication and comprehension, preventing the farmers from fully understanding the implications and contents of the bill.

136. In order to accurately reflect the objectives of the proposed legislation, the propose that it is necessary to amend the long title of the Bill. The revised long title should explicitly include the establishment of a new tea factory, emphasizing the intention to promote growth and development within the tea industry.

137. They note one of the contentious proposals within the Bill suggests rejecting the requirement to pay at least fifty percent of the payment due for green leaf delivered every month. This proposal undermines the financial stability and livelihoods of the farmers who rely on these payments to sustain their agricultural activities. It is crucial to acknowledge the importance of fair compensation and reject this proposal in order to protect the well-being of the tea farmers.

138. Another concerning aspect of the Bill is the provision that allows the appointment of a cabinet secretary without proper consultation with the tea farmers. This lack of consultation undermines the principles of democratic decision-making and disregards the input and expertise of those directly involved in the tea industry. It is essential to reject this proposal and ensure that the opinions and interests of the tea farmers are taken into account when making significant appointments and policy decisions.

2.3.2. Submissions from the County Assembly of Bungoma

139. They proposed that in order to safeguard tea growers from the harmful practices of cartels, it is crucial to enhance the existing provisions stated in Clause 34A, which concern the auctioning or direct selling of tea. By introducing supplementary measures, we can effectively safeguard the rights of tea growers and establish a fair and competitive market.

140. A significant measure to accomplish this is the enforcement of penalties for duty bearers who fail to fulfil their obligations. Specifically, according to Clause 11-36B

(2), duty bearers who do not remit payments to farmers within the specified timeframe should face appropriate sanctions. By implementing these penalties, we can ensure accountability and prevent any unnecessary delays or mishandling of funds, thereby empowering tea growers and fostering trust within the industry.

141. Furthermore, they argue that it is essential to address the composition of tea company boards. To promote better governance and diversity, it is suggested that the legislation be amended to require tea companies to have a minimum of six directors. Additionally, regulations on gender representation should be established and enforced to ensure fair and inclusive participation on these boards. By embracing gender diversity, tea companies can benefit from a broader range of perspectives, experiences, and expertise, which will contribute to more informed decision-making and long-term sustainability.

2.3.3. Seth Agala (Tea grower in Mudete Tea Factory)

142. Totally concurs with Clause 34A, which introduces direct sales. Concern is however with the price difference between farmers in the Eastern and Western regions of the rift is typically significant, favouring those in the East who receive considerably higher prices compared to their counterparts in the West.

2.3.4. Momul Tea Factory

143. Momul Tea Factory presents the proposal that the board should consist of no more than seven members. They further seek amendments to reserve prices should be made periodically and dependent on the factory's performance. The duration of directors' tenure ought to be restricted to a period of 5 years.

2.3.5. Gathuthi Tea Factory Farmers

144. Proposes that membership of the board be a minimum of five and maximum of eight members.

2.3.6. Small Scale tea farmers in Zone 5 (Kirinyaga County)

145. Their proposal suggests that the board should consist of a minimum of six members and a maximum of nine members and recommend that a tea factory should pay farmers at least one-third of the amount owed for the green leaf they deliver on a monthly basis. They advocate for the removal of Section 53, specifically clause 2 and 5.

2.3.7. Mr. Joseph N. Githui

146. Mr. Githui proposed that processing factories should engage in direct sales of cash crops, such as Tea and Coffee. He recommended that the Ministry of Agriculture should collaborate closely with grassroots-level factories. He suggested that the Ministry should provide assistance to farmers in conducting soil testing. He proposed that the Ministry should support farmers in acquiring modern, high-yielding crop varieties.

2.3.8. Mr. Benson Mbogo

147. Mr. Mbogo submitted that directors of factories should not have a limited term.

2.4. OUTCOME FROM THE TEA CONFERENCE HELD ON 6TH – 7TH JULY, 2023 AT KERICHO GOLF CLUB

148. The Deputy President, Hon. Rigathi Gachagua, EGH, led a Tea Reforms Conference at the Kericho Golf Club from July 6 to 8, 2023, with the primary objective of thoroughly scrutinizing the challenges afflicting the tea industry in Kenya. This national and county-level gathering served as a comprehensive, inclusive platform, bringing together diverse stakeholders such as farmers, producers, buyers, brokers, warehouses, and packers. The main aim was to establish a unified voice within the industry by institutionalizing dialogue and ensuring representation from various perspectives.

149. Notable attendees included Excellencies the Governors of tea-growing counties, Cabinet Secretaries from relevant ministries, professionals, and members of academia. The timing of this conference, particularly in relation to the Tea (Amendment) Bill, 2023, proved opportune, fostering a wealth of information and eliciting diverse reactions from nearly all segments of the tea industry as summarized in ***Appendix 6***.

CHAPTER THREE

3.1. COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

3.1.1. COMMITTEE OBSERVATIONS

The Committee Observed that:

1. Farmers have for the longest time been exploited by brokers. Issues of poor and delayed tea sales returns have been rampant. There is therefore a need to establish a system where farmers will receive their proceeds of sale of tea promptly and in the same currency. The Direct Settlement System proposes to remit proceeds of sale of tea directly to and promptly to farmers;
2. The price difference between farmers in the Eastern and Western regions of the rift is typically significant which leads to favoring of farmers in the East who receive considerably higher prices compared to their counterparts in the West;
3. Agriculture being a devolved function, the roles of each level of government should be well spelt out;
4. The money that is apportioned for infrastructure development will be remitted to tea producing counties as a conditional grant;
5. The role of research in the tea sector is crucial and therefore there is a call for establishing a robust research institute to address emerging issues;
6. The entire process of elections of directors to factories as representatives of farmers was raising concerns and called for a clear structure of the process which is farmers' centric;
7. Tea hawking affects the quality of Kenyan tea globally. Private owned factories therefore need to share the same quality of green tea they purchase with KTDA factories to maintain the quality of Kenyan tea;
8. There should be an outlined dispute resolution mechanism to settle disputes arising from the tea sector; and
9. The reintroduction of direct sales in the tea sector is revolutionary. Safeguard measures should be implemented to subject tea designated for direct sale through the tea exchange for price and quality discovery.

3.1.2. COMMITTEE RECOMMENDATIONS

The Committee having reviewed the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023) recommends that the House approves the Bill with the proposed amendments.

LIST OF APPENDICES

Appendix 1	Minutes of the Standing Committee on Agriculture, Livestock and Fisheries
Appendix 2	The Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023)
Appendix 3	Amendments to the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023)
Appendix 4	Advertisement published in the *Daily Nation* and *Standard* newspapers on Tuesday, 14st March, 2023
Appendix 5	Matrix of the submission received by the Committee on each clause of the Bill and on general matters relating to the Bill
Appendix 6	Copies of stakeholder submission on the Bill
Appendix 7	Resolutions from the Tea Conference

APPENDIX 1

MINUTES OF THE SEVENTY-EIGHTH SITTING OF THE SENATE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES, HELD ON TUESDAY, 5TH DECEMBER, 2023 AT FIRST FLOOR BOARDROOM, REDCROSS BUILDING AT 10.00 AM

PRESENT

1.	**Sen. James Kamau Murango, MP**	-	**Chairperson**
2.	**Sen. Alexander Munyi Mundigi, MP**	-	**Vice-Chairperson**
3.	Sen. Enoch Kiio Wambua, CBS, MP	-	Member
4.	Sen. Wahome Wamatinga, MP	-	Member
5.	Sen. David Wafula Wakoli, MP	-	Member
6.	Sen. Kathuri Murungi, MP	-	Friend of the Committee

ABSENT WITH APOLOGIES

1.	Sen. Moses Kajwang, MP	-	Member
2.	Sen. Daniel Kitonga Maanzo	-	Member
3.	Sen. Allan Kiprotich Chesang, MP	-	Member
4.	Sen. Beth Kalunda Syengo, MP	-	Member

SECRETARIAT

1.	Ms. Caroline Njue	-	Clerk Assistant
2.	Mr. Reinhardt Choge	-	Clerk Assistant
3.	Ms. Regina Munyao	-	Legal Counsel
4.	Ms. Belinda Ogolla	-	Research Officer
5.	Mr. Hillary Cheruiyot	-	Research Officer
6.	Mr. Apollo Kiogora	-	Legal Counsel (Office of the Deputy Speaker)
7.	Mr. Job Owaga	-	Media Relations Officer

MIN/SEN/SCA/533/2023- PRAYER

The Chairperson called the meeting to order at 10.14 a.m. followed by a word of prayer.

MIN/SEN/SCA/534/2023- ADOPTION OF THE AGENDA

The agenda was adopted after being proposed by Sen. Wahome Wamatinga, MP and seconded by Sen. Enoch Kiio Wambua, CBS, MP as follows-

1. Prayer;
2. Adoption of the Agenda;
3. **Confirmation of minutes of the Seventy – Seventh Sitting held on Thursday, 23rd November, 2023 at 10.00 a.m.;**
4. **Consideration of A legislative proposal on the Narcotic and Psychotropic Substances (Control) (Amendment) Bill, 2023 (Committee Paper No. 58);**
5. **Consideration and Adoption of the amendments on the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023) (Committee Paper No. 65);**
6. **Consideration and Adoption of the report on the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023) (Committee Paper No. 66);**
7. Any Other Business; and
8. Date of the Next Meeting and Adjournment.

MIN/SEN/SCA/535/2023- CONFIRMATION OF MINUTES

Minutes of the Seventy-Seventh sitting held on Thursday, 23rd November, 2023 were confirmed as a true reflection of the proceedings having been proposed by Sen. Wahome Wamatinga, MP and seconded by Sen. Enoch Wambua, CBS, MP.

MIN/SEN/SCA/536/2023- CONSIDERATION OF A LEGISLATIVE PROPOSAL ON THE NARCOTIC AND PSYCHOTROPIC SUBSTANCES (CONTROL) (AMENDMENT) BILL, 2023 (COMMITTEE PAPER NO. 58)

The Committee was taken through the legislative proposal highlighting the salient issues and objective of the Amendment. The main objective of the amendment is delisting of Cathinone and Cathine as they are naturally occurring in Miraa plants from the psychotropic drugs.

The Committee noted the importance of the declassification noting that it would allow for the promotion of value-added products from the Miraa plants.

The Committee resolved to publish the legislative proposal.

MIN/SEN/SCA/537/2023- CONSIDERATION AND ADOPTION OF THE AMENDMENTS ON THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 1 OF 2023) (COMMITTEE PAPER NO. 65)

The Committee was taken through the proposed Amendments on the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023).

It was noted that the amendment on Clause 11 which is on the sale of tea at the auction should be reworked to include all farmers and not only small-scale and large-scale farmers.

The Committee resolved to adopt the Amendments with changes having been proposed by Sen. Alexander Mundigi, MP and seconded by Sen. Enoch Kiio Wambua, CBS, MP.

MIN/SEN/SCA/538/2023- CONSIDERATION AND ADOPTION OF THE REPORT ON THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 1 OF 2023) (COMMITTEE PAPER NO. 66)

The report on the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023) was adopted having been proposed by Sen. Alexander Mundigi, MP and seconded by Sen. Enoch Kiio Wambua, CBS, MP.

MIN/SEN/SCA/539/2023- ANY OTHER BUSINESS

There was no other business.

MIN/SEN/SCA/540/2023- DATE OF NEXT MEETING AND ADJOURNMENT

The meeting adjourned at 11.57 a.m. and the next meeting will be by notice.

SIGNED: .....DATE: .....

SEN. JAMES KAMAU MURANGO, MP
(CHAIRPERSON)

MINUTES OF THE SEVENTY-THIRD SITTING OF THE SENATE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES, HELD ON SATURDAY, 16TH NOVEMBER, 2023 AT CROWNE PLAZA AT 10.00 AM

PRESENT

1.	**Sen. James Kamau Murango, MP**	-	**Chairperson**
2.	**Sen. Alexander Munyi Mundigi, MP**	-	**Vice-Chairperson**
3.	Sen. Enoch Kiio Wambua, CBS, MP	-	Member
4.	Sen. Wahome Wamatinga, MP	-	Member
5.	Sen. Daniel Kitonga Maanzo	-	Member
6.	Sen. Beth Kalunda Syengo, MP	-	Member
7.	Sen. David Wafula Wakoli, MP	-	Member

ABSENT WITH APOLOGIES

1.	Sen. Moses Kajwang, MP	-	Member
2.	Sen. Allan Kiprotich Chesang, MP	-	Member

SECRETARIAT

1.	Ms. Caroline Njue	-	Clerk Assistant
2.	Mr. Reinhardt Choge	-	Clerk Assistant
3.	Ms. Regina Munyao	-	Legal Counsel
4.	Ms. Belinda Ogolla	-	Research Officer
5.	Mr. Hillary Cheruiyot	-	Research Officer
6.	Ms. Violet Nalianya	-	Media Relations Officer
7.	Ms. Rose Ometere	-	Audio Officer

MIN/SEN/SCA/502/2023- PRAYER

The Chairperson called the meeting to order at 10.18 a.m. followed by a word of prayer and introductions..

MIN/SEN/SCA/503/2023- ADOPTION OF THE AGENDA

The agenda was adopted after being proposed by Sen. Daniel Maanzo, MP and seconded by Sen. Wahome Wamatinga, MP as follows-

1. Prayer;
2. Adoption of the Agenda;
3. **Consideration of the Matrix on the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023);**
4. Any Other Business; and
5. Date of the Next Meeting and Adjournment.

MIN/SEN/SCA/504/2023- CONSIDERATION OF THE MATRIX ON THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 1 OF 2023)

Clause 9 on Tea sales the following were proposed:

a) **Ekaterra Tea Kenya PLC** disagrees with clause 2 of the registration requirement that mandates the registration of all teas prior to exportation. According to ETK, the clause lacks clarity regarding whether the Tea Board will issue a license or if there will be an additional registration for each tea meant for export. The feasibility of such a process is also uncertain, particularly concerning physical inspections or other forms of verification. Currently, all tea produced for export is already registered with the relevant government authorities, including the Kenya Revenue Authority. ETK firmly believes that introducing another governing body could result in increased bureaucratic procedures and additional expenses, potentially rendering the tea production process unsustainable.

The Committee rejected this proposal.

b) **The Tea Board of Kenya** agrees with the amendment's substance, but they also suggest including it in section 36. Section 34 pertains to the management agreement and not the auction process.

The committee rejected this proposal.

c) **Bomet Tea Farmers** propose amending Clause 10(2)(c) and (d) by removing them, while keeping Sections 36(5) and (6) intact in the Tea Act. The farmers believe that the suggested changes will diminish the advantages they currently have, as they receive payment by the 5th of each month. Consequently, this could lead to disarray with payments being made on different days for each farmer.

The Committee rejected the proposal.

d) **KTDA** are against the removal of Section 36 (5) and (6) from the payment regulations regarding tea proceeds. They believe that this proposed change will diminish the advantages the farmers have previously experienced. KTDA is committed to ensuring timely payments to the growers. Initially, payments to farmers were made in the third week of each month, but now they are made by the fifth day of the month, a change that farmers highly value. Introducing separate and individual payments on different days will cause disagreements and conflicts.

The Committee rejected this proposal.

e) **COG** propose revising Section 10(8) as follows: "In consultation with the Council of Governors, the Cabinet Secretary shall establish regulations or procedures for tea auction sales." Due to the implementation of the Integrated Tea Trading System, there is no longer a need to decentralize the auction process by setting up auction centres in tea-growing counties. The digitalization of the auction has enhanced the efficiency and transparency of the tea industry while reducing the duration of trade cycles and administrative expenses. As a result, producers and farmers at the farm level have experienced increased incomes. The Council of County Governors (COG) serves as a platform for consultation among County Governments.

The Committee rejected this proposal.

f) **Ekaterra Tea Kenya PLC**, proposes the removal of the newly introduced subsection 8, which proposes the establishment of auction centres in counties where tea is grown. ETK argues that this provision lacks clarity regarding the framework, criteria for selection, and its potential impact on the widely used Mombasa Auction. Creating multiple auction centres in various tea-producing counties will result in increased costs and inconvenience. Moreover, this decentralized approach will compromise the economies of scale and competitiveness that a centralized auction system provides.

The Committee resolved to reject the proposal; auctions should be at regional level using the regional economic blocs instead of having all auctions in Mombasa County.

g) **EATTA** proposes removing the word "not" from clause 10(2)(b), which would allow tea factories to participate in an auction either independently or through management agents. Their argument is that this change would grant tea factories the freedom to choose how they participate in the auction.

The Committee rejected this proposal.

MIN/SEN/SCA/505/2023- **ANY OTHER BUSINESS**

There was no other business.

MIN/SEN/SCA/506/2023- **DATE OF NEXT MEETING AND ADJOURNMENT**

The meeting adjourned at 01.40 pm and the next meeting will be by notice.

SIGNED: .....**DATE:** 23/11/23.....

SEN. JAMES KAMAU MURANGO, MP
(CHAIRPERSON)

MINUTES OF THE SEVENTY-SECOND SITTING OF THE SENATE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES, HELD ON FRIDAY, 17TH NOVEMBER, 2023 AT CROWNE PLAZA AT 2.00 PM

PRESENT

1.	**Sen. James Kamau Murango, MP**	-	**Chairperson**
2.	**Sen. Alexander Munyi Mundigi, MP**	-	**Vice-Chairperson**
3.	Sen. Enoch Kiio Wambua, CBS, MP	-	Member
4.	Sen. Wahome Wamatinga, MP	-	Member
5.	Sen. Daniel Kitonga Maanzo	-	Member
6.	Sen. Beth Kalunda Syengo, MP	-	Member
7.	Sen. David Wafula Wakoli, MP	-	Member

ABSENT WITH APOLOGIES

1.	Sen. Moses Kajwang, MP	-	Member
2.	Sen. Allan Kiprotich Chesang, MP	-	Member

SECRETARIAT

1.	Ms. Caroline Njue	-	Clerk Assistant
2.	Mr. Reinhardt Choge	-	Clerk Assistant
3.	Ms. Regina Munyao	-	Legal Counsel
4.	Ms. Belinda Ogolla	-	Research Officer
5.	Mr. Hillary Cheruiyot	-	Research Officer
6.	Ms. Violet Nalianya	-	Media Relations Officer
7.	Ms. Rose Ometere	-	Audio Officer

MIN/SEN/SCA/497/2023- PRAYER

The Chairperson called the meeting to order at 2.12 p.m. followed by a word of prayer.

MIN/SEN/SCA/498/2023- ADOPTION OF THE AGENDA

The agenda was adopted after being proposed by Sen. Alexander Mundigi, MP and seconded by Sen. Enoch Wambua, CBS, MP as follows-

1. Prayer;
2. Adoption of the Agenda;
3. **Consideration of the Matrix on the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023);**
4. Any Other Business; and
5. Date of the Next Meeting and Adjournment.

MIN/SEN/SCA/499/2023- CONSIDERATION OF THE MATRIX ON THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 1 OF 2023)

On the clause on Interpretation the following were proposed:

a) **East African Tea Trade Association (EATTA)** proposed to delete the definition of **"direct sales overseas"** as it is redundant. According to their submission, the terms are already defined within the definition of **"direct sales,"** making it unnecessary to have two separate definitions for the same words.

The committee accepted this proposal.

b) **The East African Tea Trade Association (EATTA)** proposed deleting the definition of **"direct sales overseas"** as it is redundant. According to their submission, the terms are already defined within the definition of **"direct sales,"** making it unnecessary to have two separate definitions for the same words.

The committee accepted this proposal.

c) Murang'a Tea Factory proposes including the phrase "and which is not destined for a producer warehouse for auction purposes" in the definition of the term "export," right after mentioning "a special economic zone enterprise or an export processing zone.".

The Committee rejected this proposal.

On the clause on management Agent Agreement, the following were proposed:

d) **EATTA**, proposed that the Act needs additional modifications to eliminate the obligation of presenting management agreements to the Board. In their statement, they contend that the Tea Board of Kenya lacks the authority to scrutinize contracts entered into voluntarily by companies. They argue that enforcing such a requirement, particularly through legislation, imposes limitations on the freedom of contracts, which is safeguarded by the Law of Contract and the Constitution.

The Committee rejected this proposal.

e) **EATTA** suggests that Sections 34(3)(a) and 34(4) of the Principal Act need additional modification concerning the payment of management agents. These two provisions should be included in the regulations. Furthermore, the concerns raised are specific issues that can be appropriately dealt with by existing laws such as the Companies Act, the Competition Act, and the Law of Contracts Act. These concerns are also limited to a particular sector of the industry. Additionally, any perceived non-compliance by the affected sector can be addressed by the Regulator through improved monitoring of overall compliance with the law, rather than imposing duplicated requirements that would apply to the entire industry.

The Committee rejected this proposal.

MIN/SEN/SCA/500/2023- **ANY OTHER BUSINESS**

There was no other business.

MIN/SEN/SCA/501/2023- **DATE OF NEXT MEETING AND ADJOURNMENT**

The meeting adjourned at 4.40 pm and the next meeting will be by notice.

SIGNED: .....**DATE:** 23/11/2023.....

SEN. JAMES KAMAU MURANGO, MP

(CHAIRPERSON)

MINUTES OF THE SEVENTY-FIRST SITTING OF THE SENATE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES, HELD ON FRIDAY, 17TH NOVEMBER, 2023 AT CROWNE PLAZA AT 10.00 AM

PRESENT

1. **Sen. James Kamau Murango, MP** - **Chairperson**
2. **Sen. Alexander Munyi Mundigi, MP** - **Vice-Chairperson**
3. Sen. Enoch Kiio Wambua, CBS, MP - Member
4. Sen. Wahome Wamatinga, MP - Member
5. Sen. Daniel Kitonga Maanzo - Member
6. Sen. Beth Kalunda Syengo, MP - Member
7. Sen. David Wafula Wakoli, MP - Member

ABSENT WITH APOLOGIES

1. Sen. Moses Kajwang, MP - Member
2. Sen. Allan Kiprotich Chesang, MP - Member

SECRETARIAT

1. Ms. Caroline Njue - Clerk Assistant
2. Mr. Reinhardt Choge - Clerk Assistant
3. Ms. Regina Munyao - Legal Counsel
4. Ms. Belinda Ogolla - Research Officer
5. Mr. Hillary Cheruiyot - Research Officer
6. Ms. Violet Nalianya - Media Relations Officer
7. Ms. Rose Ometere - Audio Officer

MIN/SEN/SCA/492/2023- PRAYER

The Chairperson called the meeting to order at 10.13 a.m. followed by a word of prayer and introductions.

MIN/SEN/SCA/493/2023- ADOPTION OF THE AGENDA

The agenda was adopted after being proposed by Sen. Alexander Munyi Mundigi, MP and seconded by Sen. Wahome Wamatinga, MP as follows-

1. Prayer;
2. Adoption of the Agenda;
3. **Consideration of the resolutions from the First Tea Conference, 2023 held in Kericho County;**
4. Any Other Business; and
5. Date of the Next Meeting and Adjournment.

MIN/SEN/SCA/494/2023- CONSIDERATION OF THE RESOLUTIONS FROM THE FIRST TEA CONFERENCE, 2023 HELD IN KERICHO COUNTY

The Committee considered the resolutions from the Tea Reforms Conference at the Kericho Golf Club from July 6 to 8, 2023. It was noted that the main concerns from the Council of Governors were the devolved functions had been returned to the National Government.

The Committee also noted that most of the resolutions from the conference are already covered in the Bill.

MIN/SEN/SCA/495/2023- ANY OTHER BUSINESS

There was no other business.

MIN/SEN/SCA/496/2023- DATE OF NEXT MEETING AND ADJOURNMENT

The meeting adjourned at 12.20 pm and the next meeting will be on 17th November, 2023 at 2.00 pm.

SIGNED: .....DATE: 23/11/2023

SEN. JAMES KAMAU MURANGO, MP

(CHAIRPERSON)

MINUTES OF THE FORTY-SECOND SITTING OF THE SENATE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES, HELD ON SATURDAY, 24th JUNE 2023 AT HILTON GARDEN INN AT 2 PM

PRESENT

1. **Sen. James Kamau Murango, MP - Chairperson**
2. **Sen. Alexander Munyi Mundigi, MP - Vice-Chairperson**
3. Sen. Beth Kalunda Syengo, MP - Member
4. Sen. Wahome Wamatinga, MP - Member
5. Sen. Daniel Kitonga Maanzo, MP - Member

ABSENT WITH APOLOGIES

1. Sen. Moses Otieno Kajwang', MP - Member
2. Sen. Enoch Kiio Wambua, CBS, MP, - Member
3. Sen. Allan Kiprotich Chesang, MP - Member
4. Sen. David Wafula Wakoli, MP - Member

SECRETARIAT

1. Ms. Caroline Njue - Clerk Assistant
2. Mr. Reinhardt Choge - Clerk Assistant
3. Ms. Regina Munyao - Legal Counsel
4. Ms. Belinda Ogolla - Research Officer
5. Mr. Collins Lukhale - Accountant
6. Ms. Violet Nalianya - Media Relations Officer
7. Ms. Rose Ometere - Audio Officer
8. Ms. Vielina Mbote - Attachee

MIN.SEN/SCA/299/2023- PRAYER

The Chairperson called the meeting to order at 2.00 p.m. followed by a word of prayer and introductions.

MIN/SEN/SCA/300/2023- **ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted after it was proposed by Sen. Beth Kalunda Syengo, MP and seconded by Sen. Wahome Wamatinga, MP as follows-

1. Prayer;
2. Adoption of the Agenda;
3. **Consideration and adoption of the matrix on the Tea (amendment) Bill,2023 (Senate Bills no. 1 of 2023);**
4. Any Other Business; and
5. Date of the Next Meeting and Adjournment.

MIN/SEN/SCA/301/2023- **CONSIDERATION AND ADOPTION OF THE MATRIX ON THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 1 OF 2023)**

TBK suggests the removal the term 'enterprise' appearing after the words 'special economic zones' to align the definition with other relevant legislations.

The Committee accepted this proposal.

Registration of a tea broker- KTGA suggests expanding the requirements for broker registration and imposing limits on broker payments to encompass the entire industry rather than just limited companies (KTDA factories). Alternatively, clause 7(4) could be modified to state that the remuneration paid to a tea broker by a tea factory may be subject to review through Regulations, as deemed appropriate. The proposed provision should be outlined in Regulations to facilitate consultation with relevant stakeholders who may be affected before determining the specific amount. This approach, according to KTGA, would also enable prompt and effective periodic evaluations of the remuneration in case of changing circumstances. It is recognized that the remuneration should adequately cover the cost of service and the benefits derived from brokerage services.

The Committee accepted this proposal but the 0.75% should only apply to tea estate owners or private companies. The 0.75% should not be applied to small scale farmers. KTDA should use their marketing agents and not use brokerage services.

EATTA suggests that the scope of clause 32(4) in the Tea Act should be restricted to the Tea Regulations since it establishes restrictions on the payment amount for service providers mentioned in the Act.

The Committee rejected this proposal as its important for the Clause to be retained in Statute.

Rono, a farmer hailing from Bomet County, suggested the altering of Clause 7 of the Bill by removing it entirely, while emphasizing the importance of retaining the phrase "Limited Company".

The Committee accepted this proposal.

Management agent agreement: KTGA suggests keeping Section 34 (2) of the Act but limiting its scope to small-scale factories operated by KTDA and excluding privately owned factories. The regulations, according to KTGA, should primarily cover specific issues such as the contents of the management agreement, its duration, conditions for renewal, and similar matters. Rather than imposing duplicate requirements on the entire industry, any perceived non-compliance within the affected segment can be addressed by improving the overall monitoring of regulatory compliance by the Regulator.

The Committee accepted this proposal.

MIN/SEN/SCA/302/2023- **ANY OTHER BUSINESS**

There was no any other business.

MIN/SEN/SCA/303/2023- **DATE OF NEXT MEETING AND ADJOURNMENT**

The meeting adjourned and the next meeting will be by notice.

SIGNED: .....**DATE:** 29/06/2023.....

SEN. JAMES KAMAU MURANGO, MP

(CHAIRPERSON)

MINUTES OF THE FORTY-FIRST SITTING OF THE SENATE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES, HELD ON SATURDAY, 24th JUNE 2023 AT HILTON GARDEN INN AT 8:00 AM

PRESENT

1. **Sen. James Kamau Murango, MP - Chairperson**
2. **Sen. Alexander Munyi Mundigi, MP - Vice-Chairperson**
3. Sen. Beth Kalunda Syengo, MP - Member
4. Sen. Wahome Wamatinga, MP - Member
5. Sen. Daniel Kitonga Maanzo, MP - Member

ABSENT WITH APOLOGIES

1. Sen. Moses Otieno Kajwang', MP - Member
2. Sen. Enoch Kiio Wambua, CBS, MP, - Member
3. Sen. Allan Kiprotich Chesang, MP - Member
4. Sen. David Wafula Wakoli, MP - Member

SECRETARIAT

1. Ms. Caroline Njue - Clerk Assistant
2. Mr. Reinhardt Choge - Clerk Assistant
3. Ms. Regina Munyao - Legal Counsel
4. Mr. Mitchelle Otoro - Legal Counsel
5. Ms. Belinda Ogolla - Research Officer
6. Mr. Collins Lukhale - Accountant
7. Ms. Violet Nalianya - Media Relations Officer
8. Ms. Vielina Mbote - Attachee

MIN.SEN/SCA/294/2023- PRAYER

The Chairperson called the meeting to order at 8:26 a.m. followed by a word of prayer and introductions.

MIN/SEN/SCA/295/2023- ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Alexander Munyi Mundigi, MP and seconded by Sen. Wahome Wamatinga, MP, as follows-

1. Prayer;
2. Adoption of the Agenda;
3. Consideration and adoption of the matrix on the Tea (amendment) Bill,2023 (Senate Bills no. 1 of 2023);
4. Any Other Business; and
5. Date of the Next Meeting and Adjournment.

MIN/SEN/SCA/296/2023- **CONSIDERATION AND ADOPTION OF THE MATRIX ON THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 1 OF 2023)**

Clause 2 of the Bill on Interpretation, Ekaterra Tea Kenya PLC proposed that the current amendment bill should not limit the definition of value additions forms of value-added tea that are packaged in drums.

The Committee accepted this proposal

The East African Tea Trade Association (EATTA) also proposed removal of the definition of **"direct sales overseas"** as it is redundant. According to their submission, the terms are already defined within the definition of **"direct sales,"** making it unnecessary to have two separate definitions for the same words.

The Kenya Tea Growers Association (KTGA) proposed that the definition of **"value addition"** should remain unchanged. According to KTGA, limiting the definition to a maximum of 10 kilograms ignores other types of value-added teas that involve investments in value addition but may not be packaged as specified.

The Committee accepted this proposal.

The Kenya Tea Growers Association (KTGA) proposed adding the phrase **"or its appointed agent"** after the term "factory" in order to permit factories to use agents for direct sales.

The Committee rejected this proposal.

The Kenya Tea Growers Association (KTGA) proposed removing the definition for the term **"direct sales overseas"** since it is already defined within the definition of "direct sales."

The Committee resolved to pend this proposal.

The Kenya Tea Growers Association (KTGA) recommends removing the term **"professional"** from the definition of **"management agent."** KTGA argues that this adjustment aligns with accepted business practices.

The Committee accepted this proposal

The Kenya Tea Development Agency Holdings Limited (KTDA) proposed the removal of the definition of **"tea factory limited company"** stated in paragraph (e). Their argument was that the existing definition of "tea factory" in Section 2 of the Act is comprehensive enough. KTDA wishes to keep this definition intact so that it can be applied to all tea processing factories, regardless of whether they are owned by small holders or other entities.

The Committee rejected this proposal since factories are limited companies.

Murang'a Tea Factory proposal including the phrase "and which is not destined for a producer warehouse for auction purposes" in the definition of the term "export," right after mentioning "a special economic zone enterprise or an export processing zone."

The Committee resolved to pend this proposal

Murang'a Tea Factory proposal that the term "**Tea Distribution Hub**" refer to the storage of Kenyan tea, processed or larger quantities, in a foreign country. The purpose is to sell the tea to local traders and packers within that country for domestic sales or re-exportation.

The Committee rejected this proposal.

Murang'a Tea Factory also suggest the inclusion of the term "**Direct Settlement System provider,**" which is a financial or technology service organization appointed through a contractual agreement between the organization and a tea factory.

The Committee accepted this proposal only if the money from the buyers will be deposited in a bank where the Government has shares. Through regulations the DSS provider will be identified and the remittances of tea proceeds be disbursed by the provider in the currency received to the farmers.

The Tea Board of Kenya (TBK) agrees with clause 2(b) but recommends removing the term **'Enterprise'** that follows the phrase 'special economic zone.' The aim, as stated by TBK, is to ensure consistency with other applicable laws.

The Committee accepted the proposal to delete the word enterprise since it is misplaced.

TBK ~~**The Tea Board of Kenya**~~ agrees with clause 2(d), but proposed changing the word 'ten' to 'three.' According to the Tea Board of Kenya, this is necessary to ensure that the definition is consistent with the terminology commonly used in the global tea industry.

The Committee rejected this proposal and resolved to leave it open to the farmers to decide in how many kgs the tea will be packaged at any point in time.

TBK~~The Tea Board of Kenya~~ agrees with clause 2(e) but proposed amending it as follows: The term 'Direct settlement system' refers to a banking service offered by a commercial bank regulated by the Central Bank of Kenya for the purpose of clearing and managing the proceeds from tea sales. The intention behind this amendment is to bring clarity to the term as it pertains to the tea industry and to ensure its alignment with section 36 of the Tea Act 2020.

The Committee accepted this proposal but the bank should be one that the Government has shares. The Committee rejected the part on clearing and managing proceeds and retain what is in the Bill.

~~The Tea Board of~~TBK ~~Kenya~~ recommends incorporating the term "medium-scale tea growers" into the definition of "tea factory limited company" in order to enhance clarity regarding its usage within the Act.

The Committee rejected this proposal since famers can only either be small scale or large scale and not medium term.

~~The Tea Board~~ TBK is suggesting changes to the definitions of two terms as follows:

A "small-scale tea grower" is someone who cultivates tea on a piece of land that is smaller than ten acres and supplies green leaves to a tea factory limited company.

A "medium-scale tea grower" is someone who cultivates tea on a piece of land and supplies green leaves to a tea factory limited company. This proposed amendment aims to bring clarity to the usage of these terms in the Act.

The Committee rejected this proposal since famers can only either be small scale or large scale and not medium term.

Bomet Tea Farmers propose amending the definition of a "**Tea factory limited company.**" Their suggestion stems from the fact that the revised definition restricts its application solely to small-scale tea cultivators. Consequently, they advocate for retaining the original definition stated in Section 2 of the Tea Act.

The Committee rejected this proposal.

Membership of Board

~~The Tea Board of Kenya (TBK)~~ proposed that clause 3 should include the following provisions:

1. The Cabinet Secretary should appoint members of the Board through a transparent and competitive process.
2. The names of the appointed individuals should be published in the Kenyan Gazette and a newspaper that circulates nationwide.

Publishing the names of the appointees serves the purpose of keeping the public well-informed about the appointments. This measure promotes transparency and fairness in the recruitment process, minimizing the possibility of biasness and fostering diversity and inclusion.

The Committee rejected this proposal since the Kenya Gazette supersedes the National Dailies and there is no need of publishing in the National Dailies.

EATTA suggests maintaining clause 3 in its original form. The proposed amendment to clause 3 eliminates the requirement stated in the main Act, which mandates the Cabinet Secretary to appoint ~~the~~ Principal Secretary for National Treasury or a nominee chosen by the Principal Secretary through a notice in the Gazette. Additionally, the amendment suggests removing the need to consider gender, regional, and other diversities of the Kenyan population when making this appointment. It is crucial that this appointment continues to be a public appointment in its current state.

The Committee rejected this proposal since Principal Secretary is already present in the bill.

EATTA also suggests that the Board should consist of a member from the Independent Tea Producers Association of Kenya, ensuring their inclusion. This association is responsible for producing 90 million kilos of tea annually and provides support to 210,000 farmers. Therefore, it is crucial to have their representation on the Board.

The Committee rejected this proposal. The farmers should be small sacale and large scale only.

~~The Tea Farmers of Momul Factory~~ propose the removal of Clause 3(2) through an amendment. Their rationale is that the Cabinet Secretary possesses greater authority compared to the company's stakeholders and directors.

The Committee accepted this proposal since the clause was misplaced.

Term of Appointment:

KTGA proposed removing the phrase "on account of good performance" due to its unclear and subjective nature. The individuals nominated for the Board are already accomplished principals within their respective organizations, which is why they are being nominated in the first place.

The Committee accepted this proposal and leave the decision of nominating on account of good behavior to the person appointing.

EATTA proposed the removal of the phrase "on account of good performance" from the clause, as there is no clear standard to objectively define what qualifies as good performance.

The Committee accepted this proposal and leave the decision of nominating on account of good behavior to the person appointing.

The Murang'a Tea Factory proposed a revision to clause 4 of the Bill, suggesting the following rephrased version:

" All tea processed, manufactured and value added in Kenya for the export market shall be registered with the Board prior to exportation."

The Committee accepted he proposal since the Clause is misplaced.

Board of Directors of tea Factory limited

On tTea Iimports, KTGA proposed inserting the clause " subject to the approval of the Ministry of Trade " immediately after the phrase " in the prescribed form." Importation without restrictions is permitted within EPZ establishments. These establishments are also exempt from regulations imposed by the Tea Board of Kenya, as per the government's foreign trade policy and the Export Processing Zones Act. Therefore, the declaration should only serve the purpose of providing information to the board, ensuring compliance with the law and trade policies concerning EPZ operations.

The Committee rejected this proposal. This is because there is no need to take tea to EPZ in the first place and the fact that there is no tax paid when exporting tea.

EATTA notices that the Tea Board's demand for EPZ enterprises to disclose tea imports into the EPZ goes against the EPZ Act and undermines the advantages that EPZs are used to. Section 29(f) of Part VIII of the EPZ Act states that EPZ enterprises are exempt from quotas, restrictions, or prohibitions on import or export trade, except for firearms, military equipment, or other illegal goods. The Bill and the EPZ Act conflict with each other, as EPZs benefit from unrestricted imports and thus fall outside the jurisdiction of the Tea Board.

The Committee rejected this proposal.

MIN/SEN/SCA/297/2023- **ANY OTHER BUSINESS**

There was no any other business.

MIN/SEN/SCA/298/2023- **DATE OF NEXT MEETING AND ADJOURNMENT**

The meeting adjourned and the next meeting will be by notice.

SIGNED: ..... **DATE:** 29/06/2023.

SEN. JAMES KAMAU MURANGO, MP

(CHAIRPERSON)

MINUTES OF THE TWENTY-NINTH SITTING OF THE SENATE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES, HELD ON TUESDAY, 16TH MAY, 2023 AT ACK RUNYENJES, RUNYENJES CONSTITUENCY, EMBU COUNTY AT 2:30 P.M.

PRESENT

1. **Sen. James Kamau Murango, MP - Chairperson**
2. **Sen. Alexander Munyi Mundigi, MP - Vice-Chairperson**
3. Sen. Beth Kalunda Syengo, MP - Member
4. Sen. Allan Kiprotich Chesang, MP - Member
5. Sen. David Wafula Wakoli, MP - Member

ABSENT WITH APOLOGIES

1. Sen. Enoch Kiio Wambua, CBS, MP, - Member
2. Sen. Moses Otieno Kajwang', MP - Member
3. Sen. Daniel Kitonga Maanzo, MP - Member
4. Sen. Wahome Wamatinga, MP - Member

SECRETARIAT

1. Ms. Caroline Njue - Clerk Assistant
2. Mr. Reinhardt Choge - Clerk Assistant
3. Ms. Regina Munyao - Legal Counsel
4. Mr. Walters Otieno - Legal Counsel
5. Mr. Hillary Cheruiyot - Research Officer
6. Ms. Violet Nalianya - Media Relations Officer
7. Ms. Rose Ometere - Audio Officer
8. Mr. Abdihabib Dekow - Sergeant-at-Arms

IN ATTENDANCE- **ACK RUNYENJES**

1. Rev. Renson K. Mbogo - Kenya Tea Development Authority, Board Member & Coffee Farmer
2. Mr. Benjamin K. Mugo - Kagaari South Cooperative Society
3. Dr. Fridah Karani - Youth Representative, Embu County

MIN.SEN/SCA/208/2023- **PRELIMINARIES**

The Chairperson called the meeting to order at 2.15 p.m. followed by a word of prayer and introductions.

MIN/SEN/SCA/209/2023- **ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted after it was proposed by Sen. Allan Kiprotich Chesang, MP and seconded by Sen. David Wafula Wakoli, MP as follows-

1. Prayer;
2. Introductions;
3. ***Introductory Remarks on the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023);***
4. ***Overview of the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023)***;
5. ***Submissions by the Public on the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023)***
6. ***Overview of the Coffee Bill, 2023 (Senate Bills No. 10 of 2023)***;
7. ***Submissions by the Public on the Coffee Bill, 2023 (Senate Bills No. 10 of 2023)***;
8. Closing Remarks and Adjournment.

MIN/SEN/SCA/210/2023- **INTRODUCTORY REMARKS BY THE COMMITTEE CHAIRPERSON**

The Chairperson introduced the two Bills to the Public and further invited the Area Senator to give an overview of the Bills citing Coffee's and Tea's importance to the country's economy and Gross Domestic Product and being top earners of Foreign Exchange.

MIN/SEN/SCA/211/2023- **OVERVIEW OF THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 10 OF 2023)**

The public was taken through the overview of the Bill by the Chairperson Sen. James Kamau Murango, MP. He outlined that the Bill proposes to provide for direct sales of tea, the payment of tea proceeds, and for connected purposes.

The chairperson informed the public that the persons benefiting from the sale of Tea are the middlemen and not farmers. Further, he reiterated that the payments of Tea made in Dollars should trickle down to the farmer in the same currency to allow them to look for the best foreign exchange rate instead of them receiving payment in Kenyan Shillings thus leaving them open to exploitation.

He informed the public that the important clauses in the bill are-

1. **Clause 3 and Clause 4** which provides for the Amendment of the Principal Act to ensure that members of the Tea Board take into account gender balance and regional and other diversities of Kenyan People and also to set limits on the tenure of the Board Membership to 2 terms of three years each;
2. **Clause 10** which provides for the Amendment of the Principal Act to allow for factories to participate in the tea auction directly and not through a management agent and to allow for creation of tea auctions in the tea growing counties;
3. **Clause 11** which provides for the Amendment of the Principal Act to allow for Direct Sales after making tea proceeds to be deposited under a Direct Settlement System (DSS); and
4. **Clause 15** which provides for the Amendment of the Principal Act to return all immovable assets of the former Tea Board of Kenya and the Former Tea Research Foundation of Kenya from where they are vested in the Agriculture and Food Authority and Kenya Agricultural and Livestock Research Organization by virtue of commencement of the Crops Act and the Kenya Agricultural and Livestock Research Organization Act.

MIN/SEN/SCA/212/2023- **SUBMISSIONS BY MEMBERS OF THE PUBLIC ON THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 10 OF 2023)**

The members of the public were invited to submit their views on the Bill and were informed that their submissions would be included in the Bill for consideration by the Committee in the bill after being formulated in the legal format.

The farmers submitted as follows:

1. That, pricing for tea should be based on the quality off tea instead of having one standard price across the board;
2. That, the number of Board of Directors should be eight;
3. That, the establishment of Local Tea Auctions would help in the direct sales which is envisioned to offer better settlement; and
4. That, there should be harmonization of prices across the different regions to ensure that no farmer felt exploited by planting and selling tea in a certain region.

MIN/SEN/SCA/213/2023- **OVERVIEW OF THE COFFEE BILL, 2023 (SENATE BILLS NO.10 OF 2023)**

The public was taken through the overview of the Bill by the Chairperson Sen. James Kamau Murango, MP. He mentioned that the Bill proposes to provide for the establishment of the Coffee Board of Kenya, and the Coffee Research Institute; to provide for the role of the National and the county governments, provide for the regulation, development and promotion of coffee industry and for connected purposes.

The public was briefed that the persons benefiting from the sale of Coffee are the middlemen and not farmers. Further, he reiterated that the payments of Coffee sales made in Dollars should trickle down to the farmer in the same currency to allow them to look for the best foreign exchange rate instead of them receiving payment in Kenyan Shillings via the direct settlement system implemented by certain banks that left the farmer open to exploitation.

Further, the public was informed that the price of a kilogram of Coffee from Rungeto Farmers Cooperative Society in the United States of America retailed at Kshs 9180 at the prevailing exchange rate and therefore the aim of the bill is to benefit the farmer and enable them get customers who would offer better prices than what they currently receive.

He informed the public that the important clauses in the bill are-

1. **Clauses under Part II** which provide a framework for the establishment of a Board to be known as the Coffee Board of Kenya;
2. **Clauses under Part III** which provides for the Roles of County Governments; and
3. **Clauses under Part VI** which provides for Direct Sales and auctioning at the Coffee Exchange.

MIN/SEN/SCA/214/2023- **SUBMISSIONS BY MEMBERS OF THE PUBLIC ON THE COFFEE BILL, 2023 (SENATE BILLS N0.10 OF 2023)**

The members of the public were invited to submit their views on the Bill and were informed that their submissions would be included in the Bill for consideration by the Committee in the bill after being formulated in the legal format.

The public submitted as follows:

1. That, the direct settlement system currently in place needed to be changed to RTGS which was working fine;
2. That, farmers should be able to roast, market and sell their coffee as they see fit without being tied down by specific rules;

3. That, farmers suggested the formation of a coffee stabilization fund to cushion farmers during periods of low World Prices;
4. That, farmers suggested that there should be an online database to show the sales done, buyers and sellers of Coffee and what areas were most preferred on the Coffee markets; and
5. That, representation in the board should comprise of seven Coffee farmers and should be the majority.

Committee Observations

The Committee observed that farmers should be able to participate in the whole value chain thereby allowing them process, package and market their Coffee without any hindrances or interference from brokers.

The Committee observed that farmers should be able to access subsidized fertilisers through their Cooperatives and Unions.

Coffee Unions and Cooperatives should trademark their names to prevent illegal usage by brokers and marketers in the international market.

MIN/SEN/SCA/215/2023- CLOSING REMARKS AND ADJOURNMENT

The Chairperson thanked Members of the Public for showing up to make Submissions on the Bills and the meeting was adjourned at 4:45 pm.

SIGNED: ..... DATE: ...29/5/2023.....

SEN. JAMES KAMAU MURANGO, MP

(CHAIRPERSON)

MINUTES OF THE TWENTY-EIGHTH SITTING OF THE SENATE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES, HELD ON FRIDAY, 16TH MAY, 2023 AT ACK KIGARI HALL, MANYATTA CONSTITUENCY, EMBU COUNTY AT 10:30 A.M.

PRESENT

1. **Sen. James Kamau Murango, MP - Chairperson**
2. **Sen. Alexander Munyi Mundigi, MP - Vice-Chairperson**
3. Sen. Beth Kalunda Syengo, MP - Member
4. Sen. Allan Kiprotich Chesang, MP - Member
5. Sen. David Wafula Wakoli, MP - Member

ABSENT WITH APOLOGIES

1. Sen. Enoch Kiio Wambua, CBS, MP, - Member
2. Sen. Moses Otieno Kajwang', MP - Member
3. Sen. Daniel Kitonga Maanzo, MP - Member
4. Sen. Wahome Wamatinga, MP - Member

SECRETARIAT

1. Ms. Caroline Njue - Clerk Assistant
2. Mr. Reinhardt Choge - Clerk Assistant
3. Ms. Regina Munyao - Legal Counsel
4. Mr. Walters Otieno - Legal Counsel
5. Mr. Hillary Cheruiyot - Research Officer
6. Ms. Violet Nalianya - Media Relations Officer
7. Ms. Rose Ometere - Audio Officer
8. Mr. Abdihabib Dekow - Sergeant-at-Arms

IN ATTENDANCE **ACK KIGARI HALL**

1. Hon. Harrison Sammy Muturi - Member of County Assembly, Embu County Assembly
2. Hon. Peter Murithi - Member of County Assembly, Embu County Assembly

3. Hon. Maurice Macharia - Member of County Assembly, Embu County Assembly
4. Hon. Duncan I. Mbui - Member of County Assembly, Embu County Assembly
5. Hon. Maureen K. Nyaga - Member of County Assembly, Embu County Assembly
6. Hon. Jimiah Jennifer - Member of County Assembly, Embu County Assembly
7. Hon. Susan Wairimu Nyagah - Member of County Assembly, Embu County Assembly
8. Mr. Moses Mwenje Njeru -Chairman, Mungania Tea Factory
9. Mr.Moses Njagi Kamau -Chairman, Kathangakiri Tea Factory
10. Mr. Enos Njeru - Kenya Tea Development Authority, Board Member
11. Dr. Fridah Karani -Youth Representative Embu County
12. Mr. David Wanjohi - Kenya Tea Development Authority, Embu County
13. Mr. Samuel Muriithi Mwarika - Farmer Embu County
14. Mr. Alfred Miriti Mangu - CEPA/KPCA
15. Mr. Evanson Ndwiga Thumbi - Economical Centre, Embu County

MIN.SEN/SCA/200/2023- **PRELIMINARIES**

The Chairperson called the meeting to order at 10.30 a.m. followed by a word of prayer and introductions.

MIN/SEN/SCA/201/2023- **ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted after it was proposed by Sen. David Wafula Wakoli, MP and seconded by Sen. Alexander Munyi Mundigi, MP as follows-

1. Prayer;
2. Introductions;
3. ***Introductory Remarks on the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023);***
4. ***Overview of the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023);***
5. ***Submissions by the Public on the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023)***
6. ***Overview of the Coffee Bill, 2023 (Senate Bills No. 10 of 2023);***
7. ***Submissions by the Public on the Coffee Bill, 2023 (Senate Bills No. 10 of 2023);***
8. Closing Remarks and Adjournment.

MIN/SEN/SCA/202/2023- **INTRODUCTORY REMARKS BY THE COMMITTEE CHAIRPERSON**

The Chairperson introduced the Bill to the Public and further invited the area Senator to give an overview of the Bill citing tea and Coffee's importance to the country's Gross Domestic Product and being top earners of Foreign Exchange.

MIN/SEN/SCA/203/2023- **OVERVIEW OF THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 10 OF 2023)**

The public was taken through the overview of the Bill by the Chairperson Sen. James Kamau Murango, MP. He mentioned that the Bill proposes to provide for direct sales of tea, the payment of tea proceeds, and for connected purposes.

The chairperson informed the public that the persons benefiting from the sale of Tea are the middlemen and not farmers. Further, he reiterated that the payments of Tea made in Dollars should trickle down to the farmer in the same currency to allow them to look for the best foreign exchange rate instead of them receiving payment in Kenyan Shillings thus leaving them open to exploitation.

He informed the public that the important clauses in the bill are-

1. **Clause 3 and Clause 4** which provides for the Amendment of the Principal Act to ensure that members of the Tea Board take into account gender balance and regional and other diversities of Kenyan People and also to set limits on the tenure of the Board Membership to 2 terms of three years each;
2. **Clause 10** which provides for the Amendment of the Principal Act to allow for factories to participate in the tea auction directly and not through a management agent and to allow for creation of tea auctions in the tea growing counties;
3. **Clause 11** which provides for the Amendment of the Principal Act to allow for Direct Sales after making tea proceeds to be deposited under a Direct Settlement System (DSS); and
4. **Clause 15** which provides for the Amendment of the Principal Act to return all immovable assets of the former Tea Board of Kenya and the Former Tea Research Foundation of Kenya from where they are vested in the Agriculture and Food Authority and Kenya Agricultural and Livestock Research Organization by virtue of commencement of the Crops Act and the Kenya Agricultural and Livestock Research Organization Act.

The Chairperson further reiterated that the Committee Would invite the Chairperson of the Coffee Sub-Sector Implementation Reforms Standing Committee, Prof. Joseph Kieyah to make oral submissions before the Committee.

MIN/SEN/SCA/204/2023- **SUBMISSIONS BY MEMBERS OF THE PUBLIC ON THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 10 OF 2023)**

The members of the public were invited to submit their views on the Bill and were informed that their submissions would be included in the Bill for consideration by the Committee in the bill after being formulated in the legal format.

The farmers submitted as follows:

1. That, pricing for tea should be based on the quality off tea instead of having one standard price across the board;
2. That, the number of Board of Directors should be eight;
3. That, the establishment of Local Tea Auctions would help in the direct sales which is envisioned to offer better settlement; and
4. That, there should be harmonization of prices across the different regions to ensure that no farmer felt exploited by planting and selling tea in a certain region.

Committee Observation

The Committee observed that the formation of County based or Regional Auctions should be supported by an online auction to allow factories to sell their tea as they see it fit thereby removing hidden costs usually passed down to the farmers

MIN/SEN/SCA/205/2023- **OVERVIEW OF THE COFFEE BILL, 2023 (SENATE BILLS NO.10 OF 2023)**

The public was taken through the overview of the Bill by the Chairperson Sen. James Kamau Murango, MP. He mentioned that the Bill proposes to provide for the establishment of the Coffee Board of Kenya, and the Coffee Research Institute; to provide for the role of the National and the county governments, provide for the regulation, development and promotion of coffee industry and for connected purposes.

The public was briefed that the persons benefiting from the sale of Coffee are the middlemen and not farmers. Further, he reiterated that the payments of Coffee sales made in Dollars should trickle down to the farmer in the same currency to allow them to look for the best foreign exchange rate instead of them receiving payment in

Kenyan Shillings via the direct settlement system implemented by certain banks that left the farmer open to exploitation.

Further, the public was informed that the price of a kilogram of Coffee from Rungeto Farmers Cooperative Society in the United States of America retailed at Kshs 9180 at the prevailing exchange rate and therefore the aim of the bill is to benefit the farmer and enable them get customers who would offer better prices than what they currently receive.

He informed the public that the important clauses in the bill are-

1. **Clauses under Part II** which provide a framework for the establishment of a Board to be known as the Coffee Board of Kenya;
2. **Clauses under Part III** which provides for the Roles of County Governments; and
3. **Clauses under Part VI** which provides for Direct Sales and auctioning at the Coffee Exchange.

MIN/SEN/SCA/206/2023- **SUBMISSIONS BY MEMBERS OF THE PUBLIC ON THE COFFEE BILL, 2023 (SENATE BILLS N0.10 OF 2023)**

The members of the public were invited to submit their views on the Bill and were informed that their submissions would be included in the Bill for consideration by the Committee in the bill after being formulated in the legal format.

The public submitted as follows:

1. That, the direct settlement system currently in place needed to be changed to RTGS which was working fine;
2. That, farmers should be able to roast, market and sell their coffee as they see fit without being tied down by specific rules;
3. That, farmers suggested the formation of a coffee stabilization fund to cushion farmers during periods of low World Prices;
4. That, farmers suggested that there should be an online database to show the sales done, buyers and sellers of Coffee and what areas were most preferred on the Coffee markets; and
5. That, representation in the board should comprise of seven Coffee farmers and should be the majority.

MIN/SEN/SCA/207/2023- **CLOSING REMARKS AND ADJOURNMENT**

The Chairperson thanked Members of the Public for showing up to make Submissions on the Bills and the meeting was adjourned at 1:30 pm.

SIGNED: …….. DATE: …29/5/2023……

SEN. JAMES KAMAU MURANGO, MP

(CHAIRPERSON)

MINUTES OF THE TWENTY-SEVENTH SITTING OF THE SENATE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES, HELD ON TUESDAY, 9TH MAY, 2023 AT NYERI CULTURAL CENTRE, NYERI TOWN CONSTITUENCY, NYERI COUNTY AT 10:30 A.M.

PRESENT

1. **Sen. James Kamau Murango, MP** - **Chairperson**
2. **Sen. Alexander Munyi Mundigi, MP** - **Vice-Chairperson**
3. Sen. Beth Kalunda Syengo, MP - Member
4. Sen. Wahome Wamatinga, MP - Member
5. Sen. Allan Kiprotich Chesang, MP - Member
6. Sen. David Wafula Wakoli, MP - Member

ABSENT WITH APOLOGIES

1. Sen. Enoch Kiio Wambua, CBS, MP, - Member
2. Sen. Moses Otieno Kajwang', MP - Member
3. Sen. Daniel Kitonga Maanzo, MP - Member

SECRETARIAT

1. Ms. Caroline Njue - Clerk Assistant
2. Mr. Reinhardt Choge - Clerk Assistant
3. Ms. Regina Munyao - Legal Counsel
4. Mr. Walters Otieno - Legal Counsel
5. Ms. Belinda Ogolla - Research Officer
6. Mr. Hillary Cheruiyot - Research Officer
7. Ms. Violet Nalianya - Media Relations Officer
8. Ms. Rose Ometere - Audio Officer
9. Mr. Abdihabib Dekow - Sergeant-at-Arms

IN ATTENDANCE **NYERI CULTURAL CENTER**

1. Hon. Rahab Mukami, MP - Member of National Assembly, Nyeri County
2. Hon. Antony Ndagita - Member of County Assembly, Chairperson Agriculture Committee, Nyeri County Assembly

3. Hon. David Mathenge	-Member of County Assembly, Nyeri County Assembly
4. Hon. Karithi Wambui	- Member of County Assembly, Nyeri County Assembly
5. Hon. Caroline W. Muriithi	- Member of County Assembly, Nyeri County Assembly
6. Hon. Julius Kamiri Ndaini	- Member of County Assembly, Kontu Ward, Nyeri County Assembly
7. Hon. Erastus K. Muriuki	- Member of County Assembly, Ruguru Ward, Nyeri County Assembly
8. Mr. Pius M. Murugu	-County Commissioner, Nyeri County
9. Mr. Ambrouse Steve Oloo	- County Police Commander, Kenya Police Service
10. Mr. Jonathan K. Lempara	- National Intelligence Service, Nyeri County
11. Mr. Mark M. Ngeru	- Kenya Tea Development Authority, Nyeri County
12. Mr. David Wanjohi	- Kenya Tea Development Authority, Nyeri County
13. Mr. Samuel Gacoki Kirii	- Baragwi Farmers' Cooperative Sacco, Nyeri County
14. Ms. Margaret Njiri	- Kenya Tea Development Authority, Nyeri County
15. Mr. John Hashington Wambugu	- Chinga Tea Factory, Nyeri County
16. Mr. Charles Kahare Munyiri	- Farmer, Nyeri County
17. Mr. Reuben Ngachi Gichuki	- Gitugi Tea Factory, Nyeri County
18. Mr. Edward Mbuthia Njuma	- Gitugi Tea Factory, Nyeri County
19. Mr. Francis Macharia	- Ragati Tea Factory, Nyeri County
20. Mr. Wilson Mungai Njoroge	- Chairman, D16
21. Ms. Mary Muthoni	- Ndima Tea Factory, Nyeri County
22. Mr. Timothy Muthoni Ngareh	- Barichu Society
23. Mr. Newton Mwangi Ndiritu	- Nyeri Cooperative Union
24. Mr. John Githinji	- New Gikaru Farmers Cooperative Sacco Ltd
25. Mr. Charles Karinga Ngera	- Kiawamururu
26. Mr. Benson Gachohi Ngure	- Wangumape
27. Mr. Charles Chege Maingi	- Kagere Coffee Ltd
28. Ms. Rosemary Muroria Matu	- Nyeri Estate Farmers
29. Mr. Nelson Murindi Maingi	- Mathira Farmers, Youth
30. Mr. Timothy Ndikwe	- Mathira, Small Estate
31. Mr. Charles Maina Njuguna	- Mathira North
32. Mr. Charles Miricho Njaramba	- Muite Mbarire Estate

33. Mr. Peter Kariui - Giakanja Society Ltd

MIN.SEN/SCA/192/2023- **PRELIMINARIES**

The Chairperson called the meeting to order at 10.30 a.m. and was followed by a word of prayer and introductions.

MIN/SEN/SCA/193/2023- **ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted after it was proposed by Sen. Allan Kiprotich Chesang, MP and seconded by Sen. Alexander Munyi Mundigi, MP as follows-

1. Prayer;
2. Introductions;
3. ***Introductory Remarks on the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023);***
4. ***Overview of the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023)*;**
5. ***Submissions by the Public on the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023)***
6. ***Overview of the Coffee Bill, 2023 (Senate Bills No. 10 of 2023)*;**
7. ***Submissions by the Public on the Coffee Bill, 2023 (Senate Bills No. 10 of 2023)*;**
8. Closing Remarks and Adjournment.

MIN/SEN/SCA/194/2023- **INTRODUCTORY REMARKS BY THE COMMITTEE CHAIRPERSON**

The Chairperson introduced the Bill to the Public and further invited the area Senator to give an overview of the Bill citing tea and Coffee's importance to the country's Gross Domestic Product and being top earners of Foreign Exchange.

MIN/SEN/SCA/195/2023- **OVERVIEW OF THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 10 OF 2023)**

The public was taken through the overview of the Bill by the Chairperson Sen. James Kamau Murango, MP. He outlined that the Bill proposes to provide for direct sales of tea, the payment of tea proceeds, and for connected purposes.

The chairperson informed the public that the persons benefiting from the sale of Tea are the middlemen and not farmers. Further, he reiterated that the payments of Tea made in Dollars should trickle down to the farmer in the same currency to allow them to look for the best foreign exchange rate instead of them receiving payment in Kenyan Shillings thus leaving them open to exploitation.

He informed the public that the important clauses in the bill are-

1. **Clause 3 and Clause 4** which provides for the Amendment of the Principal Act to ensure that members of the Tea Board take into account gender balance and regional and other diversities of Kenyan People and also to set limits on the tenure of the Board Membership to 2 terms of three years each;
2. **Clause 10** which provides for the Amendment of the Principal Act to allow for factories to participate in the tea auction directly and not through a management agent and to allow for creation of tea auctions in the tea growing counties;
3. **Clause 11** which provides for the Amendment of the Principal Act to allow for Direct Sales after making tea proceeds to be deposited under a Direct Settlement System (DSS); and
4. **Clause 15** which provides for the Amendment of the Principal Act to return all immovable assets of the former Tea Board of Kenya and the Former Tea Research Foundation of Kenya from where they are vested in the Agriculture and Food Authority and Kenya Agricultural and Livestock Research Organization by virtue of commencement of the Crops Act and the Kenya Agricultural and Livestock Research Organization Act.

MIN/SEN/SCA/196/2023- **SUBMISSIONS BY MEMBERS OF THE PUBLIC ON THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 10 OF 2023)**

The members of the public were invited to submit their views on the Bill and were informed that their submissions would be included in the Bill for consideration by the Committee in the bill after being formulated in the legal format.

The farmers submitted as follows:

1. That, pricing for tea should be based on the quality off tea instead of having one standard price across the board;
2. That, the establishment of Local Tea Auctions would help in the direct sales which is envisioned to offer better settlement; and
3. That, there should be harmonization of prices across the different regions to ensure that no farmer felt exploited by planting and selling tea in a certain region.

MIN/SEN/SCA/197/2023- **OVERVIEW OF THE COFFEE BILL, 2023 (SENATE BILLS NO.10 OF 2023)**

The public was taken through the overview of the Bill by the Chairperson Sen. James Kamau Murango, MP. He mentioned that the Bill proposes to provide for the

establishment of the Coffee Board of Kenya, and the Coffee Research Institute; to provide for the role of the National and the county governments, provide for the regulation, development and promotion of coffee industry and for connected purposes.

The public was briefed that the persons benefiting from the sale of Coffee are the middlemen and not farmers. Further, he reiterated that the payments of Coffee sales made in Dollars should trickle down to the farmer in the same currency to allow them to look for the best foreign exchange rate instead of them receiving payment in Kenyan Shillings via the direct settlement system implemented by certain banks that left the farmer open to exploitation.

Further, the public was informed that the price of a kilogram of Coffee from Rungeto Farmers Cooperative Society in the United States of America retailed at Kshs 9180 at the prevailing exchange rate and therefore the aim of the bill is to benefit the farmer and enable them get customers who would offer better prices than what they currently receive.

He informed the public that the important clauses in the bill are-

1. **Clauses under Part II** which provide a framework for the establishment of a Board to be known as the Coffee Board of Kenya;
2. **Clauses under Part III** which provides for the Roles of County Governments; and
3. **Clauses under Part VI** which provides for Direct Sales and auctioning at the Coffee Exchange.

MIN/SEN/SCA/198/2023- **SUBMISSIONS BY MEMBERS OF THE PUBLIC ON THE COFFEE BILL, 2023 (SENATE BILLS N0.10 OF 2023)**

The members of the public were invited to submit their views on the Bill and were informed that their submissions would be included in the Bill for consideration by the Committee in the bill after being formulated in the legal format.

The public submitted as follows:

1. That, the direct settlement system currently in place needed to be changed to RTGS which was working fine;
2. That, farmers should be able to roast, market and sell their coffee as they see fit without being tied down by specific rules;
3. That, farmers suggested the formation of a coffee stabilization fund to cushion farmers during periods of low World Prices;

4. That, farmers suggested that there should be an online database to show the sales done, buyers and sellers of Coffee and what areas were most preferred on the Coffee markets; and
5. That, representation in the board should comprise of seven Coffee farmers and should be the majority.

MIN/SEN/SCA/199/2023- **CLOSING REMARKS AND ADJOURNMENT**

The Chairperson thanked Members of the Public for showing up to make Submissions on the Bills and the meeting was adjourned at 3:30 pm.

SIGNED: ..... DATE: .....29/5/2023.....

SEN. JAMES KAMAU MURANGO, MP

(CHAIRPERSON)

MINUTES OF THE TWENTY-SIXTH SITTING OF THE SENATE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES, HELD ON MONDAY, 8TH MAY, 2023 AT KIANYAGA YOUTH EMPOWERMENT CENTRE, GICHUGU CONSTITUENCY, KIRINYAGA COUNTY AT 2:00 P.M.

PRESENT

1. **Sen. James Kamau Murango, MP** - **Chairperson**
2. **Sen. Alexander Munyi Mundigi, MP** - **Vice-Chairperson**
3. Sen. Beth Kalunda Syengo, MP - Member
4. Sen. Wahome Wamatinga, MP - Member
5. Sen. Allan Kiprotich Chesang, MP - Member
6. Sen. David Wafula Wakoli, MP - Member

ABSENT WITH APOLOGIES

1. Sen. Enoch Kiio Wambua, CBS, MP, - Member
2. Sen. Moses Otieno Kajwang', MP - Member
3. Sen. Daniel Kitonga Maanzo, MP - Member

IN ATTENDANCE

SECRETARIAT

1. Ms. Caroline Njue - Clerk Assistant
2. Mr. Reinhardt Choge - Clerk Assistant
3. Ms. Regina Munyao - Legal Counsel
4. Mr. Walters Otieno - Legal Counsel
5. Ms. Belinda Ogolla - Research Officer
6. Mr. Hillary Cheruiyot - Research Officer
7. Ms. Violet Nalianya - Media Relations Officer
8. Ms. Rose Ometere - Audio Officer
9. Mr. Abdihabib Dekow - Sergeant-at-Arms

IN ATTENDANCE

KERUGOYA CATHOLIC CHURCH

1. Hon. Njeri Maina, MP - Member of National Assembly, Kirinyaga County
2. Dr. Gacharah John - County Executive Committee Member, Agriculture, Kirinyaga County

3. Hon. David Mathenge	-Member of County Assembly, Baragwi Ward, Kirinyaga County Assembly
4. Hon. CPA Waziri Moses	- Member of County Assembly, Kanyeki-Ini Ward, Kirinyaga County Assembly
5. Hon. Caroline W. Muriithi	-Member of County Assembly, Karumandi Ward, Kirinyaga County Assembly
6. Hon. Daisy Githinji	-Member of County Assembly, Kabare Ward, Kirinyaga County Assembly
7. Hon. Eric Muchina	-Member of County Assembly, Kerugoya Ward, Kirinyaga County Assembly
8. Mr. James M. Wanyoike	-Assistant County Commissioner Gichugu
9. Ms. Aurelia W. Munene	- Chief
10. Ms. Faith Kiilu	- Assistant Chief
11. Mr. John Ngari Wambu	- Thumaka Tea Factory, Kirinyaga County
12. Mr. Jamleck Ndathi Kaboto	- New Ngariama Farmers' Cooperative Society, Kirinyaga County
13. Mr. Samuel Gacoki Kirii	- Baragwi Farmers' Cooperative Sacco, Kirinyaga County
14. Mr. Kimari Gatuguta	- Baragwi Farmers' Cooperative Sacco, Kirinyaga County
15. Mr. Stephen Kamau	- Baragwi Farmers' Cooperative Sacco, Kirinyaga County
16. Mr. Symon Gitari	- Kabare Farmers' Cooperative Sacco, Kirinyaga County
17. Mr. Robert Gicobi Mugo	- Baragwi Farmers' Cooperative Sacco, Kirinyaga County
18. Ms. Sicily Muchiri	- Baragwi Farmers' Cooperative Sacco, Kirinyaga County

MIN.SEN/SCA/184/2023- **PRELIMINARIES**

The Chairperson called the meeting to order at 10.30 a.m. followed by a word of prayer and introductions.

MIN/SEN/SCA/185/2023- **ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted after it was proposed by Sen. Alexander Munyi Mundigi, MP and seconded by Sen. Wahome Wamatinga, MP as follows-

1. Prayer;
2. Introductions;
3. ***Introductory Remarks on the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023);***
4. ***Overview of the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023);***
5. ***Submissions by the Public on the Tea (Amendment) Bill, 2023 in Kirinyaga County;***
6. ***Overview of the Coffee Bill, 2023;***

7. ***Submissions by the Public on the Coffee Bill, 2023 in Kirinyaga County;***
8. Closing Remarks and Adjournment

MIN/SEN/SCA/186/2023- **INTRODUCTORY REMARKS AND OVERVIEW ON THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 10 OF 2023**

The Chairperson introduced the Bill to the Public citing Tea's importance to the country's Gross Domestic Product and a top earner of Foreign Exchange.

MIN/SEN/SCA/187/2023- **OVERVIEW OF THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 10 OF 2023)**

The public was taken through the overview of the Bill by the Chairperson Sen. James Kamau Murango, MP. He outlined that the Bill proposes to provide for direct sales of tea, the payment of tea proceeds, and for connected purposes.

The chairperson informed the public that the persons benefiting from the sale of Tea are the middlemen and not farmers. Further, he reiterated that the payments of Tea made in Dollars should trickle down to the farmer in the same currency to allow them to look for the best foreign exchange rate instead of them receiving payment in Kenyan Shillings thus leaving them open to exploitation.

He informed the public that the important clauses in the bill are-

1. **Clause 3 and Clause 4** which provides for the Amendment of the Principal Act to ensure that members of the Tea Board take into account gender balance and regional and other diversities of Kenyan People and also to set limits on the tenure of the Board Membership to 2 terms of three years each;
2. **Clause 10** which provides for the Amendment of the Principal Act to allow for factories to participate in the tea auction directly and not through a management agent and to allow for creation of tea auctions in the tea growing counties;
3. **Clause 11** which provides for the Amendment of the Principal Act to allow for Direct Sales after making tea proceeds to be deposited under a Direct Settlement System (DSS); and
4. **Clause 15** which provides for the Amendment of the Principal Act to return all immovable assets of the former Tea Board of Kenya and the Former Tea Research Foundation of Kenya from where they are vested in the Agriculture and Food Authority and Kenya Agricultural and Livestock Research

Organization by virtue of commencement of the Crops Act and the Kenya Agricultural and Livestock Research Organization Act.

MIN/SEN/SCA/188/2023- **SUBMISSIONS BY MEMBERS OF THE PUBLIC ON THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 10 OF 2023)**

The members of the public were invited to submit their views on the Bill and were informed that their submissions would be included in the Bill for consideration by the Committee in the bill after being formulated in the legal format.

The farmers submitted as follows:

1. That, pricing for tea should be based on the quality off tea instead of having one standard price across the board;
2. That, the establishment of Local Tea Auctions would help in the direct sales which is envisioned to offer better settlement; and
3. That, there should be harmonization of prices across the different regions to ensure that no farmer felt exploited by planting and selling tea in a certain region.

MIN/SEN/SCA/189/2023- **OVERVIEW OF THE COFFEE BILL, 2023 (SENATE BILLS NO.10 OF 2023)**

The public was taken through the overview of the Bill by the Chairperson Sen. James Kamau Murango, MP. He mentioned that the Bill proposes to provide for the establishment of the Coffee Board of Kenya, and the Coffee Research Institute; to provide for the role of the National and the county governments, provide for the regulation, development and promotion of coffee industry and for connected purposes.

The public was briefed that the persons benefiting from the sale of Coffee are the middlemen and not farmers. Further, he reiterated that the payments of Coffee sales made in Dollars should trickle down to the farmer in the same currency to allow them to look for the best foreign exchange rate instead of them receiving payment in Kenyan Shillings via the direct settlement system implemented by certain banks that left the farmer open to exploitation.

Further, the public was informed that the price of a kilogram of Coffee from Rungeto Farmers Cooperative Society in the United States of America retailed at Kshs 9180 at the prevailing exchange rate and therefore the aim of the bill is to benefit the farmer

and enable them get customers who would offer better prices than what they currently receive.

He informed the public that the important clauses in the bill are-

1. **Clauses under Part II** which provide a framework for the establishment of a Board to be known as the Coffee Board of Kenya;
2. **Clauses under Part III** which provides for the Roles of County Governments; and
3. **Clauses under Part VI** which provides for Direct Sales and auctioning at the Coffee Exchange.

MIN/SEN/SCA/190/2023- **SUBMISSIONS BY MEMBERS OF THE PUBLIC ON THE COFFEE BILL, 2023 (SENATE BILLS N0.10 OF 2023)**

The members of the public were invited to submit their views on the Bill and were informed that their submissions would be included in the Bill for consideration by the Committee in the bill after being formulated in the legal format.

The public submitted as follows:

1. That, quality of coffee should be the only factor that drives prices;
2. That, all appointments by County Governments to the Board should be vetted and approved by farmers;
3. That, they supported the proposal to have guaranteed minimum returns to allow them be able to plan and be assured;
4. That, the direct settlement system currently in place needed to be changed to RTGS which was working fine;
5. That, farmers should be able to roast, market and sell their coffee as they see fit without being tied down by specific rules;
6. That, there should be an online database to show the sales done, buyers and sellers of Coffee and what areas were most preferred on the Coffee markets; and
7. That, at least 50% representation by Coffee Farmers as Members on the Board should be the majority.

MIN/SEN/SCA/191/2023- **CLOSING REMARKS AND ADJOURNMENT**

The Chairperson thanked Members of the Public for showing up to make Submissions on the Bill, and the meeting was adjourned at 4:30 pm.

SIGNED: …….. DATE: ……29/5/2023…….

SEN. JAMES KAMAU MURANGO, MP

(CHAIRPERSON)

MINUTES OF THE TWENTY-FIFTH SITTING OF THE SENATE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES, HELD ON MONDAY, 8TH MAY, 2023 AT KERUGOYA CATHOLIC CHURCH, KIRINYAGA CENTRAL, KIRINYAGA COUNTY AT 10:00 A.M.

PRESENT

1. **Sen. James Kamau Murango, MP - Chairperson**
2. **Sen. Alexander Munyi Mundigi, MP - Vice-Chairperson**
3. Sen. Beth Kalunda Syengo, MP - Member
4. Sen. Wahome Wamatinga, MP - Member
5. Sen. Allan Kiprotich Chesang, MP - Member
6. Sen. David Wafula Wakoli, MP - Member

ABSENT WITH APOLOGIES

1. Sen. Enoch Kiio Wambua, CBS, MP, - Member
2. Sen. Moses Otieno Kajwang', MP - Member
3. Sen. Daniel Kitonga Maanzo, MP - Member

SECRETARIAT

1. Ms. Caroline Njue - Clerk Assistant
2. Mr. Reinhardt Choge - Clerk Assistant
3. Ms. Regina Munyao - Legal Counsel
4. Mr. Walters Otieno - Legal Counsel
5. Ms. Belinda Ogolla - Research Officer
6. Mr. Hillary Cheruiyot - Research Officer
7. Ms. Violet Nalianya - Media Relations Officer
8. Ms. Rose Ometere - Audio Officer
9. Mr. Abdihabib Dekow - Sergeant-at-Arms

IN ATTENDANCE- KERUGOYA CATHOLIC CHURCH

1. Hon. Gitari Gachoki, MP - Member of National Assembly, Kirinyaga Central Constituency
2. Hon. Njeri Maina, MP - Member of National Assembly, Kirinyaga County

3. Dr. Gacharah John	- County Executive Committee Member, Agriculture, Kirinyaga County
4. Hon. Eric Muriithi Muchina	-Member of County Assembly, Kerugoya Ward, Kirinyaga County Assembly
5. Hon. CPA Waziri Moses	- Member of County Assembly, Kanyeki-Ini Ward, Kirinyaga County Assembly
6. Hon. Caroline W. Muriithi	-Member of County Assembly, Karumandi Ward, Kirinyaga County Assembly
7. Hon. Daisy Githinji	-Member of County Assembly, Kabare Ward, Kirinyaga County Assembly
8. Hon. David Mathenge	-Member of County Assembly, Baragwi Ward, Kirinyaga County Assembly
9. Mr. Daniel M. Ndege	-Deputy County Commissioner Kirinyaga Central
10. Ms. Florence Mbithe	- Deputy Sub-County Police Commander Kirinyaga Central
11. Ms. Faith Kiilu	- National Intelligence Service, Kirinyaga Central
12. Mr. Isaac Kariuki	- Deputy Sub-County Commander Critical Infrastructure Protection Unit
13. Mr. Kanyi Kongo	- Mununga Tea Factory, Kirinyaga County
14. Mr. Patrick Maina Kinguru	- Mununga Tea Factory, Kirinyaga County
15. Ms. Florence Wanjiku Kinyua	- Kangeita Tea Factory, Kirinyaga County
16. Ms. Ann Wawira Mugo	- Kimunye Tea Factory, Kirinyaga County
17. Mr. Edward Munene	- Kimunye Tea Factory, Kirinyaga County
18. Ms. Ruth Nyawira Magondu	- Ndima Tea Factory, Kirinyaga County
19. Mr. Felix Muriithi Mwai	- Director and Chairman, Kirinyaga Coffee Cooperative Union Ltd
20. Mr. Joseph M. Karaba	- Chairman

MIN.SEN/SCA/177/2023- **PRELIMINARIES**

The Chairperson called the meeting to order at 10.30 a.m. followed by a word of prayer and introductions.

MIN/SEN/SCA/178/2023- **ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted after it was proposed by Sen. Wafula Wakoli, MP and seconded by Sen. Allan Kiprotich Chesang, MP as follows-

1. Prayer;
2. Introductions;
3. ***Introductory Remarks on the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023;***
4. ***Overview of the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023;***
5. ***Submissions by the Public on the Tea (Amendment) Bill, 2023 in Kirinyaga County;***

6. ***Overview of the Coffee Bill, 2023 (Senate Bills No. 10 of 2023)***;
7. ***Submissions by the Public on the Coffee Bill, 2023 (Senate Bills No. 10 of 2023);***
8. Closing Remarks and Adjournment

MIN/SEN/SCA/179/2023- **INTRODUCTORY REMARKS AND OVERVIEW ON THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 10 OF 2023**

The Chairperson introduced the Bill to the Public citing Tea's importance to the country's Gross Domestic Product and a top earner of Foreign Exchange.

MIN/SEN/SCA/180/2023- **OVERVIEW OF THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 10 OF 2023)**

The public was taken through the overview of the Bill by the Chairperson Sen. James Kamau Murango, MP. He mentioned that the Bill proposes to provide for direct sales of tea, the payment of tea proceeds, and for connected purposes.

The chairperson informed the public that the persons benefiting from the sale of Tea are the middlemen and not farmers. Further, he reiterated that the payments of Tea made in Dollars should trickle down to the farmer in the same currency to allow them to look for the best foreign exchange rate instead of them receiving payment in Kenyan Shillings thus leaving them open to exploitation.

He informed the public that the important clauses in the bill are-

1. **Clause 3 and Clause 4** which provides for the Amendment of the Principal Act to ensure that members of the Tea Board take into account gender balance and regional and other diversities of Kenyan People and also to set limits on the tenure of the Board Membership to 2 terms of three years each;
2. **Clause 10** which provides for the Amendment of the Principal Act to allow for factories to participate in the tea auction directly and not through a management agent and to allow for creation of tea auctions in the tea growing counties;
3. **Clause 11** which provides for the Amendment of the Principal Act to allow for Direct Sales after making tea proceeds to be deposited under a Direct Settlement System (DSS); and
4. **Clause 15** which provides for the Amendment of the Principal Act to return all immovable assets of the former Tea Board of Kenya and the Former Tea Research Foundation of Kenya from where they are vested in the Agriculture

and Food Authority and Kenya Agricultural and Livestock Research Organization by virtue of commencement of the Crops Act and the Kenya Agricultural and Livestock Research Organization Act.

MIN/SEN/SCA/181/2023- **SUBMISSIONS BY MEMBERS OF THE PUBLIC ON THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 10 OF 2023)**

The members of the public were invited to submit their views on the Bill and were informed that their submissions would be included in the Bill for consideration by the Committee in the bill after being formulated in the legal format.

The farmers submitted as follows:

1. That, pricing for tea should be based on the quality off tea instead of having one standard price across the board;
2. That, the establishment of Local Tea Auctions would help in the direct sales which is envisioned to offer better settlement; and
3. That, there should be harmonization of prices across the different regions to ensure that no farmer felt exploited by planting and selling tea in a certain region.

MIN/SEN/SCA/182/2023- **OVERVIEW OF THE COFFEE BILL, 2023 (SENATE BILLS NO.10 OF 2023)**

The public was taken through the overview of the Bill by the Chairperson Sen. James Kamau Murango, MP. He mentioned that the Bill proposes to provide for the establishment of the Coffee Board of Kenya, and the Coffee Research Institute; to provide for the role of the National and the county governments, provide for the regulation, development and promotion of coffee industry and for connected purposes.

The public was briefed that the persons benefiting from the sale of Coffee are the middlemen and not farmers. Further, he reiterated that the payments of Coffee sales made in Dollars should trickle down to the farmer in the same currency to allow them to look for the best foreign exchange rate instead of them receiving payment in Kenyan Shillings via the direct settlement system implemented by certain banks that left the farmer open to exploitation.

He informed the public that the important clauses in the bill are-

1. **Clauses under Part II** which provide a framework for the establishment of a Board to be known as the Coffee Board of Kenya;
2. **Clauses under Part III** which provides for the Roles of County Governments; and
3. **Clauses under Part VI** which provides for Direct Sales and auctioning at the Coffee Exchange.

MIN/SEN/SCA/183/2023- **SUBMISSIONS BY MEMBERS OF THE PUBLIC ON THE COFFEE BILL, 2023 IN KIRINYAGA COUNTY)**

The members of the public were invited to submit their views on the Bill and were informed that their submissions would be included in the Bill for consideration by the Committee in the bill after being formulated in the legal format.

The public submitted as follows:

1. That, the direct settlement system currently in place needed to be changed to RTGS which was working fine;
2. That, farmers should be able to roast, market and sell their coffee as they see fit without being tied down by specific rules;
3. That, there should be an online database to show the sales done, buyers and sellers of Coffee and what areas were most preferred on the Coffee markets; and
4. That, representation by Coffee Farmers as Members of the Board should be the majority.

MIN/SEN/SCA/184/2023- **CLOSING REMARKS AND ADJOURNMENT**

The Chairperson thanked Members of the Public for showing up to make Submissions on the Bill, and the meeting was adjourned at 1:30 pm.

SIGNED: ..... **DATE:** .....29/5/2023.....

SEN. JAMES KAMAU MURANGO, MP

(CHAIRPERSON)

MINUTES OF THE TWENTY-FOURTH SITTING OF THE SENATE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES, HELD ON SUNDAY, 7TH MAY, 2023 AT ST. LUKES BOYS HIGH SCHOOL, BUNGOMA COUNTY AT 10:00 A.M.

PRESENT

1. **Sen. James Kamau Murango, MP - Chairperson**
2. **Sen. Alexander Munyi Mundigi, MP - Vice-Chairperson**
3. Sen. Beth Kalunda Syengo, MP - Member
4. Sen. Wahome Wamatinga, MP - Member
5. Sen. Allan Kiprotich Chesang, MP - Member
6. Sen. David Wafula Wakoli, MP - Member

ABSENT WITH APOLOGIES

1. Sen. Enoch Kiio Wambua, CBS, MP, - Member
2. Sen. Moses Otieno Kajwang', MP - Member
3. Sen. Daniel Kitonga Maanzo, MP - Member

SECRETARIAT

1. Ms. Caroline Njue - Clerk Assistant
2. Mr. Reinhardt Choge - Clerk Assistant
3. Ms. Regina Munyao - Legal Counsel
4. Mr. Walters Otieno - Legal Counsel
5. Ms. Belinda Ogolla - Research Officer
6. Mr. Hillary Cheruiyot - Research Officer
7. Ms. Violet Nalianya - Media Relations Officer
8. Ms. Rose Ometere - Audio Officer
9. Mr. Abdihabib Dekow - Sergeant-at-Arms

IN ATTENDANCE- ST. LUKES BOYS HIGH SCHOOL

1. H. E. Pst. Janepher Mbatiany - Deputy Governor, Bungoma County
2. Hon. Didmus Wekesa Barasa, MP - Member of National Assembly, Kimilili Constituency
3. Dr. Monica Fedha - County Executive Committee Member, Agriculture, Fisheries, Livestock and Cooperatives

4. Hon. Wafula Waiti - Member of County Assembly, Chairperson, Agriculture Committee, Bungoma County Assembly
5. Hon. Idd Chamawi - Member of County Assembly, Vice-Chairperson, Agriculture Committee, Bungoma County Assembly
6. Mr. Joseph K. Ngomat - Tea Farmer, Bungoma County
7. Mr. Seth Rama Masaya - Tea Farmer, Bungoma County
8. Mr. Eliud N. Chekwanda - Tea Farmer, Bungoma County
9. Mr. Pius Muyei - Tea Farmer, Bungoma
10. Mr. David Simotwa - Tea Farmer, Bungoma
11. Col. (Rtd) Cherotwei Simotwo - Tea Farmer, Bungoma
12. Mr. Philip Ndiema - Mt. Elgon Coffee Farmers Union Ltd
13. Ms. Shabbih Ashah Odunga - Kamusinde Farmer's Cooperative Sacco
14. Mr. Joseph C. Mengisa - Coffee and Tea Farmer
15. Ms. Prisca Mayende - Lukhulalu Coffee
16. Mr. Joseph Malaka - Chesikaki Coffee Factory
17. Mr. Abraham Kunikina - Kimabole Coffee Cooperative Society
18. Mr. Amos Chestit - Emanang Farmers Coffee Sacco Ltd
19. Col. (Rtd) Tom Wanabisi - Vice Chairperson CEPA
20. Mr. David Wanjala Temba - Khamulati Farmer's Cooperative Society
21. Mr. Peter Lutukayi Wamunyokoli - Sirisia Farmers
22. Mr. Emmanuel Decy Awori - Kimilili DCC Office

MIN.SEN/SCA/169/2023- PRELIMINARIES

The Chairperson called the meeting to order at 10.30 a.m. followed by a word of prayer and introductions.

MIN/SEN/SCA/170/2023- ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Wafula Wakoli, MP and seconded by Sen. Allan Kiprotich Chesang, MP as follows-

1. Prayer;
2. Introductions;
3. ***Introductory Remarks on the Tea (Amendment) Bill, 2023 (Senate Bills No. 10 of 2023) by the Committee Chairperson;***
4. ***Overview of the Tea (Amendment) Bill, 2023 (Senate Bills No. 10 of 2023);***
5. ***Submissions by the Public on the Tea (Amendment) Bill, 2023 (Senate Bills No. 10 of 2023);***
6. ***Overview on the Coffee Bill, 2023 (Senate Bills No. 10 of 2023);***
7. ***Submissions by the Public on the Coffee Bill, 2023 (Senate Bills No. 10 of 2023); and***
8. Closing Remarks and Adjournment.

MIN/SEN/SCA/171/2023- **INTRODUCTORY REMARKS AND OVERVIEW ON THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 10 OF 2023**

The Chairperson introduced the Bill to the Public and gave a brief overview of the Bill citing Tea's importance to the country's Gross Domestic Product and a top earner of Foreign Exchange.

MIN/SEN/SCA/172/2023- **OVERVIEW OF THE TEA (AMENDMENT) BILL, 2023 SENATE BILLS NO. 10 OF 2023**

The public was taken through the overview of the Bill by the Chairperson Sen. James Kamau Murango, MP. He mentioned that the Bill proposes to provide for direct sales of tea, the payment of tea proceeds, and for connected purposes.

The chairperson informed the public that the persons benefiting from the sale of Tea are the middlemen and not farmers. Further, he reiterated that the payments of Tea made in Dollars should trickle down to the farmer in the same currency to allow them to look for the best foreign exchange rate instead of them receiving payment in Kenyan Shillings thus leaving them open to exploitation.

He informed the public that the important clauses in the bill are-

1. **Clause 3 and Clause 4** which provides for the Amendment of the Principal Act to ensure that members of the Tea Board take into account gender balance and regional and other diversities of Kenyan People and also to set limits on the tenure of the Board Membership to 2 terms of three years each;
2. **Clause 10** which provides for the Amendment of the Principal Act to allow for factories to participate in the tea auction directly and not through a management agent and to allow for creation of tea auctions in the tea growing counties;
3. **Clause 11** which provides for the Amendment of the Principal Act to allow for Direct Sales after making tea proceeds to be deposited under a Direct Settlement System (DSS); and
4. **Clause 15** which provides for the Amendment of the Principal Act to return all immovable assets of the former Tea Board of Kenya and the Former Tea Research Foundation of Kenya from where they are vested in the Agriculture and Food Authority and Kenya Agricultural and Livestock Research Organization by virtue of commencement of the Crops Act and the Kenya Agricultural and Livestock Research Organization Act.

MIN/SEN/SCA/173/2023- **SUBMISSIONS BY MEMBERS OF THE PUBLIC ON THE TEA(AMENDMENT) BILL, 2023**

The members of the public were invited to submit their views on the Bill and were informed that their submissions would be included in the Bill for consideration by the Committee in the bill after being formulated in the legal format.

The public submitted as follows:

1. That, factories should be established for Bungoma Farmers as their green tea was currently being taken outside the County for processing;
2. That, the establishment of Local Tea Auctions would help in the direct sales which is envisioned to offer better settlement;
3. That, farmers further called for the harmonization of prices across the different regions to ensure that no farmer felt exploited by planting and selling tea in a certain region.

MIN/SEN/SCA/174/2023- **OVERVIEW OF THE COFFEE BILL, 2023 (SENATE BILLS NO.10 OF 2023)**

The public was taken through the overview of the Bill by the Chairperson Sen. James Kamau Murango, MP. He mentioned that the Bill proposes to provide for the establishment of the Coffee Board of Kenya, and the Coffee Research Institute; to provide for the role of the National and the county governments, provide for the regulation, development and promotion of coffee industry and for connected purposes.

The public was briefed that the persons benefiting from the sale of Coffee are the middlemen and not farmers. Further, he reiterated that the payments of Coffee sales made in Dollars should trickle down to the farmer in the same currency to allow them to look for the best foreign exchange rate instead of them receiving payment in Kenyan Shillings via the direct settlement system implemented by certain banks that left the farmer open to exploitation.

He informed the public that the important clauses in the bill are-

1. **Clauses under Part II** which provide a framework for the establishment of a Board to be known as the Coffee Board of Kenya;
2. **Clauses under Part III** which provides for the Roles of County Governments; **and**
3. **Clauses under Part VI** which provides for Direct Sales and auctioning at the Coffee Exchange.

MIN/SEN/SCA/175/2023- **SUBMISSIONS BY MEMBERS OF THE PUBLIC ON THE COFFEE BILL, 2023 (SENATE BILLS NO.10 OF 2023)**

The members of the public were invited to submit their views on the Bill and were informed that their submissions would be included in the Bill for consideration by the Committee in the bill after being formulated in the legal format.

The public submitted as follows:

1. That, the Direct Settlement System (DSS) currently in place needed to be changed so that the money would arrive in the Farmers accounts in the currency that the coffee was sold in instead of the banks determining what exchange rate to give;
2. That, Cherry Hawking should be a disallowed practice as it contributed to the losses and thefts suffered by farmers; and
3. That, farmers wanted a representation of Coffee Farmers as Members on the Board.

MIN/SEN/SCA/176/2023- **CLOSING REMARKS AND ADJOURNMENT**

The Chairperson thanked Members of the Public for showing up to make Submissions on the Bill, and the meeting was adjourned at 5:00 pm.

SIGNED: ..... DATE: ...29/5/2023.....

SEN. JAMES KAMAU MURANGO, MP

(CHAIRPERSON)

MINUTES OF THE TWENTY-THIRD SITTING OF THE SENATE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES, HELD ON SATURDAY, 6TH MAY, 2023 AT KIPKELION COFFEE MILLS, KERICHO COUNTY AT 2:00 P.M.

PRESENT

1. **Sen. James Kamau Murango, MP** - **Chairperson**
2. **Sen. Alexander Munyi Mundigi, MP** - **Vice-Chairperson**
3. Sen. Beth Kalunda Syengo, MP - Member
4. Sen. Wahome Wamatinga, MP - Member
5. Sen. Allan Kiprotich Chesang, MP - Member
6. Sen. David Wafula Wakoli, MP - Member

ABSENT WITH APOLOGIES

1. Sen. Enoch Kiio Wambua, CBS, MP, - Member
2. Sen. Moses Otieno Kajwang', MP - Member
3. Sen. Daniel Kitonga Maanzo, MP - Member

SECRETARIAT

1. Ms. Caroline Njue - Clerk Assistant
2. Mr. Reinhardt Choge - Clerk Assistant
3. Ms. Regina Munyao - Legal Counsel
4. Mr. Walters Otieno - Legal Counsel
5. Ms. Belinda Ogolla - Research Officer
6. Mr. Hillary Cheruiyot - Research Officer
7. Ms. Violet Nalianya - Media Relations Officer
8. Ms. Rose Ometere - Audio Officer
9. Mr. Abdihabib Dekow - Sergeant-at-Arms

IN ATTENDANCE- **KIPKELION COFFEE MILLS**

1. Hon. Daniel K. Rop - County Executive Committee Member, ICT
2. Mr. Festus Bett - Kipkelion District Cooperative Union Ltd
3. Mr. Joseph K. Ruto - Coffee Estates – Chairperson

MIN.SEN/SCA/163/2023- **PRELIMINARIES**

The Chairperson called the meeting to order at 10.30 a.m. followed by a word of prayer and introductions.

MIN/SEN/SCA/164/2023- **ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted after it was proposed by Sen. Wahome Wamatinga, MP and seconded by Sen. Allan Kiprotich Chesang, MP as follows-

1. Prayer;
2. Introductions;
3. Introductory Remarks on the Coffee Bill, 2023 (Senate bills No. 10 of 2023) by the Committee Chairperson;
4. ***Overview of the Coffee Bill, 2023 (Senate Bills (Senate Bills No. 10 of 2023)***;
5. ***Submissions by the Public on the Coffee Bill, 2023) (Senate Bills No. 10 of 2023) in;***
6. Closing Remarks and Adjournment

MIN/SEN/SCA/165/2023- **INTRODUCTORY REMARKS ON THE COFFEE BILL, 2023 (SENATE BILLS NO. 10 OF 2023) BY THE COMMITTEE CHAIRPERSON**

The Chairperson introduced the Bill to the Public and gave a brief overview of the Bill citing Coffee's importance to the country's Gross Domestic Product and a top earner of Foreign Exchange.

MIN/SEN/SCA/166/2023- **OVERVIEW OF THE COFFEE BILL, 2023 (SENATE BILLS NO. 10 OF 2023)**

The public was taken through the overview of the Bill by the Chairperson Sen. James Kamau Murango, MP.

The Bill proposes to provide for the establishment of the Coffee Board of Kenya, and the Coffee Research Institute, to provide for the role of the National and the county governments, provide for the regulation, development and promotion of coffee industry; and for connected purposes.

The public was briefed that the persons benefiting from the sale of Coffee are the middlemen and not farmers. Further, he reiterated that the payments of Coffee sales made in Dollars should trickle down to the farmer in the same currency to allow them to look for the best foreign exchange rate instead of them receiving payment in Kenyan Shillings via the direct settlement system implemented by certain banks that left the farmer open to exploitation.

He informed the public that the important clauses in the bill are-

1. **Clauses under Part II** which provide a framework for the establishment of a Board to be known as the Coffee Board of Kenya;
2. **Clauses under Part III** which provides for the Roles of County Governments; and
3. **Clauses under Part VI** which provides for Direct Sales and auctioning at the Coffee Exchange.

MIN/SEN/SCA/167/2023- **SUBMISSIONS BY MEMBERS OF THE PUBLIC ON THE COFFEE BILL, 2023 IN KERICHO COUNTY)**

The members of the public were invited to submit their views on the Bill and were informed that their submissions would be included in the Bill for consideration by the Committee in the bill after being formulated in the legal format.

The public submitted as follows:

1. That, the Direct Settlement System (DSS) currently in place needed to be changed so that the money would arrive in the Farmers accounts in the currency that the coffee was sold in instead of the banks determining what exchange rate to give;
2. That, Cherry Hawking should be a disallowed practice as it contributed to the losses and thefts suffered by farmers; and
3. That, farmers wanted a representation of Coffee Farmers as Members on the Board.

MIN/SEN/SCA/168/2023- **CLOSING REMARKS AND ADJOURNMENT**

The Chairperson thanked Members of the Public for showing up to make Submissions on the Bill, and the meeting was adjourned at 5:00 pm.

SIGNED: ..... **DATE:** .....29/5/2023.....

SEN. JAMES KAMAU MURANGO, MP

(CHAIRPERSON)

MINUTES OF THE TWENTY-SECOND SITTING OF THE SENATE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES, HELD ON SATURDAY, 6TH MAY, 2023 AT SOSIOT GIRLS SECONDARY SCHOOL, KERICHO COUNTY AT 10:00 A.M.

PRESENT

1. **Sen. James Kamau Murango, MP** - **Chairperson**
2. **Sen. Alexander Munyi Mundigi, MP** - **Vice-Chairperson**
3. Sen. Beth Kalunda Syengo, MP - Member
4. Sen. Wahome Wamatinga, MP - Member
5. Sen. Allan Kiprotich Chesang, MP - Member
6. Sen. David Wafula Wakoli, MP - Member

ABSENT WITH APOLOGIES

1. Sen. Enoch Kiio Wambua, CBS, MP, - Member
2. Sen. Moses Otieno Kajwang', MP - Member
3. Sen. Daniel Kitonga Maanzo, MP - Member

SECRETARIAT

1. Ms. Caroline Njue - Clerk Assistant
2. Mr. Reinhardt Choge - Clerk Assistant
3. Ms. Regina Munyao - Legal Counsel
4. Mr. Walters Otieno - Legal Counsel
5. Ms. Belinda Ogolla - Research Officer
6. Mr. Hillary Cheruiyot - Research Officer
7. Ms. Violet Nalianya - Media Relations Officer
8. Ms. Rose Ometere - Audio Officer
9. Mr. Abdihabib Dekow - Sergeant-at-Arms

IN ATTENDANCE- SOSIOT GIRLS SECONDARY SCHOOL

1. Sen. Wakili Hilary Sigei - Senator, Bomet County – Bill Sponsor
2. Ms. Esther Kaptingei - Principal, Sosiot Girls Secondary School
3. Mr. James Koech - Momul Tea Factory
4. Mr. Joel Kirui - Vice-Chair, ML14 Tea Buying Centre

5. Mr. David Rono - Momul Tea Factory Ltd
6. Gideon K. Langat - Momul Tea Factory Ltd
7. Mr. Theophilus K. Mibei - Litein Factory
8. Mr. Isiah Langat - Momul Tea Factory
9. Mr. John Chepkwony - Momul Tea Factory
10. Mr. Joseph Rono - Tegat Tea Factory
11. Mr. Lawrence Langat - Tegat Tea Factory

MIN.SEN/SCA/157/2023- **PRELIMINARIES**

The Chairperson called the meeting to order at 10.30 a.m. followed by a word of prayer and introductions.

MIN/SEN/SCA/158/2023- **ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted after it was proposed by Sen. Wahome Wamatinga, MP and seconded by Sen. Allan Kiprotich Chesang, MP as follows-

1. Prayer;
2. Introductions;
3. Introductory Remarks on the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023) by the Committee Chairperson;
4. ***Overview of the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023)*** **(Senate Bills No. 1 of 2023);**
5. ***Submissions by the Public on the Tea (Amendment) Bill, 2023 (Senate bills No. 1 of 2023); and***
6. Closing Remarks and Adjournment.

MIN/SEN/SCA/159/2023- **INTRODUCTORY REMARKS ON THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 1 OF 2023) BY THE COMMITTEE CHAIRPERSON**

The Chairperson introduced the Bill to the Public and further invited the Area Senator and Bill Sponsor to give an overview of the Bill citing Tea's importance to the country's Gross Domestic Product and a top earner of Foreign Exchange.

MIN/SEN/SCA/160/2023- **OVERVIEW OF THE TEA (AMENDMENT) BILL, 2023 (SENATE BILS NO. 1 OF 2023**

The public was taken through the overview of the Bill by the sponsor Sen. Wakili Hillary Sigei, MP. He outlined that the Bill proposes to provide for direct sales of tea, the payment of tea proceeds, and for connected purposes.

The sponsor informed the public that the persons benefiting from the sale of Tea are the middlemen and not farmers. Further, he reiterated that the payments of Tea made

in Dollars should trickle down to the farmer in the same currency to allow them to look for the best foreign exchange rate instead of them receiving payment in Kenyan Shillings thus leaving them open to exploitation.

He informed the public that the important clauses in the bill are-

1. **Clause 3 and Clause 4** which provides for the Amendment of the Principal Act to ensure that members of the Tea Board take into account gender balance and regional and other diversities of Kenyan People and also to set limits on the tenure of the Board Membership to 2 terms of three years each;
2. **Clause 10** which provides for the Amendment of the Principal Act to allow for factories to participate in the tea auction directly and not through a management agent and to allow for creation of tea auctions in the tea growing counties;
3. **Clause 11** which provides for the Amendment of the Principal Act to allow for Direct Sales after making tea proceeds to be deposited under a Direct Settlement System (DSS); and
4. **Clause 15** which provides for the Amendment of the Principal Act to return all immovable assets of the former Tea Board of Kenya and the Former Tea Research Foundation of Kenya from where they are vested in the Agriculture and Food Authority and Kenya Agricultural and Livestock Research Organization by virtue of commencement of the Crops Act and the Kenya Agricultural and Livestock Research Organization Act.

MIN/SEN/SCA/161/2023- **SUBMISSIONS BY MEMBERS OF THE PUBLIC ON THE TEA(AMENDMENT) BILL, 2023 (SENATE BILLS NO. 1 OF 2023) IN BOMET COUNTY**

The members of the public were invited to submit their views on the Bill and were informed that their submissions would be included in the Bill for consideration by the Committee in the bill after being formulated in the legal format.

The public submitted as follows:

1. That, the addition of Board Members for Satellite Factories that had already achieved profitability as they are able to produce as much if not more than the mother factories. The Board Members should have no affiliation or interests with other factories dealing with tea and (or) tea products;
2. That, Board Members of the Tea Board of Kenya should be Tea Growers and supported the Amendment to allow for inclusivity of gender and regional balance;

3. That, farmers support Clause 11 which supports Direct Sales and direct settlement of Tea Proceeds;
4. That, farmers opined that the Tea Levy be reduced from 1% to 0.5%; and
5. That, farmers further called for the Tea Research Foundation to have offices closer to the farmers.

COMMITTEE OBSERVATION

The Committee observed that payments from sale of tea to farmers should be paid directly to the farmers in the same currency that is in Dollars or Kenya shillings, and should be settled by Real-Time Gross Settlement (RTGS).

MIN/SEN/SCA/162/2023- CLOSING REMARKS AND ADJOURNMENT

The Chairperson thanked Members of the Public for showing up to make Submissions on the, the meeting was adjourned at 12:45 pm.

SIGNED: ..... DATE: .....29/5/2023.....

SEN. JAMES KAMAU MURANGO, MP

(CHAIRPERSON)

MINUTES OF THE TWENTY-FIRST SITTING OF THE SENATE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES, HELD ON FRIDAY, 5TH MAY, 2023 AT MOTIGO PRIMARY SCHOOL, BOMET COUNTY AT 2:00 P.M.

PRESENT

1. **Sen. James Kamau Murango, MP**	-	**Chairperson**
2. **Sen. Alexander Munyi Mundigi, MP**	-	**Vice-Chairperson**
3. Sen. Beth Kalunda Syengo, MP	-	Member
4. Sen. Wahome Wamatinga, MP	-	Member
5. Sen. Daniel Kitonga Maanzo, MP	-	Member
6. Sen. Allan Kiprotich Chesang, MP	-	Member
7. Sen. David Wafula Wakoli, MP	-	Member

ABSENT WITH APOLOGIES

1. Sen. Enoch Kiio Wambua, CBS, MP,	-	Member
2. Sen. Moses Otieno Kajwang', MP	-	Member

SECRETARIAT

1. Ms. Caroline Njue	-	Clerk Assistant
2. Mr. Reinhardt Choge	-	Clerk Assistant
3. Ms. Regina Munyao	-	Legal Counsel
4. Mr. Walters Otieno	-	Legal Counsel
5. Ms. Belinda Ogolla	-	Research Officer
6. Mr. Hillary Cheruiyot	-	Research Officer
7. Ms. Violet Nalianya	-	Media Relations Officer
8. Ms. Rose Ometere	-	Audio Officer
9. Mr. Abdihabib Dekow	-	Sergeant-at-Arms

IN ATTENDANCE- **MOTIGO PRIMARY SCHOOL**

1. Sen. Wakili Hilary Sigei	-	Senator, Bomet County – Bill Sponsor
2. Hon. Chepkuto J. Juliah	-	County Executive Committee Member Trade, Energy, Tourism and Industry
3. Mr. Joseph Rono Chumo	-	Farmer – Kapkoros Tea Factory
4. Mr. Kiprono B. Langat	-	Farmer – Kapkoros Tea Factory

5. Mr. Kipkorir Chepkwony - Farmer – Kapkoros Tea Factory
6. Mr. Eric Kimutai Langat - Farmer – Tirgaga Tea Factory
7. Mr. Bernardict Langat - Farmer – Motigo Tea Factory
8. Mr. Willy Ngeno - Farmer – Motigo Tea Factory
9. Mr. Kipkoech Kigen - Farmer – Motigo Tea Factory
10. Mr. Joseph K. Sang - Farmer – Olengruone Tea Factory

MIN.SEN/SCA/151/2023- **PRELIMINARIES**

The Chairperson called the meeting to order at 2.23 p.m. followed by a word of prayer and introductions.

MIN/SEN/SCA/152/2023- **ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted after it was proposed by Sen. Wahome Wamatinga, MP and seconded by Sen. Beth Kalunda Syengo, MP as follows-

1. Prayer;
2. Introductions;
3. Introductory Remarks on the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023) by the Committee Chairperson;
4. ***Overview of the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023)*** **(Senate Bills No. 1 of 2023);**
5. ***Submissions by the Public on the Tea (Amendment) Bill, 2023 (Senate bills No. 1 of 2023)****; and*
6. Closing Remarks and Adjournment.

MIN/SEN/SCA/153/2023- **INTRODUCTORY REMARKS ON THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 1 OF 2023) BY THE COMMITTEE CHAIRPERSON**

The Chairperson introduced the Bill to the Public and further invited the Area Senator and Bill Sponsor to give an overview of the Bill citing Tea's importance to the country's Gross Domestic Product and a top earner of Foreign Exchange.

MIN/SEN/SCA/154/2023- **OVERVIEW OF THE TEA (AMENDMENT) BILL, 2023 (SENATE BILS NO. 1 OF 2023**

The public was taken through the overview of the Bill by the sponsor Sen. Wakili Hillary Sigei, MP. He stated that the Bill proposes to provide for direct sales of tea, the payment of tea proceeds and for connected purposes.

The sponsor informed the public that the persons benefiting from the sale of Tea are the middlemen and not farmers. Further, he reiterated that the payments of Tea made

in Dollars should trickle down to the farmer in the same currency to allow them to look for the best foreign exchange rate instead of them receiving payment in Kenyan Shillings thus leaving them open to exploitation.

He informed the public that the important clauses in the bill are-

1. **Clause 3 and Clause 4** which provides for the Amendment of the Principal Act to ensure that members of the Tea Board take into account gender balance and regional and other diversities of Kenyan People and also to set limits on the tenure of the Board Membership to 2 terms of three years each;
2. **Clause 10** which provides for the Amendment of the Principal Act to allow for factories to participate in the tea auction directly and not through a management agent and to allow for creation of tea auctions in the tea growing counties;
3. **Clause 11** which provides for the Amendment of the Principal Act to allow for Direct Sales after making tea proceeds to be deposited under a Direct Settlement System (DSS); and
4. **Clause 15** which provides for the Amendment of the Principal Act to return all immovable assets of the former Tea Board of Kenya and the Former Tea Research Foundation of Kenya from where they are vested in the Agriculture and Food Authority and Kenya Agricultural and Livestock Research Organization by virtue of commencement of the Crops Act and the Kenya Agricultural and Livestock Research Organization Act.

MIN/SEN/SCA/155/2023- **SUBMISSIONS BY MEMBERS OF THE PUBLIC ON THE TEA(AMENDMENT) BILL, 2023 (SENATE BILLS NO. 1 OF 2023) IN BOMET COUNTY**

The members of the public were invited to submit their views on the Bill and were informed that their submissions would be included in the Bill for consideration by the Committee in the bill after being formulated in the legal format.

The public submitted as follows:

1. That, the addition of Board Members for Satellite Factories that had already achieved profitability as they are able to produce as much if not more than the mother factories. The Board Members should have no affiliation or interests with other factories dealing with tea and (or) tea products;
2. That, Board Members of the Tea Board of Kenya should be Tea Growers and supported the Amendment to allow for inclusivity of gender and regional balance;

3. That, farmers support Clause 11 which supports Direct Sales and direct settlement of Tea Proceeds;
4. That, farmers opined that the Tea Levy be reduced from 1% to 0.5%; and
5. That, farmers further called for the Tea Research Foundation to have offices closer to the farmers.

COMMITTEE OBSERVATION

The Committee observed that payments from sale of tea to farmers should be paid directly to the farmers in the same currency that is in Dollars or Kenya shillings, and should be settled by Real-Time Gross Settlement (RTGS).

MIN/SEN/SCA/156/2023 **CLOSING REMARKS AND ADJOURNMENT**

The Chairperson thanked Members of the Public for showing up to make Submissions on the Bill, and the meeting was adjourned at 4:45 pm.

SIGNED: ..... DATE: .....

SEN. JAMES KAMAU MURANGO, MP

(CHAIRPERSON)

MINUTES OF THE TWENTIETH SITTING OF THE SENATE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES, HELD ON FRIDAY, 5TH MAY, 2023 AT MOGOGOSIEK TEA FACTORY, BOMET COUNTY AT 10:00 A.M.

PRESENT

1. **Sen. James Kamau Murango, MP - Chairperson**
2. **Sen. Alexander Munyi Mundigi, MP - Vice-Chairperson**
3. Sen. Daniel Kitonga Maanzo, MP - Member
4. Sen. Beth Kalunda Syengo, MP - Member
5. Sen. Wahome Wamatinga, MP - Member
6. Sen. Allan Kiprotich Chesang, MP - Member
7. Sen. David Wafula Wakoli, MP - Member

ABSENT WITH APOLOGIES

1. Sen. Enoch Kiio Wambua, CBS, MP, - Member
2. Sen. Moses Otieno Kajwang', MP - Member

SECRETARIAT

1. Ms. Caroline Njue - Clerk Assistant
2. Mr. Reinhardt Choge - Clerk Assistant
3. Ms. Regina Munyao - Legal Counsel
4. Mr. Walters Otieno - Legal Counsel
5. Ms. Belinda Ogolla - Research Officer
6. Mr. Hillary Cheruiyot - Research Officer
7. Ms. Violet Nalianya - Media Relations Officer
8. Ms. Rose Ometere - Audio Officer
9. Mr. Abdihabib Dekow - Sergeant-at-Arms

IN ATTENDANCE - MOGOGOSIEK TEA FACTORY

1. Sen. Wakili Hilary Sigei - Senator, Bomet County – Bill Sponsor
2. Hon. Ernest Rotich - Member of County Assembly, Mogogosiek Ward, Bomet County
3. Mr. John K. Too - Farmer – Mogogosiek Tea Factory
4. Mr. Brian Ngeno - Farmer – Mogogosiek Tea Factory

5. Mr. Joel K. Koech - Farmer – Mogogosiek Tea Factory
6. Mr. Filbert Korir - Farmer – Kapset Tea Factory
7. Mr. Cheruiyot Bahach - Farmer – Kapset Tea Factory
8. Mr. John K. Towett - Farmer – Kobel Tea Factory
9. Mr. Richard K. Tonui - Farmer – Kobel Tea Factory
10. Mr. Kipkirui Siele - Farmer – Boito Tea Factory
11. Mr. Patrick Langat - Farmer – Boito Tea Factory
12. Mr. Wilson Bii - Farmer – Boito Tea Factory
13. Mr. John K. Cheluget - Farmer – MG 030593

MIN.SEN/SCA/145/2023- **PRELIMINARIES**

The Chairperson called the meeting to order at 10.30 a.m. followed by a word of prayer and introductions.

MIN/SEN/SCA/146/2023- **ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted after it was proposed by Sen. Daniel Kitonga Maanzo, MP and seconded by Sen. Beth Kalunda Syengo, MP as follows-

1. Prayer;
2. Introductions;
3. Introductory Remarks on the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023) by the Committee Chairperson;
4. ***Overview of the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023)*** **(Senate Bills No. 1 of 2023);**
5. ***Submissions by the Public on the Tea (Amendment) Bill, 2023 (Senate bills No. 1 of 2023)****; and*
6. Closing Remarks and Adjournment.

MIN/SEN/SCA/147/2023- **INTRODUCTORY REMARKS ON THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 1 OF 2023)**

The Chairperson introduced the Bill to the Public and further invited the area Senator and Bill Sponsor to give an overview of the Bill citing Tea's importance to the country's Gross Domestic Product and a top earner of Foreign Exchange.

MIN/SEN/SCA/148/2023- **OVERVIEW OF THE TEA (AMENDMENT) BILL, 2023 (SENATE BILS NO. 1 OF 2023)**

The public was taken through the overview of the Bill by the sponsor Sen. Wakili Hillary Sigei, MP. He outlined that the Bill proposes to provide for direct sales of tea, the payment of tea proceeds and for connected purposes.

The sponsor informed the public that the persons benefiting from the sale of Tea are the middlemen and not farmers. Further, he reiterated that the payments of Tea made in Dollars should trickle down to the farmer in the same currency to allow them to look for the best foreign exchange rate instead of them receiving payment in Kenyan Shillings thus leaving them open to exploitation.

He informed the public that the important clauses in the bill are-

1. **Clause 3 and Clause 4** which provides for the Amendment of the Principal Act to ensure that members of the Tea Board take into account gender balance and regional and other diversities of Kenyan People and also to set limits on the tenure of the Board Membership to 2 terms of three years each;
2. **Clause 10** which provides for the Amendment of the Principal Act to allow for factories to participate in the tea auction directly and not through a management agent and to allow for creation of tea auctions in the tea growing counties;
3. **Clause 11** which provides for the Amendment of the Principal Act to allow for Direct Sales after making tea proceeds to be deposited under a Direct Settlement System (DSS); and
4. **Clause 15** which provides for the Amendment of the Principal Act to return all immovable assets of the former Tea Board of Kenya and the Former Tea Research Foundation of Kenya from where they are vested in the Agriculture and Food Authority and Kenya Agricultural and Livestock Research Organization by virtue of commencement of the Crops Act and the Kenya Agricultural and Livestock Research Organization Act.

MIN/SEN/SCA/149/2023- **SUBMISSIONS BY MEMBERS OF THE PUBLIC ON THE TEA(AMENDMENT) BILL, 2023 (SENATE BILLS NO. 1 OF 2023) IN BOMET COUNTY**

The members of the public were invited to submit their views on the Bill and were informed that their submissions would be included in the Bill for consideration by the Committee in the bill after being formulated in the legal format.

The public submitted as follows:

1. That, the addition of Board Members for Satellite Factories that had already achieved profitability as they are able to produce as much if not more than the mother factories. The Board Members should have no affiliation or interests with other factories dealing with tea and (or) tea products;

2. That, Board Members of the Tea Board of Kenya should be Tea Growers and supported the Amendment to allow for inclusivity of gender and regional balance;
3. That, farmers support Clause 11 which supports Direct Sales and direct settlement of Tea Proceeds;
4. That, farmers opined that the Tea Levy be reduced from 1% to 0.5%; and
5. That, farmers further called for the Tea Research Foundation to have offices closer to the farmers.

COMMITTEE OBSERVATION

The Committee observed that payments from sale of tea to farmers should be paid directly to the farmers in the same currency that is in Dollars or Kenya shillings, and should be settled by Real-Time Gross Settlement (RTGS).

MIN/SEN/SCA/150/2023- CLOSING REMARKS AND ADJOURNMENT

The Chairperson thanked Members of the Public for showing up to make Submissions on the Bill, and the meeting was adjourned at 1:30 pm.

SIGNED: ..... DATE: .....29/5/2023.....

SEN. JAMES KAMAU MURANGO, MP

(CHAIRPERSON)

MINUTES OF THE FOURTH MEETING OF THE SENATE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES, HELD ON TUESDAY, 6TH DECEMBER, 2022 IN COMMITTEE ROOM NO.4, MAIN PARLIAMENT BUILDINGS AT 11:00 A.M.

PRESENT

1. Sen. Alexander Munyi Mundigi, MP	-	**Vice-Chairperson**
2. Sen. Enoch Kiio Wambua, MP,	-	Member
3. Sen. Maureen Tabitha Mutinda, MP	-	Member
4. Sen. Wahome Wamatinga, MP	-	Member
5. Sen. Beth Kalunda Syengo, MP	-	Member

ABSENT WITH APOLOGIES

1. Sen. James Kamau Murango, MP	-	**Chairperson**
2. Sen. Moses Otieno Kajwang', MP	-	Member
3. Sen. Daniel Kitonga Maanzo, MP	-	Member
4. Sen. Allan Kiprotich Chesang, MP	-	Member

SECRETARIAT

1. Mr. Stephen Gikonyo	-	Principal Clerk Assistant II
2. Ms. Regina Munyao	-	Legal Counsel II
3. Ms. Happy Furaha	-	Fiscal Analyst
4. Ms. Bellinda Ogolla	-	Research Officer III
5. Mr. Hillary Cheruiyot	-	Research Officer III
6. Ms. Hawa Abdi	-	Serjeant-At-Arms
7. Ms. Rose Ometere	-	Audio Officer
8. Ms. Violet Nalienya	-	Media Relations Officer

MIN.SEN/SCA/025/2022: - PRELIMINARIES

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

MIN/SEN/SCA/026/2022: - ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Wahome Wamatinga, MP and seconded by Sen. Beth Kalunda Syengo, MP as follows-

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of the Minutes of the Previous Sitting;
4. Matters Arising;
5. **Consideration of a Petition on the Ethics & Anti-Corruption Commission (EACC) graft investigation of West Kano Irrigation Scheme *(Committee Paper No.8);***
6. **Consideration of A Legislative Proposal, The Tea (Amendment) Bill, 2022 *(Committee Paper No.9);***
7. Any Other Business; and
8. Date of the Next Meeting and Adjournment

MIN/SEN/SCA/027/2022:- CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTING

The Minutes of the Third meeting held on Tuesday, 15th November, 2023 were confirmed as a true record of the proceedings after being proposed by Sen. Beth Syengo, MP and seconded by Sen. Wahome Wamatinga, MP.

MIN/SEN/SCA/028/2022:- MATTERS ARISING

There were no matters arising.

MIN/SEN/SCA/029/2022:- CONSIDERATION OF A PETITION ON THE ETHICS AND ANTI-CORRUPTION COMMISSION (EACC) GRAFT INVESTIGATION IN WEST KANO IRRIGATION SCHEME *(COMMITTEE PAPER NO.8)*

The Committee was taken through Committee Paper No. 8 regarding a Petition on Ethics and Anti-Corruption Commission graft investigation in West Kano Irrigation Scheme.

The Committee was informed that the Petitioner had prayed to the Senate to-

a) Carry out a thorough financial inspection of the scheme between 2007 and 2021;
b) Carry out institutional audit of the scheme since inception;
c) Carry out forensic (in-depth) audit of all officials involved in the management of the scheme between 2007 and 2021;

d) Introduce an act of Parliament to regulate autonomy of EACC branches/regional offices and create once centralised management system as EACC current management system has failed to reduce corruption;
e) Notify EACC Kisumu regional office and ombudsman's regional office in Kisumu to carry out their responsibilities according to the Constitution;
f) Table an Act of Parliament to establish Kenya National Farmers Commission to champion for the rights of farmers in Kenya; and
g) Set up a team of experts to identify, establish gaps in the current scheme management system and recommend the best management system and practices to curb excessive mismanagement.

Committee Observation

During deliberations, the Committee noted it would be important to invite the Petitioner for a meeting to give oral submissions and thereafter-

(a) Invite the Chief Executive Officer, West Kano Irrigation Scheme;
(b) Obtain findings of EACC Report No.52966 sub file covering Report (EACC/KSM/FL/NO/89/2015 and EACC Report No.542851;
(c) Invite the National Irrigation Authority; and
(d) Invite the Cabinet Secretary in charge of Irrigation.

Committee Resolution

The Committee noted the contents of the paper; and recommended that the stakeholders as afore-mentioned be invited for meetings after the Senate resumes from the Recess.

MIN/SEN/SCA/030/2022:- CONSIDERATION OF A LEGISLATIVE PROPOSAL, THE TEA (AMENDMENT) BILL, 2022 *(COMMITTEE PAPER NO.9);*

The Committee was taken through Committee Paper No. 9 concerning the Legislative Proposal on the Tea (Amendment) Bill, 2022 sponsored by Sen. Wakili Hillary K. Sigei, MP.

During deliberations the Committee noted that the-

1. Principal objective of the Bill is to amend certain provisions of the Tea Act, 2020 to protect the tea growers' proceeds from mismanagement by factories;
2. Bill also aims to incentivize value addition of tea by exempting value added tea from payment of tea levy;
3. Bill, further, seeks to liberalize the tea industry through direct sales of tea overseas;
4. Bill delegates legislative powers to the Cabinet Secretary, but does not limit fundamental rights and freedoms.

Committee Resolution

Pursuant to Standing order 130 (3) (a) of the Senate Standing Orders Committee considered the legislative proposal and recommended that the Bill be published.

MIN/SEN/SCA/031/2022:- ANY OTHER BUSINESS

The Committee was drawn to the attention of the following-

Foreign trip

The committee was informed that as per the resolution of the Senate Liaison Committee during its sitting held on Thursday, 10th November, 2022 the Committee was scheduled to undertake its foreign travel in January, 2023.

Deliberations ensued and the Committee resolved to attend a training in Dubai, organized by ESAMI on Strategic Food Security Planning from 14th to 22nd January, 2023, and that the delegation will comprise of-

(a) Sen. Alexander Munyi Mundigi, MP	-	**Vice-Chairperson**
(b) Sen. Maureen Tabitha Mutinda, MP	-	Member
(c) Sen. Wahome Wamatinga, MP	-	Member
(d) Sen. Beth Kalunda Syengo, MP	-	Member
(e) Sen. Enoch Kiio Wambua, MP	-	Member

Committee Resolution

The Secretariat was directed to make the necessary arrangements and secure the training to facilitate the delegation to partitipate.

MIN/SEN/SCA/032/2022: - ADJOURNMENT

There being no other business, the meeting was adjourned at 13:00 p.m. The next meeting will be by notice.

SIGNED: ..... **DATE:** 28/2/2023

SEN. JAMES KAMAU MURANGO, MP
(CHAIRPERSON)

APPENDIX 2

THE TEA (AMENDMENT) BILL, 2022

A Bill for

AN ACT of Parliament to amend the Tea Act to provide for direct sales of tea, the payment of tea proceeds, and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Tea (Amendment) Act, 2022. Short title.

2. Section 2 of the Tea Act, in this Act referred to as "the principal Act", is amended— Amendment of section 2. Of No. 23 of 2020.

(a) by deleting the definition of the word "export" and substituting therefor the following new definition—

"export" means to take tea or cause tea to be taken out of Kenya into a foreign country, a Special Economic Zone or an Export Processing Zone;

(b) by deleting the definition of the word "import" and substituting therefor the following new definition—

"import" means to bring tea or cause tea to be brought into Kenya from a foreign country, a Special Economic Zone Enterprise or an Export Processing Zone;

(c) in the definition of the word "tea" by deleting the word "tea" appearing immediately after the words "whether green" and substituting therefor the word "leaf";

(d) in the definition of the word "value addition" by inserting the words "into a packet or a container holding not more than ten kilograms" appearing immediately after the word "branding";

(e) by inserting the following new definitions in the proper alphabetical sequence—

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"direct sales" means a contractual arrangement between a factory and an overseas buyer or local buyer for the sale of made tea based on mutually accepted terms and conditions enforceable in law;

"direct sales overseas" means bulk tea sales exported directly by a tea factory to an export market;

"direct settlement system" means a banking facility provided by a commercial bank regulated by the Central Bank of Kenya for the clearing and settlement of tea sales proceeds;

"green leaf" means leaf detached from tea plants but not dried or processed in any way and includes purple leaf"; and

"tea factory limited company" means a tea factory collectively owned through shares by small scale tea growers.

3. The principal Act is amended in section 7 by – Amendment of section 7 of No. 23 of 2020.

(a) deleting subsection (2) and substituting therefor the following new subsection —

(2) The Cabinet Secretary shall appoint the members under subsection (1)(e), (f), (g) and (h) by notice in the *Gazette*.

(b) deleting subsection (3) and substituting therefor the following new subsection —

(3) The appointment of the chairperson or members of the Board under subsection (1)(a), (e), (f), (g) and (h) and shall take into account the gender, regional and other diversities of the people of Kenya.

4. The principal Act is amended in section 8 by — Amendment of section 8 of No. 23 of 2020.

(a) deleting subsection (1) and substituting therefor the following new subsection —

(1) The persons appointed under section 7(1)(a), (e), (f), (g), and (h), shall serve for a term of three years' renewable once on account of good performance.

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(b) deleting subsection (2) and substituting therefor the following new subsection —

(2) The persons appointed under section 7(1)(a), (e), (f), (g), and (h) shall be appointed at different times so that their respective expiry of terms of office shall fall at different times but not more than six months shall lapse between one appointment and another.

Amendment of section 22 of No. 23 of 2020.

5. Section 22 of the principal Act is amended in subsection (4) by inserting the word "factory" immediately after the words "their duties the".

Amendment of Section 31 of no. 23 of 2020.

6. Section 31 of the principal Act is amended by inserting the following new subsection immediately after subsection (1) —

(1A) All tea brought into a Special Economic Zone Enterprise or an Export Processing Zone shall be declared to the Board in the prescribed form.

Amendment of Section 32 of no. 23 of 2020.

7. Section 32 of the principal Act is amended in subsection (4) by deleting the words "limited company" appearing immediately after the words "a tea factory"

Amendment of Section 34 of no. 23 of 2020.

8. Section 34 of the principal Act is amended in -

(a) subsection (2) by deleting the words "limited company" appearing immediately after the words "each tea factory";

(b) subsection (7) by inserting the words "limited company" immediately after the words "A tea factory",

(c) subsection (8) by inserting the words "limited company" immediately after the words "tea factory";

(d) subsection (9) by inserting the words "limited company" immediately after the words "tea factory"; and

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(e) subsection (10) by inserting the words "limited company" immediately after the words "tea factory".

Insertion of new. section 34A in No. 23 of 2020.

9. The principal Act is amended by inserting the following new sections immediately after section 34—

Tea sales.

34A. (1) Kenyan tea shall be traded through —

(a) the auction; or

(b) direct sales.

(2) All tea processed and manufactured in Kenya for the export market shall be registered with the Board prior to exportation.

Amendment of Section 36 of no. 23 of 2020.

10. Section 36 of the principal Act is amended –

(a) by deleting subsection (1) and substituting therefor the following new subsection —

(1) Tea processed and manufactured in Kenya for the export market may be offered for sale at the tea auction floor.

(b) in subsection (2) by deleting subsection (1) and substituting therefor the following new subsection —

(2) A tea factory intending to participate in a tea auction shall –

(a) register with the Board and the auction organiser; and

(b) participate in the auction directly and not through a management agent.

(c) by deleting subsection (5)

(d) by deleting subsection (6)

(e) by inserting the following new subsection immediately after subsection (7) —

(8) The Cabinet Secretary shall, in consultation with the county governments prescribe regulations for the procedure for auction sales of tea and for the establishment of auction centres in the tea growing counties.

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Insertion of new section 36A in No. 23 of 2020.

11. The principal Act is amended by inserting the following new sections immediately after section 36 —

Direct sales of tea.

36A. (1) A licensed factory or any other entity representing growers may undertake direct sales.

(2) The prices offered at the direct sales shall be competitive and shall be sold at a price above the prevailing reserve price at the auction.

(3) If the tea fetches a higher price at the auction than the direct sales price offered, then the prospective direct sale buyer shall have pre-emptive rights to purchase the tea at the auction price failing which the tea will be sold to the highest bidder.

(4) The Cabinet Secretary shall, in consultation with county governments, prescribe regulations for the procedure of direct sales of tea.

Tea proceeds.

Insertion of new section 36B in No. 23 of 2020.

36B (1) The proceeds from the sale of tea whether through an auction or through a direct sale shall be deposited in a Direct Settlement System.

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

(3) The Cabinet Secretary shall make regulations to provide for the operation of a Direct Settlement System and requirements to be met by commercial banks which express an interest in the establishment of a Direct Settlement System.

Amendment of Section 37 (1) of no. 23 of 2020.

12. Section 37 of the principal Act is amended in subsection (1) by deleting the word "Board" appearing immediately after the words "register with the" and substituting therefor the words "respective county government".

Amendment of Section 53 of no. 23 of 2020

13. Section 53 of the principal Act is amended by —

(a) deleting subsection (2) and substituting therefor the following new subsection —

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(2) The levy imposed under subsection (1) shall be collected by the Board at a rate not exceeding three shillings, eighty-five cents per kilo of made tea exported in bulk; and at such times, being not earlier than one month after the date of publication of the notice, in such a manner, as is specified in the notice.

(b) inserting the following new subsection immediately after subsection (2)—

(2A) Specialty tea and value added tea packed into packets or containers holding not more than ten kilograms" shall be exempted from tea levy.

(c) deleting subsection (5) and substituting therefor the following new subsection—

(5) The tea levy collected under subsection (2) shall be apportioned as follows —

(a) forty per centum shall be applied by the Board for income or price stabilization;

(b) thirty per centum shall be applied by the Board in the furtherance or exercise of any function or power of the Board;

(c) twenty per centum shall be remitted directly to the Tea Research Foundation; and

(d) ten per centum shall be applied for infrastructure development in the tea sub-sector on a pro rata basis.

14. Section 74 of the principal Act is amended in subsection (1) by deleting the word "if" appearing immediately after the words "carrying out" and replacing with the word "of".

Amendment of Section 74 of no. 23 of 2020.

15. Section 76 of the principal Act is amended by –

Amendment of Section 76 of no. 23 of 2020.

(a) numbering the existing provision as subsection (1); and

(b) inserting the following new subsection (2)—

(2) All immovable assets of the former Tea Board of Kenya and the former Tea Research Foundation of Kenya which were vested in the Agriculture and Food Authority and Kenya Agricultural and Livestock Research Organization upon the commencement of the Crops Act and the Kenya Agricultural and

No. 16 of 2013.

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Livestock Research Organization Act shall by virtue of this paragraph vest in the Board and the Foundation respectively." No. 17 of 2013.

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MEMORANDUM OF OBJECTS AND REASONS

The principle object of the Bill is to amend certain provisions in the Tea Act, 2020 to protect the tea growers' proceeds from mismanagement by factories. The Bill also aims to incentivise value addition of tea by exempting value added tea from payment of the tea levy. The Bill further seeks to liberalize the tea industry. This will be done through direct sales of tea overseas.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill delegates legislative powers to the Cabinet Secretary but does not limit fundamental rights and freedoms.

Statement of how the Bill concerns county governments

Agriculture plays a vital role in the economy of most county governments. It is the leading industrial crop in terms of its contribution to the country's GDP. It is therefore important that the tea industry is regulated and supported in terms of policy and law.

This Bill therefore affects the economic growth of tea producing counties and the country as a whole and as such, it is a Bill concerning county governments.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution.

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the ..24TH NOVEMBER...., 2022.

.....

WAKILI HILLARY K. SIGEI,
Senator.

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Section 2 of No. 23 of 2020 which it is proposed to amend—

Interpretation
In this Act —

"auction" means a physical or electronic system where potential buyers place competitive bids for tea;

"auction organizer" means a person, company or firm established for the purpose of organizing tea auctions in Kenya;

"blending" means the art of mixing of teas of different types and grades to affect the flavour and characteristics of the tea for the purposes of packing and sale;

"Board" means the Tea Board of Kenya established under section 3;

"broker" means a person or company or firm established for the purpose of negotiating the purchase or sale of tea between tea growers or tea factories and buyers for a fee;

"buyer" means a person, company or a firm engaged in acquiring made tea for sale in the local or export market, including export of imported tea;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to agriculture;

"commercial green leaf transporter" means a person, a firm or a corporate body contracted by a tea factory to provide green leaf transport services from the farm or leaf collection centre to the tea factory at a fee;

"commercial tea nursery" means a person or firm who maintains not less than five hundred tea seedlings or tea planting material for sale;

"county government" has the meaning assigned to it under Article 176 of the Constitution;

"crops inspector" means a person appointed as an inspector in accordance with section 49 of the Act;

"export" means to take tea or cause tea to be taken out of the Kenya customs territory or out of an Export Processing Zone;

"exporter" means a person, a firm, or a corporate body engaged in the business of blending, packaging and exporting of tea in bulk or in value added form;

"Foundation" means the Tea Research Foundation established under section 55;"

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"Fund" means the Tea Fund established under section 54;

"grower" means any person who is cultivating tea in an area;

"green leaf agreement" means an agreement between a tea grower and a tea factory relating to the delivery of green leaf;

"import" means to bring tea into or cause to be brought into the Kenya customs territory or into an Export Processing Zone;

"importer" means a person, a firm, or a corporate body engaged in the business of importing tea into Kenya;

"large scale tea grower" means a person cultivating tea in a parcel of land above fifty acres;

"levy" means the levy imposed by the Cabinet Secretary on tea exports and imports in accordance with section 53;

"licensee" means a person who holds a manufacturing licence issued under the Act;

"made tea" means the derivative from tea leaf through a manufacturing process;

"management agent" means any person that is appointed by a tea factory through a specific management contract or agreement to perform or offer professional services other than company secretary services;

"manufacture" means the mechanical or chemical processing and conversion of green tea leaf into made tea or other tea products and includes the packaging, labelling, distribution of tea and tea products for sale;

"manufacturing licence" means a licence issued under section 25;

"medium scale tea grower" means a person cultivating tea in a parcel of land of between ten and fifty acres;

"person" includes a firm, a company, an association, cooperative society or a corporate body;

"small scale tea grower" means a grower cultivating tea in a parcel of land of less than ten acres;

"specialty teas" means premium teas manufactured whole leaf, semiaerated or non-aerated and includes green, purple, white, oolong and orthodox but does not include black curl tear and cut teas;

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"tea" means the plant botanically known as camellia sinensis and includes its seed, tea plants and the leaf, whether on the plant or detached therefrom, and in the latter case, whether green tea or manufactured tea;

"tea block" means a block set out in the Third Schedule within which tea is grown;

"tea dealer" includes a warehouse operator, buyer, exporter, importer, broker, packer, manufacturer, management agent, and auction organizer;

"tea factory" means a factory that processes and manufactures tea leaf into made tea;

"tea grower" means a person who grows tea or cultivates tea in Kenya;

"tea packer" any person who blends, brands and packs tea into packets or containers holding not more than ten kilograms of tea intended for sale locally or for export;

"value addition" means improvements on made tea through packaging, blending, flavouring, tea extracts, tea aroma and branding;

"warehouse" means a premise used for the storage of made tea and specialty tea by a warehouse operator; and

"warehouse operator" means a company registered in Kenya which is in the business of storing tea.

Section 7 of No. 23 of 2020 which it is proposed to amend—

Membership of Board

(1) The management of the Board shall vest in a Board of Directors consisting of —

(a) a chairperson appointed by the President by notice in the *Gazette*;
(b) the Principal Secretary responsible for agriculture or a representative nominated by the Principal Secretary in writing;
(c) the Principal Secretary responsible for trade or a representative nominated by the Principal Secretary in writing;
(d) the Principal Secretary responsible for National Treasury or a representative nominated by the Principal Secretary in writing;
(e) one person of either gender, who shall have knowledge and experience in the tea sector and be from either the East and West tea blocks, nominated alternatingly by the Council of Governors;
(f) four persons, two of either gender, representing and elected by small scale and medium scale tea growers from the East and West of the tea blocks; Provided that two persons shall be from each of the tea blocks;
(g) one person elected and representing large scale tea growers;

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(h) one person elected and representing tea traders;
(i) a chief executive officer appointed in accordance with section 13 who shall be an ex-officio member of the Board.

(2) The Cabinet Secretary shall appoint the members under subsection (1) (d), (e), (f) and (g) by notice in the *Gazette*.

(3) The appointment of the chairperson or members of the Board under subsection (1) (a), (d), (e), (f) and (g) and shall take into account the gender, regional and other diversities of the people of Kenya.

(4) A person shall not be appointed to be a chairperson of the Board of Directors unless that person holds at least a degree or its equivalent in any discipline from an institution recognized in Kenya and has relevant experience in the tea sector.

Section 8 of No. 23 of 2020 which it is proposed to amend—

Term of appointment

(1) The persons appointed under section 7 (1) (a), (d), (e), (f), and (g) shall serve for a term of three years renewable for one further term.

(2) The persons appointed under section 7(1) (a), (d), (e), (f) and (g) shall be appointed at different times so that their respective expiry of terms of office shall fall at different times but not more than six months shall lapse between one appointment and another.

Section 22 of No. 23 of 2020 which it is proposed to amend—

Board of directors of tea factory limited companies
(1) The Board of Directors of tea factory limited companies shall be a maximum of five members.
(2) The Board shall put in place mechanisms to ensure that not more than two-thirds of the Board of Directors of tea factory limited companies elected or appointed are of the same gender.

(3) The Board of Directors of tea factory limited companies shall be elected through a democratic system of one grower, one vote.

(4) Where a Board member for tea factory limited company is temporarily unable to perform their duties, the Board may appoint another person from the respective block to act in their place during the period of absence.

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Section 31 of No. 23 of 2020 which it is proposed to amend—

Tea imports
(1) A person who imports tea into Kenya shall prior to importation —

(a) provide evidence that the teas they intend to import are not available in the local market or at the tea auction;
(b) provide a sample of the teas to be imported and pre-import verification certificate from the country of origin; and
(c) obtain pre-import approval from the Board.

(2) A person who contravenes this section commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine not exceeding five million shillings or to both.

Section 32 of No. 23 of 2020 which it is proposed to amend—

Registration of a tea broker
(1) Every tea broker shall register with the Board.

(2) A person shall not negotiate the purchase or sale of tea unless the person is registered in accordance with this Act.

(3) The Cabinet Secretary shall prescribe regulations providing for —

(a) the procedure for registration of a tea broker and the appeal process in case of refusal or denial of registration;
(b) the maximum number of tea factories that shall be served by a tea broker.

(4) The remuneration paid to a tea broker by a tea factory limited company and a tea buyer or exporter for services rendered shall not exceed zero point seven five per centum of the gross sales by the broker.

(5) A person who contravenes subsections (2) and (4) commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine not exceeding five million shillings or to both.

Section 34 of No. 23 of 2020 which it is proposed to amend—

Management agent agreement
(1) A person who intends to manufacture or deal in tea may engage the services of a management agent upon such terms and conditions as may be agreed in the management agreement between them.

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(2) A management agent shall sign a management agreement with each tea factory limited company that they intend to offer management agent services to.

(3) A management agreement between a management agent and a tea factory, shall be —

(a) submitted to the Board for review and approval before execution by parties; and
(b) for a period of five years, and may be renewed upon expiry at the discretion of the tea factory.

(4) The remuneration for services rendered by a management agent to a tea factory limited company shall not exceed one point five per centum of the net sales value of the tea sold per year.

(5) The staff costs for personnel seconded to the tea factory limited company by a management agent shall be borne by the management agent.

(6) Company Secretarial services shall be excluded from services to be offered by a management agent to a tea factory limited company.

(7) A tea factory shall recruit its own in-house Company Secretary or outsource the service.

(8) Despite subsection (7), a tea factory may enter into an arrangement with one or more tea factories to have a joint in-house Company Secretary.

(9) A director of a tea factory shall not serve as a director in another company having a direct or indirect commercial relationship with the tea factory where the person is serving as a director.

(10) Where the provisions of subsection (9) apply, a director of a tea factory shall forthwith relinquish his or her position.

Section 36 of No. 23 of 2020 which it is proposed to amend—

Auction process

(1) All teas processed and manufactured in Kenya for the export market with the exception of orthodox and specialty teas shall be offered for sale exclusively at the tea auction floor.

(2) All tea factory limited companies shall register with the Board and the auction organizer to participate in the tea auction directly and not through management agents.

(3) An auction organizer shall establish an electronic trading platform for the auction of tea that will be usable and accessible to all players in the value chain.

(4) A buyer shall pay in full the value of the tea bids they have won at the auction before collecting or taking custody of the tea.

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(5) Tea brokers, buyers and the auction organizers shall ensure that the proceeds from the sale of tea are remitted to the tea factories accounts within fourteen days from the date of the auction.

(6) A tea factory shall within thirty days of receipt of the proceeds of the sale of tea, pay tea growers—

(a) at least fifty per centum of payment due for green leaf delivered every month;
(b) the balance due to the tea grower within three months from the end of financial year.

(7) An auction organizer shall develop trading rules to govern its operations and the trading rules shall be submitted to the Board for approval.

Section 37 of No. 23 of 2020 which it is proposed to amend—

Registration of commercial green leaf transporters
(1) A person who intends to carry on the business of commercial green leaf transporter shall register with the Board.

(2) A person shall not carry on the business of commercial green leaf transporter unless the person is registered in accordance with this Act.

(3) The Cabinet Secretary shall prescribe regulations providing for the procedure for registration of commercial green leaf transporters and the appeal process in case of refusal or denial of registration.

(4) A person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine not exceeding five million shillings or to both.

Section 53 of No. 23 of 2020 which it is proposed to amend—

Establishment of Tea Levy
(1) The Cabinet Secretary may, by notice in the Gazette, impose a levy to be levied on tea exports and imports, to be known as the tea levy.

(2) The levy imposed through a notice under subsection (1) shall be collected by the Board at a rate not exceeding one per centum of the auction value for teas sold through the auction and at such times, being not earlier than one after the date of publication of the notice, in such a manner, as is specified in the notice.

(3) The levy on tea imports shall be charged at a rate of one hundred per centum of the value of the imported teas.

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(4) The levy imposed under this section shall be levied and collected in such manner as the Cabinet Secretary may prescribe through regulations.

(5) The tea levy collected under subsection (2) shall be apportioned as follows

(a) fifty per centum shall be applied by the Board for income or price stabilization for tea growers;
(b) fifteen per centum shall be applied by the Board in the furtherance or exercise of any function or power of the Board;
(c) twenty per centum shall be remitted directly to the Tea Research Foundation;
(d) fifteen per centum shall be applied for infrastructure development in the tea subsector on a pro rata basis.

(6) A person who fails to pay the tea levy imposed under this Act commits an offence.

Section 74 of No. 23 of 2020 which it is proposed to amend—

74. Regulations
(1) The Cabinet Secretary may, in consultation with the Board, make Regulations for the better carrying out if the provisions of this Act.

(2) Notwithstanding the generality of subsection (1), the Regulations made under this Act may provide for —

(a) the regulation of the production, processing, importation and exportation of tea;
(b) the procedure of registration of tea brokers, small scale tea growers, medium scale tea growers, large scale tea growers, commercial green leaf transporters, tea packers, tea buyers, tea importers, tea exporters, management agents, auction organizers, warehouse operators, commercial tea nurseries;
(c) the procedure of licensing of tea manufacturers;
(d) the forms to be used in the application for registration, licensing, contracts and related activities;
(e) the prescribed areas for planting tea;
(f) the appeal process in case of refusal or denial of a licence;
(g) monitoring of the entire value chain in the tea sub-sector;
(h) regulation of the conduct of tea auction including the volumes of tea to be sold through auction or through direct sales;
(i) the promotion of fair and proper governance structures in institutions along the tea value chain in the interest of tea growers;
(j) rules to avoid conflict of interest in the ownership and dealings between tea growers, tea factories and tea dealers;
(k) the criteria for the pricing of green leaf;
(l) maximum fees charged by players along the value chain;
(m) the tenure of board members for tea factory;

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(n) procedures for ensuring internal democracy in tea growers' institutions and organizations;
(o) value addition of tea exports and imports;
(p) control of pests and diseases;
(q) any fee charged under this Act;
(r) the regulation of contracts between growers, tea factories and other players in the tea industry;
(s) tea safety including transportation, processing and market standards of tea;
(t) submission of returns and reports by the holders of licences and registrations under this Act;
(u) regulation and controlling the method of blending, packaging and labelling of tea for purposes of traceability;
(v) standards, and the manner of grading and classification of made tea products under this Act; and

anything required to be prescribed under this Act

(3) For the purposes of Article 94(6) of the Constitution —

(a) the authority of the Cabinet Secretary to make regulations under this Act shall be limited to bringing into effect the provisions of this Act and for the fulfilment of the objectives of this Act;
(b) the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act (Cap. 2) and the Statutory Instruments Act, 2013 (No. 23 of 2013)

Section 76 of No. 23 of 2020 which it is proposed to amend—

Transfer of assets and liabilities
All property, except such property as the Cabinet Secretary may specify in writing, which, immediately before the commencement of this Act, was vested in the Government for the use of the Tea Directorate of the Agriculture and Food Authority and the Tea Research Institute of the Kenya Agricultural and Livestock Research Organization, shall, on the date of commencement of this Act, vest in the Board and the Foundation, respectively, subject to all interests, liabilities, charges, obligations and trusts affecting that property.

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APPENDIX 3

5th December, 2023

The Clerk of the Senate,
Parliament Buildings,
NAIROBI.

RE: COMMITTEE STAGE AMENDMENTS TO THE TEA (AMENDMENT) BILL, 2023, (SENATE BILLS NO. 1 OF 2023).

NOTICE is given that Sen. James Kamau Murango, Chairperson, Committee on Agriculture, Livestock and Fisheries intends to move the following amendments to the Tea Bill, Senate Bills No. 1 of 2023, at the Committee Stage—

CLAUSE 10

THAT clause 10 of the Bill be amended in paragraph (b) by deleting the words " in subsection (2) by deleting subsection (1)" appearing at the beginning of the paragraph and substituting therefor the words "by deleting subsection (2) "

CLAUSE 11

THAT clause 11 of the Bill be amended in the proposed new section 36A by inserting the words "an agent" immediately after the words " A licenced factory" in subclause (1).

CLAUSE 12

THAT clause 12 of the Bill be amended by –

(a) renumbering the existing provision as paragraph (a); and

(b) by inserting the foolowing new paragraph immediately after paragraph (a)-

(b) deleting subsection(3) and substituting therefore the following new subsection-

(3) Each county executive committee member shall prescribe in a county legislation the procedure for registration of commercial green leaf transporters and the appeal process in case of refusal or denial of registration.

CLAUSE 13

THAT clause 13 of the Bill be amended –

(a) in paragraph (a) in the proposed new subclause (2) by deleting the words "three shillings, eighty-five cents" appearing immediately after the words " rate not exceeding" and substituting therefor the word "two shillings"

(b) in paragraph (c) in the proposed new subsection (5) by deleting paragraph (d) and substituting therefor the following new clause–

(d) ten per centum shall be allocated to the tea growing counties as a conditional grant for infrastructure development on pro rata basis.

CLAUSE 15

THAT clause 15 of the Bill be amended in paragraph (b) in the proposed new subsection (2) by deleting the words " immovable" appearing immediately after the word "All"

NEW CLAUSE 2A

THAT section 5 of the principal of the act is amended in subsection (1) by deleting the words " commercial green leaf transporters," appearing immediately after the words "commercial tea nurseries " in paragraph (e).

CLAUSE 2

THAT clause 2 of the Bill be amended –

(a) in paragraph (b) by deleting the word " enterprises" appearing immediately after the words " Special Economic Zone" in the definition " import";

(b) in paragraph (e) –

(i) in the definition of " direct sales" by inserting the words "or its agent" immediately after the words " between a factory"

(ii) in the definition of " tea factory limited company" by inserting the word "or medium scale tea growers" immediately after the words "scale tea growers".

Dated.....5/12/..2023.

Sen. James Kamau Murango,

Chairperson, Committee on Agriculture, Livestock and Fisheries.

APPENDIX 4

REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT | SECOND SESSION

THE SENATE

INVITATION FOR SUBMISSION OF MEMORANDA

At a sitting of the Senate held on Tuesday 15th February and Thursday, 16th February, 2023, the Bills listed at the second column below were introduced in the Senate by way of First Reading and thereafter stood committed to the respective Standing Committees indicated at the third column.

Pursuant to the provisions of Article 118 of the Constitution and Standing Order 145 (5) of the Senate Standing Orders, the Senate Standing Committees now invite interested members of the public to submit any representations that they may have on the Bills.

The representations may be made by way of written memoranda on email to the Clerk of the Senate on the address clerk.senate@parliament.go.ke and copied to the email addresses of the respective Committee indicated at the fourth column below, to be received on or before **Friday, 3rd March, 2023 at 5.00 p.m**.

	Bill	**Committee Referred To**	**Email Address**
a)	The Konza Technopolis Bill (Senate Bills No. 2 if 2023)	Standing Committee on Information, Communication and Technology.	ictcommittee.senate@parliament.go.ke
b)	The Office Of the County Printer Bill (Senate Bills No. 10 of 2022)	Standing Committee on Information, Communication and Technology.	ictcommittee.senate@parliament.go.ke
c)	The Tea (Amendment) Bill (Senate Bills No. 1 of 2023)	Standing Committee on Agriculture, Livestock and Fisheries.	agriculturelfcommittee.senate@parliament.go.ke
d)	The Livestock Extension Services Bill (Senate Bills No. 12 of 2022)	Standing Committee on Agriculture, Livestock and Fisheries.	agriculturelfcommittee.senate@parliament.go.ke
e)	The Mung Beans Bill (Senate Bills No. 13 of 2022)	Standing Committee on Agriculture, Livestock and Fisheries.	agriculturelfcommittee.senate@parliament.go.ke
f)	The Start-Up Bill (Senate Bills No.14 of 2022	Standing Committee on Trade, Industrialization and Tourism	tradeindtourismcomm.senate@parliament.go.ke

The Bills may be accessed on the Parliament website at http://www.parliament.go.ke/the-senate/house-business/bills.

APPENDIX 5

THE SENATE
RECEIVED
2 4 MAY 2023
DIRECTOR COMMITTEE SERVICES
(DSEC)

RECEIVED
2 3 MAY 2023

THE SENATE
RECEIVED
2 4 MAY 2023
DEPARTMENT OF

Date: 23rd May, 2023

ADDRESSED TO THE CHAIRMAN SENATE SELECT COMMITTEE OF AGRICULTURE

THE KENYA GAZETTEE SUPPLsEMENT SENATE BILLS, 2023

GATHUTHI TEA FACTORY FARMERS MEMORANDUM ON THE SAID BILL

Clause 8 The cabinet secretary shall, in consultation with the county governments and (Respective Factory Company Boards) to prescribe regulations for the establishment of auction centres in the tea growing Counties.

(1) DSEC
Kindly deal.
24/05/2023

BOARD OF DIRECTORS OF TEA FACTORY LIMITED COMPANIES

Clause (1) The board of directors of tea factory limited companies shall be a minimum of five members and a maximum of eight members, the electoral zones shall remain as per the respective factory companies.

(2) DDSEC
Kindly deal
24/5/2023

Clause (2) (i.) In orders to fulfill the gender parity in our respective factories, we propose to amend- whereby any person appointed MUST have participated in an election.

(ii.) The persons to be appointed as directors shall be the ones with the majority of votes garnered in an election (best loosers).

3) Ms. Njue
Kindly deal
Kabati
24/05/2023

Clause (3) of the section to remain as proposed in the Tea Bill 2023.

Clause (4)- to be amended to read as follows: where a Board member for a tea factory limited company is temporarily unable to perform their duties, the BOARD SHALL NOT appoint another person from respective block to act in their place during the period of absence; we propose that a by-election to be conducted in the respective block.

MEMBERS NAME	CENTRE NO	ID NO	PHONE	SIGN
ROBERT KAMAU KAGIRI	GH0230217	11032130	0725588662	
FRANCIS NGUGI NDUNGU	GH0390124	25088625	0718828344	
JOHN MUTHUI WAMBUGU	GH024096	2344895	0720902547	
CHARLES MUTHUNGU WAIRAGU	GH015080	5100722	0722635596	
SIMON MBAU NGAMBI	GHO22189	[redacted] 5794506	0721563020	
PAUL MWANGI NGUNU	GHO33022	1863973	0721233055	
JOHN MURAGURI GITHINJI	GH010171	1207584	0729283512	
PAUL GITONGA WANJAU	GHO320179	7440313	0722688545	

THE SENATE
RECEIVED
15 MAR 2023
DIRECTOR COMMITTEE SERVICES
(DSEC)

MEMORANDUM ON THE TEA AMENDMENT BILL 2023

(SENATE BILL NO. 1 OF 2023)

PRESENTED TO

CLERK OF THE SENATE

NAIROBI

(1) DSEC
DLS

Kindly deal.

PRESENTED BY

To be used solely for purposes of outlining ekaterra's concerns with the Senate Tea (Amendment) Bill 2023

EKATERRA TEA KENYA PLC

14/03/23

THE SENATE
RECEIVED
14 MAR 2023
DEPUTY CLERK

(2) DDSEC

Kindly deal

15.03.2023

(3) Ms. Njue

Please deal

15/03/23

ekaterra Tea Kenya Plc

ekaterra Tea Kenya Plc (eTK) is a company incorporated in the Republic of Kenya that produces tea from Kenya that goes into blending of ekaterra's global tea brands and is part of the larger ekaterra group. ekaterra is a global market leader on black tea and its global brands, such as Lipton Yellow Label, PG Tips and Brook Bond Red Label are sold across world. The ekaterra Group ("ekaterra") has an international supply chain that sources tea from many global destinations and allocates that tea across strategically located blending operations to prepare consumer blends for different markets. Given the natural variability of tea as a crop, ekaterra continually adjusts the blend of teas used in its consumer brands to maintain a consistent taste profile for consumers and adjusts volumes to meet global market demand.

ekaterra's purchasing of Kenyan tea is thus determined as part of a global sourcing strategy and balanced supply-demand model that reacts to international price and volume trends.

ekaterra sources Kenyan tea for sale from its own plantations. As a strategy to secure the right volumes of different taste profile teas, ekaterra pays a higher price index for its direct purchases of tea comparative to the auction prices. Where eTK plantation produced tea is not absorbed by the ekaterra global brands, this tea is sold at auction.

To be used solely for purposes of outlining ekaterra's concerns with the Senate Tea (Amendment) Bill 2023

eTK is a strong supporter of building a sustainable and profitable tea sector that provides a living wage for all in its supply chain, promoting research and development such as our pioneering work on technology teas and has historically played an active role supporting the sector through work such as securing Rainforest Alliance certification for Kenyan tea.

Urgent Request for Discussion on Senate Bill No. 1 of 2023

As part of the ekaterra group, eTK is fully committed to ensuring that all farmers in its supply chain are fairly compensated and fully supports the objective of the Bill to protect the tea growers' proceeds from mismanagement by factories, incentivize value addition of tea by exempting value added tea from payment of the levy and liberalize the tea industry by direct sales of tea overseas. As such eTK appreciates that the Draft Bill is intended to deliver solutions on concerns raised and believes it is important to validate and address such concerns with an effective outcome in mind.

However, eTK has reviewed the Draft Bill and strongly believes that it includes some provisions that would have significant unintended sector-wide consequences that will undermine the viability of the sector upon which

smallholders depend or result in diminished earnings for small farmers and exposure to greater price volatility. eTK is concerned of the risks this poses and the potential adverse impact in undermining the tea sector and its role in the Bottom-Up Economic Transformation Agenda (BeTA)

As it is likely other players across the industry share such concerns, we would respectfully request that the Ministry convenes a consultative meeting with the industry to fully appreciate the potential consequences and find the right legislative solution to support the many small farmers within a secure and profitable sector.

Following the Invitation for Submission of Memoranda by the Clerk of the Senate by Friday 3rd March 2023, eTK would like to make the following submissions.

No.	*Clause, Heading & Proposal*	*Obligations/ Implications*	*Ekaterra Comments*
1.	**Definitions** **Value Addition** Value addition" as "*improvements on made tea through packaging, blending, flavouring, tea extracts, aroma and branding "into a packet or a container holding not more than ten kilogram*	Definition of "***value addition"*** restricted to tea packaging of not more than 10kilogrames.	There are value-added tea products such as tea extracts that are packed in drums, therefore going by this definition would exclude these forms of value addition as initially defined by the Act.
2.	**Clause 9 Amending Section 34** **34A (2).** All teas processed and manufactured in Kenya for the export market shall be registered with the Board prior to exportation	All tea for the export market to be registered	The clause is unclear on whether this will be a license to be provided by the Tea Board, or whether there will be an additional registration of every tea for export. The practicality of such a process is also in question as it is not clear whether there will be physical inspections or any other verification activities. The tea produced for export currently is registered with all relevant government authorities including the Kenya Revenue Authority. It is the position of eTK that the addition of another body may lead to increased bureaucratic processes

To be used solely for purposes of outlining ekaterra's concerns with the Senate Tea (Amendment) Bill 2023

			and additional expenses, which may make process of tea production unsustainable.
3.	**Clause 10 Amending Section 36 (8)** The Cabinet Secretary shall, in consultation with the County Governments prescribe regulations for the procedure for auction sales of tea and for the establishment of auction sales of tea and for the establishment of auction centers in the tea growing counties.	Setting up of auction centers in tea growing counties CS to consult Counties in stipulating regulations for auction sales	This provision is not clear on the framework, the criteria to be used and whether the option for the commonly used Mombasa Auction will be affected. The cost and convenience of having separate auction centers scattered across tea producing counties will lead to the loss of the economies of scale and competitiveness of a centralized auction
4.	**Clause 11 introducing Section 36 A** **Direct sales of tea** "36A. (1) A licensed factory or any other entity representing growers may undertake direct sales. (2) The prices offered at the direct sales shall be competitive and shall be sold at a price above the prevailing reserve price at the auction. (3) If the tea fetches a higher price at the auction than the direct sales price offered, then the prospective direct sale buyer shall have pre-emptive rights to purchase the tea at the auction price failing which the tea will be sold to the highest bidder.	Prices for direct sales to be above the prevailing reserve price at the auction Regulations to govern procedure of direct sales to be prescribed by the CS in consultation with County Governments	The inclusion of a provision on Direct Sales is welcomed. However, the imposition of further conditions contained in subsection (3) would result in the unfair regulation of a free market economy. Section 36 (2), (3) and (4) is against the right of freedom of contract. Once a contract is executed, its binds the parties and it would not be possible to change the prices without mutual agreement by both parties in respect of any variation. This system would create uncertainty. Further from a practical perspective no buyer would be willing to purchase the tea at a higher price than what is provided in the contract. Any regulations on direct sales should be restricted to KTDA and not large scale tea growers.

To be used solely for purposes of outlining Kakamega's concerns with the Senate Tea (Amendment) Bill 2023

			Subsection (3) on the direct sale buyer having pre-emptive rights to purchase the tea at the auction price is negates the purpose of parties' free right to agree on the price upon which the tea is to be sold. It is also unclear on who will determine the reserve price and whether teas scheduled for direct sales would have to go through the auction for purposes of determining whether the sale price is above the reserve price.
5.	**Clause 11 introducing Section 36 B** **Tea Proceeds** The proceeds from the sale of tea whether through an auction or through a direct sale shall be deposited in a Direct Settlement System. (2) The Direct Settlement System provider shall remit tea sales proceeds to the tea growers and settle statutory charges, service provider's fees and other liabilities within five working days from the receipt of the proceeds of sale of tea.	1. Establishing the Direct settlement system for processing of proceeds of all tea sales (auction and direct sales). All proceeds of tea sale to be deposited in the DSS 2. DSS provider to disburse payments to growers; settle statutory fees; service provider fees and other liabilities and levies	Section 36B (1) is contrary to the right to freedom of contract and should not apply to private companies. Not sure that this applies to other cash crop producers or even in respect of horticulture. This is potentially discriminatory and against Article 27 of the Constitution. This should be amended to indicate that it does not apply to large scale tea growers. Further, the proposal for a direct settlement scheme is not clear in terms of who its intended for: 1. this is an unconstitutional intermediary interfering with the operations of private entities and anti-competitive. ekaterra may be forced to share its trade secrets, financial information, contracts and other proprietary information with an entity picked by the Cabinet Secretary through the proposed regulations;

To be used solely for purposes of outlining ekaterra's concerns with the Senate Tea (Amendment) Bill 2023

			2. the Bill does not specify the statutory charges referred to, and who will indemnify eTK in case the charges are not remitted; 3. there is already a tea sales collection account with two banks Stanbic bank and Equity Bank. Producers have a choice on whether to be paid through the bank or directly by the Broker; 4. ekaterra have obligations that may get disrupted by the imposition of the settlement scheme; and 5. ekaterra already have negotiated credit terms to suit their operations and this should not be subjected to Bills of parliament
6.	**Clause 12 amending Section 37** "(2) The levy imposed under subsection (1) shall be collected by the Board at a rate not exceeding three shillings, eighty-five cents per kilo of made tea exported in bulk; and at such times, being not earlier than one month after the date of publication of the notice, in such a manner, as is specified in the notice."	Proposes amount of tea levy at maximum of Kes. 3.85 per kilogram of **made tea exported in bulk.** Levy to be restricted to bulk export tea while utilization is for entire industry operations	The proposed tea levy that was to be charged at 1% of the auction values for teas sold was suspended by the Court. Adoption of quantum based (kg) levy is too high and an additional cost that may make Kenyan tea uncompetitive.

To be used solely for purposes of submitting memoranda concerns with the Senate Tea (Amendment) Bill 2020

Subject Memorandum of Senate Tea (Amendment) Bill (Senate Bills No. 1 of 2023)

From Kimone, Tumaini <Tumaini.Kimone@ekaterratea.com>

To clerk senate <clerk.senate@parliament.go.ke>

Cc
agriculturelfcommittee senate <agriculturelfcommittee.senate@parliament.go.ke>, Musili, Lydia <Lydia.Musili@ekaterratea.com>, MATHENGE, MICHAEL <MICHAEL.MATHENGE@ekaterratea.com>, Sambai, Livingstone <Livingstone.Sambai@ekaterratea.com>

Date Thursday March 9, 2023 1:35:02 PM

CAUTION:This Mail Originated from outside of the Organization. Do not click links or open attachments unless you can confirm the sender and know the content is safe.

Dear Sirs,

I trust this email finds you well.

Pursuant to the Invitation for Submission of Memoranda published in the Daily Nation, we attach herewith our memorandum for the Senate's consideration.

The hardcopy will be delivered to your offices.

Kind Regards,
Tumaini Kimone,
Legal Counsel

The contents of this email and any attachments are confidential and legally privileged or otherwise protected from discovery or disclosure. If you are not the intended recipient please advise the sender immediately and delete the email and attachments. Any use, dissemination, reproduction or distribution of this email and any attachments by anyone other than the intended recipient is prohibited.

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Attachments
ekaterra - Memo to Senate- Tea (Amendment) Bill 2023.pdf (757 kB)

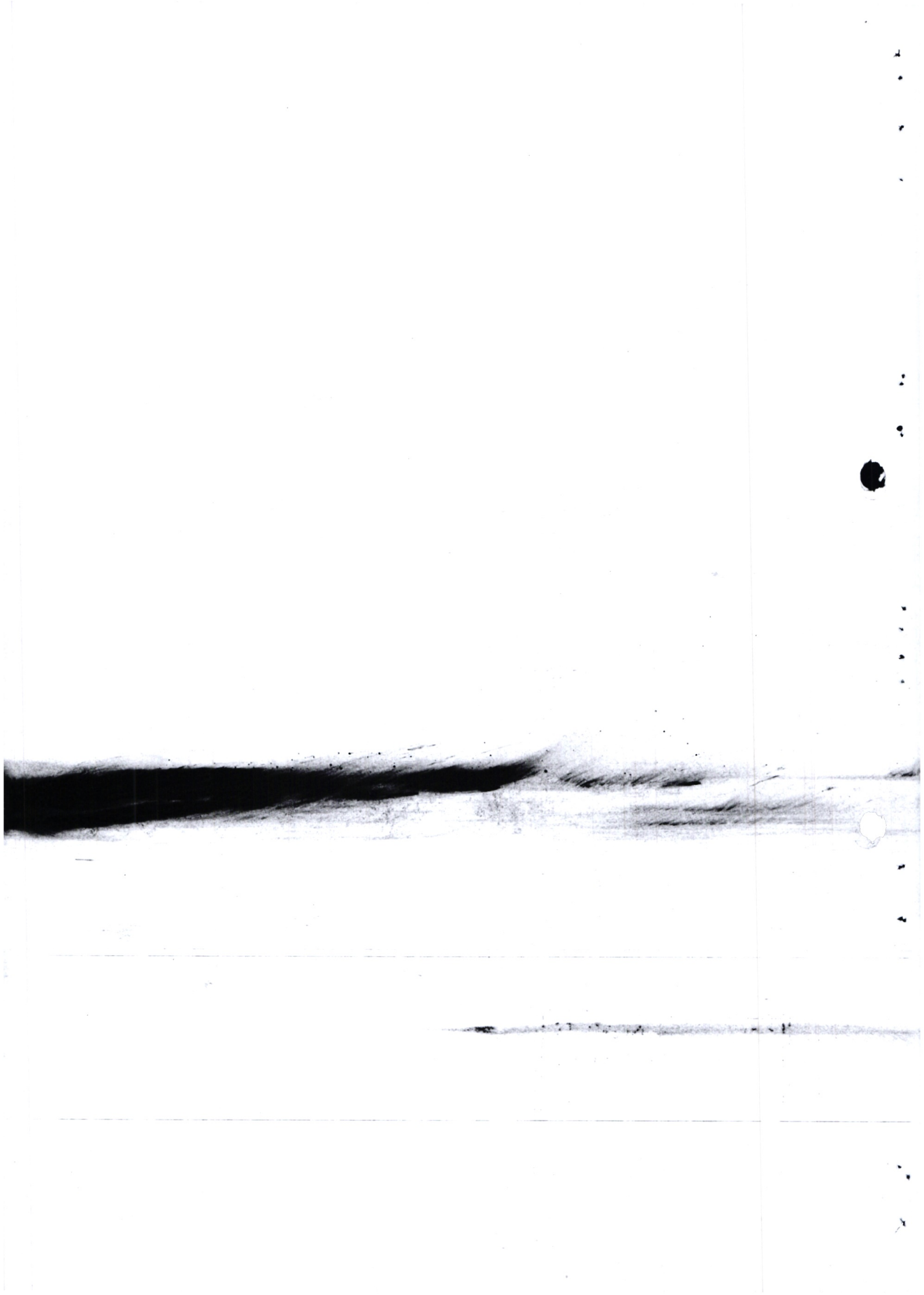
① DSEC
Kindly deal
EJ
10/03/23

② DDSEC
Kindly deal
13/3/2023

③ Mr. Gikonyo
You are dearing
13/03/23

THE SENATE
RECEIVED
10 MAR 2023
DIRECTOR COMMITTEE SERVICES
(DSEC)

THE SENATE
RECEIVED
10 MAR 2023
DEPUTY CLERK



MEMORANDUM ON THE TEA AMENDMENT BILL 2023

(SENATE BILL NO. 1 OF 2023)

PRESENTED TO

CLERK OF THE SENATE

NAIROBI

PRESENTED BY

To be used solely for purposes of outlining ekaterra's concerns with the Senate Tea (Amendment) Bill 2023

EKATERRA TEA KENYA PLC

ekaterra Tea Kenya Plc

ekaterra Tea Kenya Plc (eTK) is a company incorporated in the Republic of Kenya that produces tea from Kenya that goes into blending of ekaterra's global tea brands and is part of the larger ekaterra group. ekaterra is a global market leader on black tea and its global brands, such as Lipton Yellow Label, PG Tips and Brook Bond Red Label are sold across world. The ekaterra Group ("ekaterra") has an international supply chain that sources tea from many global destinations and allocates that tea across strategically located blending operations to prepare consumer blends for different markets. Given the natural variability of tea as a crop, ekaterra continually adjusts the blend of teas used in its consumer brands to maintain a consistent taste profile for consumers and adjusts volumes to meet global market demand.

ekaterra's purchasing of Kenyan tea is thus determined as part of a global sourcing strategy and balanced supply-demand model that reacts to international price and volume trends.

ekaterra sources Kenyan tea for sale from its own plantations. As a strategy to secure the right volumes of different taste profile teas, ekaterra pays a higher price index for its direct purchases of tea comparative to the auction prices. Where eTK plantation produced tea is not absorbed by the ekaterra global brands, this tea is sold at auction.

To be used solely for purposes of outlining ekaterra's concerns with the Senate Tea (Amendment) Bill 2023

eTK is a strong supporter of building a sustainable and profitable tea sector that provides a living wage for all in its supply chain, promoting research and development such as our pioneering work on technology teas and has historically played an active role supporting the sector through work such as securing Rainforest Alliance certification for Kenyan tea.

Urgent Request for Discussion on Senate Bill No. 1 of 2023

As part of the ekaterra group, eTK is fully committed to ensuring that all farmers in its supply chain are fairly compensated and fully supports the objective of the Bill to protect the tea growers' proceeds from mismanagement by factories, incentivize value addition of tea by exempting value added tea from payment of the levy and liberalize the tea industry by direct sales of tea overseas. As such eTK appreciates that the Draft Bill is intended to deliver solutions on concerns raised and believes it is important to validate and address such concerns with an effective outcome in mind.

However, eTK has reviewed the Draft Bill and strongly believes that it includes some provisions that would have significant unintended sector-wide consequences that will undermine the viability of the sector upon which

smallholders depend or result in diminished earnings for small farmers and exposure to greater price volatility. eTK is concerned of the risks this poses and the potential adverse impact in undermining the tea sector and its role in the Bottom-Up Economic Transformation Agenda (BeTA)

As it is likely other players across the industry share such concerns, we would respectfully request that the Ministry convenes a consultative meeting with the industry to fully appreciate the potential consequences and find the right legislative solution to support the many small farmers within a secure and profitable sector.

Following the Invitation for Submission of Memoranda by the Clerk of the Senate by Friday 3rd March 2023, eTK would like to make the following submissions.

To be used solely for purposes of outlining ekaterra's concerns with the Senate Tea (Amendment) Bill 2023

No.	Clause, Heading & Proposal	Obligations/ Implications	Ekaterra Comments
1.	Definitions **Value Addition** Value addition" as *"improvements on made tea through packaging, blending, flavouring, tea extracts, aroma and branding "into a packet or a container holding not more than ten kilogram*	Definition of ***"value addition"*** restricted to tea packaging of not more than 10kilogrames.	There are value-added tea products such as tea extracts that are packed in drums, therefore going by this definition would exclude these forms of value addition as initially defined by the Act.
2.	**Clause 9 Amending Section 34** **34A (2).** All teas processed and manufactured in Kenya for the export market shall be registered with the Board prior to exportation	All tea for the export market to be registered	The clause is unclear on whether this will be a license to be provided by the Tea Board, or whether there will be an additional registration of every tea for export. The practicality of such a process is also in question as it is not clear whether there will be physical inspections or any other verification activities. The tea produced for export currently is registered with all relevant government authorities including the Kenya Revenue Authority. It is the position of eTK that the addition of another body may lead to increased bureaucratic processes

To be used solely for purposes of outlining ekaterra's concerns with the Senate Tea (Amendment) Bill 2023

			and ad[illegible]nal expenses, which may make process of tea production unsustainable.
3.	**Clause 10 Amending Section 36 (8)** The Cabinet Secretary shall, in consultation with the County Governments prescribe regulations for the procedure for auction sales of tea and for the establishment of auction sales of tea and for the establishment of auction centers in the tea growing counties.	Setting up of auction centers in tea growing counties CS to consult Counties in stipulating regulations for auction sales	This provision is not clear on the framework, the criteria to be used and whether the option for the commonly used Mombasa Auction will be affected. The cost and convenience of having separate auction centers scattered across tea producing counties will lead to the loss of the economies of scale and competitiveness of a centralized auction
4.	**Clause 11 introducing Section 36 A** **Direct sales of tea** "36A. (1) A licensed factory or any other entity representing growers may undertake direct sales. (2) The prices offered at the direct sales shall be competitive and shall be sold at a price above the prevailing reserve price at the auction. (3) If the tea fetches a higher price at the auction than the direct sales price offered, then the prospective direct sale buyer shall have pre-emptive rights to purchase the tea at the auction price failing which the tea will be sold to the highest bidder.	Prices for direct sales to be above the prevailing reserve price at the auction Regulations to govern procedure of direct sales to be prescribed by the CS in consultation with County Governments	The inclusion of a provision on Direct Sales is welcomed. However, the imposition of further conditions contained in subsection (3) would result in the unfair regulation of a free market economy. Section 36 (2), (3) and (4) is against the right of freedom of contract. Once a contract is executed, its binds the parties and it would not be possible to change the prices without mutual agreement by both parties in respect of any variation. This system would create uncertainty. Further from a practical perspective no buyer would be willing to purchase the tea at a higher price than what is provided in the contract. Any regulations on direct sales should be restricted to KTDA and not large scale tea growers.

To be used solely for purposes of outlining Katerra's concerns with the Senate Tea (Amendment) Bill 2023

			Subsection (3) on the direct sale buyer having pre-emptive rights to purchase the tea at the auction price is negates the purpose of parties' free right to agree on the price upon which the tea is to be sold. It is also unclear on who will determine the reserve price and whether teas scheduled for direct sales would have to go through the auction for purposes of determining whether the sale price is above the reserve price.
5.	**Clause 11 introducing Section 36 B** **Tea Proceeds** The proceeds from the sale of tea whether through an auction or through a direct sale shall be deposited in a Direct Settlement System. (2) The Direct Settlement System provider shall remit tea sales proceeds to the tea growers and settle statutory charges, service provider's fees and other liabilities within five working days from the receipt of the proceeds of sale of tea.	1. Establishing the Direct settlement system for processing of proceeds of all tea sales (auction and direct sales). All proceeds of tea sale to be deposited in the DSS 2. DSS provider to disburse payments to growers; settle statutory fees; service provider fees and other liabilities and levies	Section 36B (1) is contrary to the right to freedom of contract and should not apply to private companies. Not sure that this applies to other cash crop producers or even in respect of horticulture. This is potentially discriminatory and against Article 27 of the Constitution. This should be amended to indicate that it does not apply to large scale tea growers. Further, the proposal for a direct settlement scheme is not clear in terms of who its intended for: 1. this is an unconstitutional intermediary interfering with the operations of private entities and anti-competitive. ekaterra may be forced to share its trade secrets, financial information, contracts and other proprietary information with an entity picked by the Cabinet Secretary through the proposed regulations;

This is used solely for purposes of outlining ekaterra's concerns with the Senate Tea (Amendment) Bill 2023

			2. the does not specify the statutory charges referred to, and who will indemnify eTK in case the charges are not remitted; 3. there is already a tea sales collection account with two banks Stanbic bank and Equity Bank. Producers have a choice on whether to be paid through the bank or directly by the Broker; 4. ekaterra have obligations that may get disrupted by the imposition of the settlement scheme; and 5. ekaterra already have negotiated credit terms to suit their operations and this should not be subjected to Bills of parliament
6.	**Clause 12 amending Section 37** "(2) The levy imposed under subsection (1) shall be collected by the Board at a rate not exceeding three shillings, eighty-five cents per kilo of made tea exported in bulk; and at such times, being not earlier than one month after the date of publication of the notice, in such a manner, as is specified in the notice."	Proposes amount of tea levy at maximum of Kes. 3.85 per kilogram of **made tea exported in bulk.** Levy to be restricted to bulk export tea while utilization is for entire industry operations	The proposed tea levy that was to be charged at 1% of the auction values for teas sold was suspended by the Court. Adoption of quantum based (kg) levy is too high and an additional cost that may make Kenyan tea uncompetitive.

To be used solely for purposes of putting ekaterra's concerns with the Senate Tea (Amendment) Bill 2023



THE SENATE
RECEIVED
07 MAR 2023
DIRECTOR COMMITTEE SERVICES
(DSEC)

ORARO & COMPANY
ADVOCATES
An Affiliate Member of AB & DAVID AFRICA

(1) DSEC
DLS
06 MAR 2023
Kindly deal

(2) DDSEC
Kindly deal
07/3/23

07/03/23

FEEDBACK TEMPLATE FORM

REQUEST FOR VIEWS ON THE TEA (AMENDMENT) BILL, 2023

NO.	Specific Clause in the Bill	Proposal	Justification
1.	Clause 3 (Amendment of section 7 of No. 23 of 2020)	We propose the following to be incorporated in this clause: a. members of the Board to be appointed by the Cabinet Secretary through a transparent and competitive process; and b. the names of the appointed people to be published in the Kenyan Gazette and a newspaper of national circulation.	Publishing the appointees' names ensures the public are informed of the appointments made.
2.	Clause 5 (Amendment of section 7 of No. 23 of 2020)	We propose that the Board considers the gender, regional and other diversities of the people of Kenya before appointing a person to be a Board member of tea factory limited companies. Secondly, we propose that the appointment be done through a competitive, open and transparent recruitment process.	This proposal ensures the clause complies with the constitutional provision on equality (Article 27). A transparent and competitive recruitment process reduces the likelihood of biasness in the hiring process. Furthermore, it also supports diversity and inclusion.

(3) Mr. Gikaya
Please deal
08/03/23

THE SENATE
RECEIVED
07 MAR 2023
DEPUTY CLERK

3.	Clause 11 (Insertion of new section 36A of No. 23 of 2020)	Regarding direct sales, we propose that the clause incorporates the following: a. the regulatory requirements relating to food safety; b. marketing requirements; and c. labelling requirements. Secondly, we propose making it an offence if a person fails to comply with the requirements stipulated in this clause.	Incorporating these changes provides more clarity and expounds on relevant points not discussed under the clause.
4.	Clause 11 (Insertion of new section 36B of No. 23 of 2020)	We propose the establishment of a regulatory authority which will conduct regular inspections and audits of direct settlement systems to: a. ensure compliance with legal and regulatory requirements; and b. identify potential risks and vulnerabilities.	Regulatory requirements and oversight are intended to protect consumers from risks and ensure the safety and efficiency of payment systems.
5.	Clause 15 (Amendment of section 76 of No. 23 of 2020	We propose the addition of movable assets in this clause.	Incorporating this change ensures that all movable and immovable assets of the former Tea Board of Kenya and the former Tea Research Foundation of Kenya shall be vested on the Board and Foundation respectively.

THE SENATE
RECEIVED
07 MAR 2023
DIRECTOR COMMITTEE SERVICES
(DSEC)

06 MAR 2023

COUNCIL OF GOVERNORS

Westlands Delta House 2nd Floor, Waiyaki Way.
P.O. BOX 40401-00100,
Nairobi.

Tel: (020) 2403314, 2403313
E-mail: info@cog.go.ke

THE SENATE
RECEIVED
07 MAR 2023
DEPUTY CLERK

Our Ref: COG/6/48 Vol.54 (97)

2nd March 2023

Mr. Jeremiah Nyegenye, CBS
The Clerk of the Senate
Parliament Buildings
NAIROBI

Dear Mr. Nyegenye, CBS

LEGISLATIVE MEMORANDA ON THE TEA (AMENDMENT) BILL (SENATE BILL NO. 1 OF 2023) AND MUNG BEANS BILL, 2022 (SENATE BILL NO. 13 OF 2022

Referenced is made to your letters referenced **SEN/DSEC/SCA/CORR/SCH/020/02/2023 (07)** dated **27th February, 2023** and **SEN/DSEC/SCA/CORR/SCH/020/02/2023 (20)** dated **22nd February, 2023** requesting for submissions on the referenced Bills.

Having reviewed the two Bills, the Council of Governors wish to forward for your consideration the legislative memoranda attached herewith on the **Tea (Amendment) Bill (Senate Bill No. 1 of 2023)** and **Mung Beans Bill, 2022 (Senate Bill No. 13 of 2022** for better implementation by the County Governments.

Further, we request for a session with the Standing Committee on Agriculture and Livestock to deliberate and agree on some of the critical provisions of the two Bills.

Thank you for your continued support.

Yours Sincerely.

Mary Mwiti
Chief Executive Officer

Copy: **All Excellency Governors**

All CECMs responsible for Agriculture

All County Attorneys

(2) DDSEC
Kindly deal
07/3/23

(1) DSEC
DLS
Kindly deal.
07/03/23

(3) Mr. Gikonyo
You can deal
08/03/23



THE SENATE
RECEIVED
16 MAY 2023
DIRECTOR COMMITTEE SERVICES
(DSEC)

To: **National Assembly of Kenya**
C/O The Clerk of the Senate
Parliament Buildings P.O Box 41842 - 00100, Nairobi, Kenya

The Chairman,
Senate Committee on Agriculture, Livestock and Fisheries,
Nairobi

THE SENATE
RECEIVED
15 MAY 2023
DEPUTY CLERK

SUBMISSION OF MEMORANDUM UNDER STANDING ORDER 127 OF THE NATIONAL ASSEMBLY ON THE PROPOSED AMENDMENT OF THE TEA ACT, 2020 (Act No 23 of 2020)

(1) DLS
DSFC
Kindly deal
15/05/23

WE, the undersigned,

Citizens of Kenya, Small Scale Tea Farmers in Zone 5 ***(KIRINYAGA COUNTY),*** through our Factory Company and Zonal directors;

DRAW the attention of the House to the following:

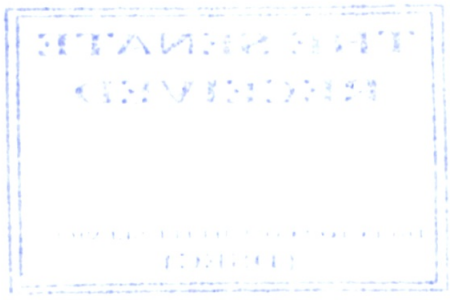
WHEREAS the Tea Act , 2020 **(Act No 23 of 2020)** ushered a raft of Tea reforms with the aim of benefiting the Tea Farmers in the Republic of Kenya;

(2) DPSTC
Kindly deal
16/05/2023

AND WHEREAS the farmers acknowledge and appreciate the benefits that have accrued to them by some of the reforms ushered by the Tea Act,2020;

AND WHEREAS the farmers are aware that there are ongoing

(3) Ms. Njue
Kindly deal
16/05/2023



proposals and engagements to amend the Tea Act to maximize the benefits for the Tea farmers;

NOW WE, small scale tea farmers from **KIRINYAGA COUNTY *(ZONE 5)*** present this memorandum to the Senate Committee on Agriculture, Livestock and Fisheries which in our opinion need to be critically considered and implemented to enable the tea farmer to reap maximum benefit from their Tea Crop;

PROPOSED AMENDEMENTS TO THE TEA ACT, 2020 (Act No.23 of 2020)

1. Section 22 caps the number of directors in a Tea Factory Company Limited to a maximum of five members We propose the amendments as follows:

Amend **SECTION 22 (1)** by removing "maximum of five" and replace with " **Minimum of six and maximum of nine members**" .

Amend **SECTION 22 (2)** by inserting the words ' **shall co-opt such directors to achieve gender parity in conformity with Section 22(1) above**".

The amended Section 22 (1) and (2) should thus read as follows:

22. Board of directors of tea factory limited companies

(1) The Board of Directors of tea factory limited companies shall be a minimum of six members and a maximum of nine members

(2) The Board shall co-opt such directors in conformity with

clause 22(1) above to achieve gender parity to ensure that not more than two-thirds of the Board of Directors of tea factory limited companies elected or appointed are of the same gender.

2. Amend Section 36 Clause (6) subclause (a) by replacing 50% with One Third as follows:

   SECTION 36

   (6) A tea factory shall within thirty days of receipt of the proceeds of the sale of tea, pay tea growers—

   (a) at least **One third** of payment due for green leaf delivered every month;

3. SECTION 53 clause (2) and (5): Remove/delete the clauses

THEREFORE, we our humble prayers are that:

a) You amend the above flagged Sections of the Tea act, 2020 listed above to;

   i. ensure overall representation of all tea zones in the factory boards;
   ii. Harmonize the Tea Sector with other key agriculture sectors whereby the government organs regulating the industry are funded from the exchequer and not from the proceeds of sales/deductions from farmers.

iii. Please bear in mind that the poor small scale tea farmers through the Factory Companies are already saddled with very many **taxes, levies** and other **outgoing payments** that are made to the National and county Governments and other bodies to the tune of over **Forty (40) taxes and levies**

NB.See the **Schedule** of **TAXES, CHARGES and LEVIES** annexed to this petition which the poor farmers are already paying

iv. Ensure delivery of key mandates and **PESA MFUKONI** to farmers;

And your petitioners will ever pray.

Dated at KERUGOYA this 8th day of May, 2023

Signed.....

1. ANTHONY MWAI ILARANI – DIRECTOR/CHAIRMAN MUNUNGA
2. STEPHEN MURIITHI J ILARUBU – V/CHAIRMAN/MUNUNGA
3. WILFRED KIHARA MBICHIRE – DIRECTOR MUNUNGA
4. NAHASHON N KARUGUA – DIRECTOR (MUNUNGA) MUNUNGA
5. ROBINSON NJOGU IKINYA - DIRECTOR
6. JOSEPH G. MURIITHI – DIRECTOR MUNUNGA
7.
8.
9.
10.

SUBMISION OF MEMORANDUM UNDER STANDING ORDER 127 OF THE NATIONAL ASSEMBLY STANDING ORDERS ON THE PROPOSED AMENDMENT TO TEA ACT, 2020

GROWERS/SHAREHOLDERS NAME.	GROWER NO.	ID NUMBER	SIGN
12. ANDREW KABUI	NU290028	11288110	[illegible]
13. JANE MUTHONI MIGWI	NU290113	9187879	[illegible]
14. AGNES W KIMOTHO	NU29092	9580050	[illegible]
15. SYMON M. MUCHOKI	NU29026	6449736	[illegible]
16. EVAN M KINYUA	NU290087	22937604	[illegible]
17. ANN WANDIA	NU290140	24067135	[illegible]
18. HELEN WAMUYU	NU290122	13473563	[illegible]
19. MICHAEL M MWENEUTA	NU290102	13335165	[illegible]
20. JOHN K. NGUYO	NU0290075	21414486	[illegible]
21. JAMES K. MURUTHI	NU030302	11448807	[illegible]
22. WANJIKU KARIUKI	NU03023	3121856	[illegible]
23. JOHN M KINYUA	NU030405	24557048	John M Kinyua
24. EVA MUTHONI	NU030490	9186263	[illegible]
25. SAMUEL M KIBUCHI	NU050320	21967235	[illegible]
26. LUCY M KINYUA	NU05083	2908643	[illegible]
27. SIMON K MURIUKI	NU050241	13540463	[illegible]
28. ANDREW KABUI	NU050444	11288110	[illegible]
29. ANTONY M WANJAO	NU050360	8797434	[illegible]
30. NANCY N WERU	NU070147	10864572	[illegible]
31. BETH WAIRIMU	NU0700131	11171232	[illegible]
32. JOHN MIANO	NU070395	21983639	[illegible]
33. FRANCIS WACHIRA	NU0120389	10496656	[illegible]
34. KARUANA KIGUNDU	NU0120537	13240885	[illegible]
35. CHARLES K. MBICHIRE	NU0120445	11288142	[illegible]
36. JOSEPH M KAGATI	NU0120429	11289263	[illegible]
37. RICHARD GACHOKI	NU0120834	22191147	[illegible]
38. ESTHER NYAWIRA KIBUI	NU0120673	10333118	[illegible]
39. DANIEL M MURAGE	NU0120490	13563375	[illegible]
40. HENRY K MBICHIRE	NU0120305	2263622	[illegible]
41. MARY N KINYA	NU0150352	36339141	Mary N Kinyua
42. JOHN MURUTHI	NU0150337	13239053	[illegible]
43. JACKSON M MWANGI	NU0150645	22887350	[illegible]
44. PETER KABUI	NU017047	10865099	[illegible]
45. TIMOTHY KIMOTHO	NU017009	1814764	[illegible]

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

	Levies					
14	Ad valorem levy		TBK	1% customs value of tea	For each consignment	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

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	Ministry of	Kshs 1000	Annually	National

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		

MAINA NJANGA
— & CO. ADVOCATES —
COMMISSIONERS FOR OATHS & NOTARIES PUBLIC

Date: 3rd March 2023

Mr. Jeremiah M. Nyegenye, CBS,
Clerk of the Senate,
PO BOX 41842-00100,
NAIROBI.

Dear Mr. Nyegenye,

RE: SUBMISSION OF MEMORANDUM ON THE TEA (AMENDMENT) BILL (SENATE BILLS NO. 1 OF 2023)

Reference is made to the above subject matter and the notice inviting submissions of representation on, among others, the Tea (Amendment) Bill, 2023.

We have been retained by KTDA Management Services Limited to represent them in all matters related to the said Bill.

In compliance with the public notice, please find attached herewith our client's Memorandum on the Bill.

Kindly acknowledge receipt.

Yours sincerely,

MAINA NJANGA & CO. ADVOCATES

E.H. MAINA NJANGA
MANAGING PARTNER

Encls.
Cc: KTDA Management Services Limited

Kenya Tea Development Agency Holdings Ltd

MEMORANDUM

ON

THE TEA (AMENDMENT) BILL, 2023

3rd MARCH 2023

SUBMITTED TO:
CLERK OF THE SENATE
P.O.BOX 41842-00100,
NAIROBI

SUBMITTED BY:
KTDA MANAGEMENT SERVICES LIMITED
KTDA FARMERS BUILDING
P.O.BOX 30213 - 00100
NAIROBI.
E-mail:info@ktdateas.com
Site: www.ktdateas.com
Tel: +254 20 22 1441/2/3/4, 322 7000/1

Kenya Tea Development Agency Holdings Ltd

THE TEA (AMENDMENT) BILL, 2023

1.0 INTRODUCTION

The Kenya Tea Development Agency Limited (KTDA) is a limited Company incorporated under the Companies Act, Cap.378 Laws of Kenya (repealed) on 15th May 2000. It emerged from privatizing the Kenya Tea Development Authority (the Authority), a parastatal agency created in the 1960s to support small farmers. On 14th December 2009, Kenya Tea Development Agency changed its name to Kenya Tea Development Agency Holding Limited (hereinafter "KTDA Holdings").

KTDA Holdings is owned by 54 tea factory companies which, in turn, have 650,000 small tea farmers as individual shareholders spread across 16 tea-growing counties in Kenya. The tea companies collectively own 71 tea processing factories.

There are eight (8) subsidiary companies owned by KTDA Holdings that add value to the tea value chain and include Chai Trading Company Limited, KTDA (Management Services), Majani Insurance Brokers, Kenya Tea Packers Limited, Greenland Fedha Limited, KTDA Foundation, Tea Machinery and Engineering Company Limited and KTDA Power Company Limited. KTDA's services cut across the entire tea value chain, including inputs and agri-extension, transportation, warehousing, processing, marketing and financing.

2.0 BACKGROUND/CONTEXT

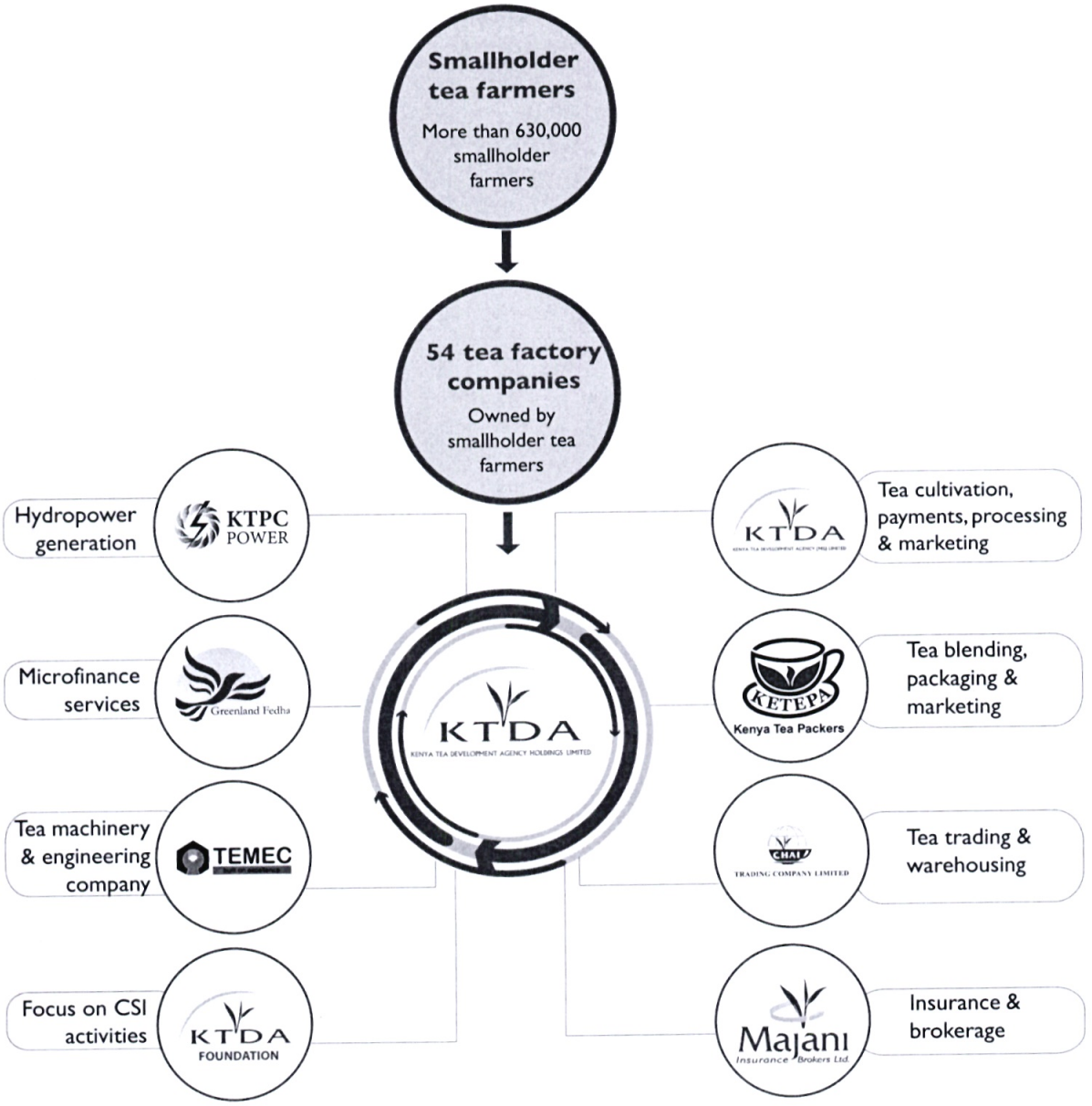
The Tea Act came into force on 11th January 2021. It was enacted to provide for the regulation, development and promotion of the tea industry and connected purposes. In this regard, the tea crop is exclusively governed by the Tea Act 2020. Prior to this, tea was governed by the Crops Act 2013 (sections now repealed).

Tea Industry is a strategic subsector in the overall economy of Kenya as it contributes about 7% of Kenya's Gross Domestic Product (GDP) and supports the livelihood of over 6 million Kenyans who directly or indirectly earn a living from tea. It is the leading foreign exchange earner contributing 26% of the total foreign exchange earnings.

KTDA Management Services Limited (KTDA MS) is the managing agent of the various tea factories. The duties of the managing agent as captured in the management agreements include:

a) Managing, administering, supervising and control of agricultural activities undertaken by farmers;
b) Arrangement for collection and transportation of green leaf from buying centres to the factory and manage diversion of green tea leaf processing;
c) Day to day management of the factory, including but not limited to, receiving green leaf from buying centers, production of tea, storage, warehousing and transportation of manufactured tea to selling outlets;
d) The sale and marketing of manufactured tea and undertaking product diversification and value additions; and
e) The payment on behalf of the factory of tea farmers for all good green leaf delivered and used to manufacture tea.

ABOUT KTDA



Vision

To be the preferred investment vehicle for the smallholder tea farmers in Eastern Africa

Mission

To invest in tea and other related profitable ventures for the benefit of shareholders and other stakeholders

Core values

- Customer focus
- High standards of ethical practices
- Social responsibilities
- Sustainability
- Innovation
- Equal opportunity employer
- Team work

KTDA AT A GLANCE

630,000+
Number of farmers

56 years
of producing the best quality teas

326 million
Kilos of made tea in 2019/20

1Million Feet²
Area of warehouse built to store farmers' tea and other goods

10,000+
KTDA employees

14
Number of hydropower plants at various stages of implementation

127,000
Hectares of tea grown by smallholder farmers

69
Number of KTDA managed factories

1.45 billion
Kilos of green leaf delivered to factories in 2019/20

2.1 million
Indigenous trees planted by KTDA Foundation in tea growing areas

4 million
Kenyans supported by smallhoder tea industry

16
Number of tea growing counties

3.0 TEA SECTOR REFORMS

The current Board of both KTDA Holdings and the Factories were elected on the platform of the reforms introduced in the Tea Act, 2020. KTDA has demonstrated commitment to implementing the tea sector reforms to improve the farmers' earnings.

The commitment has been demonstrated by the introduction of the following changes;

a) Introduction of the reserve price in the Tea Auction in order to manage the price volatility at the auction and to guarantee minimum returns to the farmers;
b) Working hand in hand with the government to ensure low prices of fertilizer by the introduction of subsidies for the benefit of the farmers;
c) Enhancing corporate governance in both the KTDA Holdings Board and Tea factories; and
d) Introducing a transparent system of electing directors through a system of one grower, one vote;
e) Introduction of farmer-friendly policies, e.g. reduction of the rate of borrowing by Greenland Fedha Limited (GFL) from 21% to 8% per annum;
f) Introduction of independent Company Secretaries to serve at the Factories;
g) Establishment of an efficient leaf collection system that ensures that all the leaf delivered by growers is collected and transported to the factories for processing;
h) Partnerships with farmers on financial literacy, programs that focus on training farmers on how to manage the tea sale incomes as well as how to manage loans and make appropriate decisions at the individual and household levels;
i) Reduction of the cost of production by helping tea factories set up small hydropower projects to reduce the cost of energy, which accounts for 30 of the total factory cost of production.

4.0 RATIONALE

The Tea (Amendment) Bill, 2023 proposes to amend the Tea Act to provide for direct sales of tea, the payment of tea proceeds and for connected purposes. KTDA(H) has reviewed and interrogated the Tea (Amendment) Bill 2023. It submits this memorandum in line with its mandate. Further, it responds to the invitation for public participation and submission of memoranda. This memorandum highlights KTDA's select views of the proposals included in the Bill.

5.0 PROPOSALS FOR AMENDMENTS OF THE TEA (AMENDMENT) BILL, 2023

KTDA has carefully considered the individual proposals in the Tea (Amendment) Bill, 2023 and as detailed in the schedule below, has identified eight (8) areas of core concern and recommends amendments. These are:

- Auction process
- Direct tea sales of tea
- Tea proceeds
- Establishment of the Tea Levy
- Management agent agreement
- Management fee
- Seconded staff costs
- Company secretarial services

KTDA

Kenya Tea Development Agency Holdings Ltd

MEMORANDUM ON THE TEA (AMENDMENT) BILL, 2023

Submitted to: clerk.senate@parliament.go.ke

NO	SECTION IN THE TEA ACT,2020	CLAUSE IN THE TEA (AMENDMENT) BILL 2023	PROVISIONS OF THE TEA (AMENDMENT) BILL 2023	PROPOSED AMENDMENT	REMARKS/JUSTIFICATION
1.	Section 2	2 (e)	By inserting the following new definitions in the proper alphabetical sequence— "tea factory limited company" means a tea factory collectively owned through shares by small scale tea growers.	Delete the definition of "tea factory limited company"	Section 2 of the Act defines "tea factory" as "a factory that processes and manufactures tea leaf into made tea." This definition applies to all tea processing factories whether small holder or otherwise. We submit that the insertion of the new definition in 2(e) limits the application to small holder tea factories only. This amendment purports to distinguish between small holder tea factories, independent tea factories and multinationals.
2.	New section	10(2) (b)	A tea factory intending to participate in a tea auction shall- (b) participate in the auction directly and	Redraft the amendment as follows: "A tea factory intending to	Management agents enhance farm management practices, facilitate stronger negotiation positions and access to new and favorable markets. Through their professional management services, farmers can control the costs of operations, increase productivity, improve tea

NO	SECTION IN THE TEA ACT,2020	CLAUSE IN THE TEA (AMENDMENT) BILL 2023	PROVISIONS OF THE TEA (AMENDMENT) BILL 2023	PROPOSED AMENDMENT	REMARKS/JUSTIFICATION
			not through a management agent.	participate in a tea auction shall- (b) participate in the auction through a management agent."	quality and ultimately realise increased profit margins that lead to economic viability. This provision imposes huge costs for the farmers. The exclusion of Management Agents during direct sales by the tea factories will have an impact on the tea market to the detriment of farmers. They will bear the brunt of risks and costs, therefore reducing farmer earnings. For example: ▪ **Licensing & registration costs** - Each of the Tea factories will have to acquire an export license. ▪ **Stock holding costs** – While the buyers attempt to negotiate and obtain tea from other manufacturers through direct sales, the tea factories will pay this expense. ▪ **Loss of economies of scale** – KTDA purchasing materials for tea processing in large quantities as such enjoys economies of scale, and the lower costs for the items are then passed on to the farmers. ▪ There is a centralized system at KTDA that handles all sales and marketing of all the teas produced at the tea factories. Factories will incur additional costs of establishing individual sales and marketing systems.

NO	SECTION IN THE TEA ACT,2020	CLAUSE IN THE TEA (AMENDMENT) BILL 2023	PROVISIONS OF THE TEA (AMENDMENT) BILL 2023	PROPOSED AMENDMENT	REMARKS/JUSTIFICATION
					▪ **Trade association costs** – KTDA has collective and shared interests in the East African Tea Traders Association (EATTA) on behalf of the tea factories. The exclusion of the management agent means the tea factories will be responsible for paying the high EATTA membership fees. ▪ A Joining fee - Ksh 40,000 ▪ Annual subscription based on annual production ranging from Ksh 118,800 for an annual production of between 0-1,000,000 kg. ▪ Ksh 2,851,200 for an annual subscription of over 50,000,000 Kg. ▪ From the foregoing, in the first year of the 54 factory companies joining, below would be the total payments to EATTA.

NO	SECTION IN THE TEA ACT,2020	CLAUSE IN THE TEA (AMENDMENT) BILL 2023	PROVISIONS OF THE TEA (AMENDMENT) BILL 2023	PROPOSED AMENDMENT	REMARKS/JUSTIFICATION
					AMOUNT IN KES **ANNUAL SUBSCRIPTION** | **ENTRANCE FEE** | **TOTAL AMOUNT** **15,919,200.00** | **2,160,000.00** | **18,079,200.00** Currently, KTDA (MS) Ltd pays an annual subscription of Ksh 2,851,200 to EATTA representing all the 54 factory companies under KTDA Umbrella.
3.	Section 36 (5) & (6)	10(2) (c) and (d)	Deleting subsection (5) and (6)	Delete the proposed amendment/ paragraph	The proposed amendment will erode the benefits the farmers have enjoyed so far. KTDA (H) ensures that payment to growers is made promptly. When the Tea Act was enacted, payments to farmers were made in the third week of the month, but they are now made by the fifth(5th) of the month. This is highly appreciated by farmers. Discord will result from separate and individual payments made on various days.
4.	New section	10(8)	The Cabinet Secretary shall, in consultation with the county governments prescribe regulations	Redraft the amendment as follows:	▪ With the digitization of the Tea auction through the Integrated Tea Trading System it is unnecessary to decentralize the auction through the establishment of auction centres in the tea-growing counties.

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Kenya Tea Development Agency Holdings Ltd

NO	SECTION IN THE TEA ACT,2020	CLAUSE IN THE TEA (AMENDMENT) BILL 2023	PROVISIONS OF THE TEA (AMENDMENT) BILL 2023	PROPOSED AMENDMENT	REMARKS/JUSTIFICATION
			for the procedure for auction sales of tea and for the establishment of auction centres in the tea-growing counties.	"The Cabinet Secretary shall, in consultation with the Council of Governors prescribe regulations for the procedure for auction sales of tea."	Digitization has improved the efficiency of the tea industry and increased transparency of trade. It has also reduced the trade cycle and administrative costs thus contributing to an increase in the incomes of producers and farmers at the farm level. ▪ The Council of County Governors (COG) provides a mechanism for consultation amongst County Governments.
5.	New section	11 – 36B (1)	The proceeds from the sale of tea whether through an auction or through a direct sale shall be deposited in a Direct Settlement System	Delete the proposed amendment/ paragraph	The introduction of this Direct settlement system is excessive bureaucracy, as it could create additional administrative burdens and costs for the farmers e.g ▪ Operationalization of the DSS will have an expense including a secretariat to provide the services. ▪ Tea growers will be required to open and maintain accounts with DSS where proceeds for tea sales will be deposited to recover advance payment at the source.
6.	New section	11 – 36B (2)	The Direct Settlement System provider shall remit tea sales proceeds to the tea growers and settle	Delete the proposed amendment/ paragraph	

NO	SECTION IN THE TEA ACT,2020	CLAUSE IN THE TEA (AMENDMENT) BILL 2023	PROVISIONS OF THE TEA (AMENDMENT) BILL 2023	PROPOSED AMENDMENT	REMARKS/JUSTIFICATION
			statutory charges, service provider's fees and other liabilities within five working days from the receipt of the tea sale proceeds.		▪ Risk of loss of money in the process of currency exchange dollars and interest charges. Tea is sold in dollars and during the exchange, banks bid competitively. With the DSS, farmers will loose the advantage of the competitive dollar exchange rate. ▪ The interlinkages between and among smallholder tea factories currently being enjoyed, including economies of scale while selling dollars to banks, borrowing and placing deposits, will be lost. ▪ KTDA (H) treasury management has good deposit rates, ensuring that payment to growers is made promptly. ▪ These amendments will disenfranchise the aggregation model that has supported the small scale tea farmers for many years. The model ensures that irrespective of the cash flows of the factory that is dependent on the sales, every farmer is paid by the 5th of every month as a result of the economies of scale enjoyed under the aggregation
7.	New section	11 – 36B (3)	The Cabinet Secretary shall make regulations to providing for the operation of a Direct Settlement System and requirements to be met by commercial banks which express an interest in the establishment of a Direct Settlement System.	Delete the proposed amendment/ paragraph	

NO	SECTION IN THE TEA ACT,2020	CLAUSE IN THE TEA (AMENDMENT) BILL 2023	PROVISIONS OF THE TEA (AMENDMENT) BILL 2023	PROPOSED AMENDMENT	REMARKS/JUSTIFICATION
					model. If this arrangement is disrupted, farmers will register high level dissatisfaction. ▪ These proposals introduce loopholes that will be exploited to the detriment of the sector farmers. ▪ The clause already specifies what must be paid, such as statutory fees, service provider fees, and other obligations. These should be delegated to be handled under the Regulations. ▪ The coffee trade was negatively disrupted following the establishment of the Direct Settlement System (DSS). There is need to ensure that similar detrimental upheavals do not impact the tea sector.
8.	Section 34 (4)	8		The Bill is amended in clause 8 by introducing a new clause 8 (aa) as follows:	Management fees be enhanced to 2% as a bare minimum. The proposed amendment will have a huge financial impact on KTDA Management Services Ltd as follows:

KTDA

Kenya Tea Development Agency Holdings Ltd

<table>
<tr><th>NO</th><th>SECTION IN THE TEA ACT,2020</th><th>CLAUSE IN THE TEA (AMENDMENT) BILL 2023</th><th>PROVISIONS OF THE TEA (AMENDMENT) BILL 2023</th><th>PROPOSED AMENDMENT</th><th>REMARKS/JUSTIFICATION</th></tr>
<tr><td></td><td></td><td></td><td></td><td>"(aa) Subsection (4) is amended by deleting subsection (4) and substituting therefor the following new subsection-
The remuneration for services rendered by a management agent to
a tea factory limited company shall not exceed two per centum
of the net sales value of the tea sold per year."</td><td>
<table>
<tr><td>KTDA (MS) Ltd</td><td>FY2021/22</td><td>FY 2021/22</td></tr>
<tr><td>Management Fee Rate</td><td>2.5%</td><td>1.5%</td></tr>
<tr><td></td><td>Actual (Ksh.)</td><td>Projected (Ksh.)</td></tr>
<tr><td>Performance Review</td><td>FY2021/22</td><td>FY 2021/22</td></tr>
<tr><td>Income</td><td></td><td></td></tr>
<tr><td>Management fees-gross</td><td>1,958,811,000</td><td>1,175,287,000</td></tr>
<tr><td>Other Income</td><td>84,142,000</td><td>84,142,000</td></tr>
<tr><td>Total Income</td><td>2,042,952,000</td><td>1,259,428,000</td></tr>
<tr><td>Expenses</td><td></td><td></td></tr>
<tr><td>Head Office Staff costs</td><td>996,272,000</td><td>996,272,000</td></tr>
<tr><td>Seconded Staff Costs</td><td>-</td><td>876,931,000</td></tr>
<tr><td>Total Staff Costs</td><td>996,272,000</td><td>1,873,203,000</td></tr>
<tr><td>Operating costs</td><td>714,359,000</td><td>557,634,000</td></tr>
<tr><td></td><td>1,710,631,000</td><td>2,430,837,000</td></tr>
<tr><td>Actual PBT</td><td>332,321,000</td><td>-1,171,409,000</td></tr>
</table>
</td></tr>
</table>

KTDA

Kenya Tea Development Agency Holdings Ltd

<table>
<tr><th>NO</th><th>SECTION IN THE TEA ACT,2020</th><th>CLAUSE IN THE TEA (AMENDMENT) BILL 2023</th><th>PROVISIONS OF THE TEA (AMENDMENT) BILL 2023</th><th>PROPOSED AMENDMENT</th><th>REMARKS/JUSTIFICATION</th></tr>
<tr><td>9.</td><td>Section 34 (5)</td><td>8</td><td></td><td>The Bill is amended in clause 8 by introducing a new clause 8 (ab) as follows:

"(ab) Subsection (5) is amended by deleting subsection (5) and substituting therefor the following new subsection-
"The staff costs for personnel seconded to the tea factory limited company by a management agent shall be borne by the tea factory."</td><td>The proposed amendment will have a huge financial impact on KTDA Management Services Ltd as follows:

<table><tr><th>KTDA (MS) Ltd</th><th>FY2021/22</th><th>FY 2021/22</th></tr><tr><td>Management Fee Rate</td><td>2.5%</td><td>1.5%</td></tr><tr><td></td><td>Actual (Ksh.)</td><td>Projected (Ksh.)</td></tr><tr><td>Seconded Staff Costs</td><td>-</td><td>876,931,000</td></tr></table>
The loss to KTDA will be three-fold:
▪ The reduction of the management fee from 2.5% to 1.5%

▪ The management fee reduces the revenue of the Management Agent and further, the reduction will be done by the cost of the seconded staff which forces the management agent into an unprofitable and unsustainable endeavor. This will force the agent to implement a cost-cutting program to make up for the loss, and it is likely to result in 30% of</td></tr>
</table>

NO	SECTION IN THE TEA ACT,2020	CLAUSE IN THE TEA (AMENDMENT) BILL 2023	PROVISIONS OF THE TEA (AMENDMENT) BILL 2023	PROPOSED AMENDMENT	REMARKS/JUSTIFICATION
					staff redundancy, which is contrary to the government employment creation policy. ▪ With a management charge of 1.5 percent, KTDA (MS) Ltd may not be able to hire, train, and retain qualified staff, which will have a detrimental effect on the goods' quality, safety, and security. As a result, KTDA will loose its position as the global leader in quality tea. This will result in lower profits for the growers and could make the tea industry obsolete. ▪ Loss of human capital will have a significant impact on the product's quality.
10.	Section 34 (6)	8		The Bill is amended by introducing a new clause 8 (ac) as follows:	▪ To promote the delivery of good governance in the tea industry. ▪ Legislation is not required because the factory firms' Memorandum & Articles of Organization and the Company Law permit the board of directors to choose

NO	SECTION IN THE TEA ACT,2020	CLAUSE IN THE TEA (AMENDMENT) BILL 2023	PROVISIONS OF THE TEA (AMENDMENT) BILL 2023	PROPOSED AMENDMENT	REMARKS/JUSTIFICATION
				"(ab) subsection (6) is deleted in its entirety."	the Company Secretary and have the authority to remove them. ▪ Tea factories should be given freedom of choice to appoint Company Secretaries. These are contractual matters that can be agreed upon by parties. ▪ Preservation of records is of utmost importance in records management. Many documents have been lost over time due to information being stored on personal computers which may breach the confidentiality of information. This poses a legal and reputational risk. ▪ The flow of decision-making- When decisions are not communicated to the Management Agent, it impacts decision-making and consequently the success of the tea industry.

KTDA

Kenya Tea Development Agency Holdings Ltd

NO	SECTION IN THE TEA ACT,2020	CLAUSE IN THE TEA (AMENDMENT) BILL 2023	PROVISIONS OF THE TEA (AMENDMENT) BILL 2023	PROPOSED AMENDMENT	REMARKS/JUSTIFICATION
11.	Section 37 (1)	12	Section 37 of the principal Act is amended in subsection (1) by deleting the word "Board" appearing immediately after the words "register with the" and substituting therefor the words "respective county government".	Review to eliminate the inconsistency	This amendment duplicates duties by requiring the Tea Board of Kenya and County Government to register commercial green leaf transporters. It also contradicts the function of the Tea Board of Kenya under Section 5 (e) of the Tea Act, 2020. Counties will establish various levy rates, and there is a possibility that licensing prices could rise.
12.	Section 53 (2)	13 (a)	Section 53 of the principal Act is amended by — (a) deleting subsection (2) and substituting therefor the following new subsection — (2) The levy imposed under subsection (1)	Delete the proposed amendment/ paragraph	The introduction of an absolute levy of Ksh.3.85 per kg is an actual increase. This will make local produce more expensive for small-scale tea farmers at the Auction. The government should promote the tea industry by lowering the price of agricultural inputs.

<table>
<tr><th>NO</th><th>SECTION IN THE TEA ACT,2020</th><th>CLAUSE IN THE TEA (AMENDMENT) BILL 2023</th><th>PROVISIONS OF THE TEA (AMENDMENT) BILL 2023</th><th>PROPOSED AMENDMENT</th><th>REMARKS/JUSTIFICATION</th></tr>
<tr><td></td><td></td><td></td><td>shall be collected by the Board at a rate not exceeding three shillings, eighty-five cents per kilo of made tea exported in bulk; and at such times, being not earlier than one month after the date of publication of the notice, in such a manner, as is specified in the notice.</td><td></td><td>Below is the impact of the Tea Levy as proposed in the amendments:

<table>
<tr><th></th><th>SCENARIO A- WITH 1% LEVY</th><th>SCENARIO B- WITH KSH 3.85/KG/MT</th></tr>
<tr><td>Made Tea Sold In 2021/22 ('000 KG)</td><td>255,000</td><td>255,000</td></tr>
<tr><td>Factory Revenue net of selling expenses (Ksh'000)</td><td>81,718,080</td><td>81,718,080</td></tr>
<tr><td></td><td></td><td></td></tr>
<tr><td>Management Fees – gross (2.5%)</td><td>2,042,952</td><td>2,042,952</td></tr>
<tr><td>Tea Levy at 1% - Tea Act,2020(Ksh.'000)</td><td>817,181</td><td>-</td></tr>
<tr><td>Tea Levy at @Ksh.3.85 KG/MT-Senate Bill (Ksh '000)</td><td>-</td><td>981,750</td></tr>
</table></td></tr>
</table>

KTDA

Kenya Tea Development Agency Holdings Ltd

NO	SECTION IN THE TEA ACT,2020	CLAUSE IN THE TEA (AMENDMENT) BILL 2023	PROVISIONS OF THE TEA (AMENDMENT) BILL 2023	PROPOSED AMENDMENT	REMARKS/JUSTIFICATION
13.	Section 53 (5)	13 (c)	Section 53 of the principal Act is amended by deleting subsection (5) and substituting therefor the following new subsection— (5) The tea levy collected under subsection (2) shall be apportioned as follows — (a) forty per centum shall be applied by the Board for income or price stabilization; (b) thirty per centum shall be applied by the Board in the furtherance or exercise of any function or power of	Delete the proposed amendment/ paragraph and redraft as follows: The Principal Act is amended by inserting the following new sub section immediately after section 54(5) (d) "A Fund Management Committee shall be established to manage the funds for infrastructure development in the tea subsector.	▪ The proposed amendment would decrease the percentages going to price stability from 50% to 40% while increasing the percentages going to the Tea Board from 15% to 30%. ▪ Further, it suggested lowering from 15% to 10% the allocation for infrastructure in the tea sector. The allocation for tea research doesn't change and stays at 20%. Since the Tea Board of Kenya and the Tea Research Foundation would receive 70% of the levy, this expense of subsidizing government organizations will be expensive for tea growers. ▪ Tea Research is a national function and should be funded by the National Government. ▪ This will disadvantage Factories that are already spending a percentage of their proceeds on road maintenance. There is a risk of accountability of the Tea Levy. To promote transparency, there is a need to introduce a fund

NO	SECTION IN THE TEA ACT,2020	CLAUSE IN THE TEA (AMENDMENT) BILL 2023	PROVISIONS OF THE TEA (AMENDMENT) BILL 2023	PROPOSED AMENDMENT	REMARKS/JUSTIFICATION
			the Board; (c) twenty per centum shall be remitted directly to the Tea Research Foundation; and (d) ten per centum shall be applied for infrastructure development in the tea sub-sector on a pro rata basis.	Provided that there shall be a representation of the tea factory from the respective county."	management committee with a representative from the tea factories and creation of separate accounts for those funds.

6.0 CONCLUSION

Tea has for many years been one of the largest foreign exchange earner in Kenya contributing over Kshs 114 billion in 2013, Kshs 101 billion in 2014, Kshs 124 billion in 2015, Kshs 120.6 billion in 2016, Kshs 147 billion in 2017, Kshs 139 billion in 2018, Kshs 114 billion in 2019, Kshs 130 billion in 2020 and Kshs 131 billion in 2021.

Tea is grown in 21 counties and is also the only cash crop grown widely in geographically dispersed areas in Kenya. Tea is therefore an effective catalyst for rural development and has assisted to fund maintenance of rural road access, provide health and education facilities to rural populations. Small scale tea farmers account for about 60% of Kenya's production through 71 KTDA managed tea factories while 40% is produced by the medium and large size tea estates.

KTDA's role in return on investment includes active involvement in every stage of tea value chain from farm inputs and agri-extension, transport, warehousing, processing to marketing and financing. At the farm level, KTDA has improved agro-economical practices such as pruning, fertilizers application and tea plucking. Through extension officer, KTDA conducts periodic training on farm management to improve productivity of tea bushes. This ensures KTDA tea is of superior quality giving them a competitive advantage.

KTDA is leveraging on technology to increase its efficiency by factory automation such as with the introduction of Continuous Fermentation Units (CFUs), weigh feeders and electronic green leaf weighing machines. Leveraging on technology has reduced factory overheads costs and improved accuracy of green leaf weighing. KTDA is also investing in hydropower projects so as to cut down on cost of energy.

On market emerging trends, KTDA has embarked on product diversification projects to match the tastes and preferences of the consumer. Such specialties include: green and black orthodox and oolong varieties of tea which are already under production at Kangaita Tea Factory. KTDA continues to explore new markets in countries such as Russia, China, USA and Indonesia in order to expand its market share.

The performance of the tea industry is vital to the Kenyan economy and therefore the enactment of sound laws to provide for the regulation, development and promotion of the tea industry is key and specifically on the following reflections and observations as submitted:

- **Imposition of huge costs on the farmers** – by excluding management representatives from tea manufacturers' direct sales, implementing the Direct Settlement System, and raising the Tea Levy.

- **Importance of the Management agents** – They improve farming practices, enable stronger negotiating positions, and offer access to new and advantageous markets. Farmers can reduce operating expenses, boost productivity, enhance tea quality, and ultimately realize higher profit margins that result in economic viability through the use of their expert management services.

- The impact of Kenya Tea Development Agency (KTDA) on the livelihood of over 560,000 tea farmers in Kenya who deliver green leaf to the 65 tea factories managed by the agency is of great economic value. Across the value supply chain, more than 10,000 people are directly employed in the small holder sector, indirectly benefitting over four million people. The lowering of the management fee from 2.5% to 1.5% poses a risk of **human capital loss** of up to 30% of skilled personnel with cutting-edge knowledge and expertise in the tea industry and this would impact the quality, safety and security of the product as well as the efficiency, effectiveness and overall productivity of staff.

- **Employment promotion** – Through the personnel seconded to the tea factory limited company.

- Maintaining the **aggregation business model**, which has long been advantageous to farmers. Throughout the course of more than 50 years, the approach has been increasingly refined and matured in Kenya's administration of the small holder sub-sector.

- **High-quality products** – KTDA managed tea factories produce high-quality teas as farmers pluck two leaves and a bud. The green leaf is processed using modern machines and equipment, in a highly monitored and controlled environment.

- Promoting **prompt payment** to farmers – KTDA (H) treasury management has good deposit rates, ensuring that payment to growers is made promptly by the fifth (5th) of every month.

From the foregoing submissions, the KTDA urges the Senate that these amendments be reconsidered before the amendment of the Tea Act, 2020.

FOR: KTDA MANAGEMENT SERVICES LIMITED



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Julius Onguso
MANAGING DIRECTOR - KTDA (MS)

THE KENYA TEA GROWERS' ASSOCIATION

Affiliated to: Federation of Kenya Employers (FKE); East African Tea Trade Association (EATTA); Kenya Association of Manufactures (KAM); Kenya Private Sector Alliance (KEPSA) and Agricultural Sector Network (ASNET)

P.O. Box 320,
KERICHO.

Cell – 0718 - 757342
Email: info@ktga.or.ke

Our Ref.: **KTGA/SEN/TeaAmendment/03/2023**

Date: **3rd March 2023**

The Clerk of the Senate
Main Parliament Building
P. O. Box 41842-00100
NAIROBI

Advance copy via email: **"clerk.senate@parliament.go.ke**
agriculturelfcommittee.senate@parliament.go.ke"

RE: TEA AMENDMENT BILL (SENATE No.1 of 2023)

1. Introduction

1.1. The Kenya Tea Growers Association (KTGA) is a long-standing association representing large scale tea producers. The Association promotes the common interests of its members in the cultivation and manufacture of tea and advances good industrial relations and sound wage policies for workers in the industry.

1.2. Members of the Association are drawn from public and private tea companies with operations in Kericho, Bomet, Nyamira, Nandi and Kiambu Counties. These operations are mainly situated in rural areas and therefore secure rural employment and largely sustain rural economies. The large-scale tea producers are essential in securing economic returns to small-holder tea farmers as they process and market tea from out-growers in their regions of operation and ensure income, improved livelihoods and enhanced technical capacity of small-holder farmers. Additionally, the producers provide a substantial base of land rates payers and roads maintenance support, among a myriad of direct economic and socio-economic benefits to the County Governments in the areas where they operate.

1.3. Independently, the commercial tea plantations put upwards of 16,000 hectares into productive sustainable agricultural use for tea production and natural resources conservation. The sub-sector accounts for more than 40% of national tea production and employs directly and indirectly about 60,000 Kenyans mostly in rural areas. The significance of the sub-sector to the economy can therefore not be underscored.

2. Implications of the Bill

2.1. The Tea Amendment Bill is laudable in its recommendations to open up direct sales of tea as a key avenue of marketing of Kenyan tea. The proposal for reversion of assets of the Tea Research Institute and Tea Board of Kenya back to these key bodies that have historically supported the industry's *operations* and development is a laudable effort. Following the enactment of the Tea

Bill, 2020, various significant challenges to industry operations emerged. These compelled court action by the industry in order to secure business. It is our expectation that the opportunity for the review of the Tea Act is applied to address these challenges and set the industry on a path of improved productivity and growth.

2.2. Three key issues of concern emerge for KTGA in the proposals contained in the Tea Amendment Bill, 2023. These are:

2.2.1. Direct Sales

- It is commendable that the Amendments propose to re-allow direct sales. This will provide multiple marketing avenues for tea and enhance opportunity for price discovery. Further, it is an acknowledgement and preservation of the investment made by businesses to establish market links and build brand recognition to key direct sales markets
- There is however concern, that the stipulation and implementation of a price for direct sales that is above Auction sales will be impractical and will hamper tea marketing, as set out in the table below. No table provided?

2.2.2. Value addition

- The proposal to restrict the definition of value addition to improved teas packaged in packets of ten kilograms or less is disadvantageous and prejudicial to investors who have employed substantial capital in various value addition ventures and marketing efforts that are not however tailored to teas packaged in ten-kilogram packets or less. Further very limited opportunity exists for value addition into the specific proposed packaging. Indeed, the prescription by law of requirements for value addition are contrary to the necessary efforts to incentivise investment in value addition. Adoption of this proposal that additionally restricts the scope of value addition, will dis-incentivise enterprises that have adopted value addition models that result in products packaged in quantities above 10kilograms. This will be counterproductive to Government efforts to encourage tea value addition.

2.2.3. Apportionment of Tea Levy

- The substantial allocation of tea levy to a price and income stabilisation that will cover only a segment of industry is inequitable. Apportionment of funds should prioritise the institutions whose functions serve entire industry operations, and which will further the development of industry and national economic development.

2.3. Acknowledgment of Different Segments of Industry Players

2.3.1. A major challenge of the Tea Act 2020 was the blanket stipulation of requirements targeting specific segments of industry, but imposing onerous, costly and unreasonable obligations that hamper the operations of entire industry. The following recommendations can be addressed through targeted

regulation of industry that takes into account the different business operational models and structures:

2.3.1.1. Direct Settlement System for all tea proceeds regardless of business model or industry segment. Although phrased as intended to safeguard the proceeds of tea farmers from mismanagement by factories, the proposal presumes the independence of operations of all tea producers/factories from growers. It fails to consider enterprises with own tea farms and integrated business operations with factories. As proposed, there will be unnecessary intrusion and interference with the financial affairs of private enterprises. This will hamper business activity and investment. Notably, there exist adequate avenues to enforce financial compliance by business and enforce integrity through other financial laws and the criminal law. The mischief sought to be addressed does not justify and is not proportionate to the suggested intrusion into business financial operations.

2.3.2. Stipulation of requirements for Management Agents in legislation in disregard of freedom and privity of contract between private parties.

2.3.3. Limitation of remuneration to brokers in the legislation without regard to the cost and value of services provided by the brokers.

3. KTGA Submissions

Below are KTGA inputs into the Bill for your consideration.

No.	*Clause, Heading & Proposal*	*Implications*	*Stakeholder Comments & Justifications -10th February, 2023*
1.	**Clause 1 amending S. 2 of the Tea Act 2020** ***Definitions:*** **"Value addition"** as "*improvements on made tea through packaging, blending, flavouring, tea extracts, aroma and branding* ***"into a packet or a container holding not more than ten kilograms"*** **"Direct sales":** *"... a contractual arrangement between a factory and an overseas buyer or local buyer for the sale of made tea based on*	➢ Definition of "***value addition"*** restricted to tea packaging of not more than 10kilogrames and disregards other value-added teas that occasion investment into value addition but are not packaged as specified	Maintain definition of "***value addition"*** as in Tea Act 2020 as it is appropriate. Definition of Direct Sales to include the term **"or its appointed agent"** after the word **"factory"** Delete the phrase and definition of "***direct sales overseas".*** It is covered in the definition of *"direct sale"* **"Direct Settlement System"** definition is acceptable as it is a current practice in the industry

	mutually accepted terms and conditions enforceable in law" **"Direct sales overseas":** *"... bulk tea sales exported directly by a tea factory to an export market"* **"Direct settlement system":** *"... a banking facility provided by a commercial bank regulated by the Central Bank of Kenya for the clearing and settlement of tea sales proceeds"* **"Tea factory limited company":** *"... a tea factory collectively owned through shares by small scale tea growers."*		Adopt the proposed definition of **"Tea factory limited company"** as it clarifies concerns regarding KTDA(MS) managed factories. In consideration of business practice, expand scope of the term "Management Agent" by deleting the term "professional" due to ambiguity. This recognizes that parties can contract for any services required.
2.	**Clause 4 amending Section 8 of Tea Act 2020** ***Term of appointment*** *"(1) The persons appointed under section 7(1)(a), (e), (f), (g), and (h), shall serve for a term of three years' renewable once on account of good performance"*	➢ Renewal of TBK member's term to subject to good performance	Delete the phrase **"*on account of good performance*"** as it is ambiguous, subjective. Nominated persons are already successful principals in their respective organizations that nominate them to the Board.
3.	**Clause 6 amending Section 31 of the Tea Act 2020** ***Tea Exports***	➢ Requires declaration to TBK of teas brought into a Special Economic Zone or an Export Processing Zone	Add "**subject to the approval of the Ministry of Trade**" after the phrase "***in the prescribed form***"

	New section: *"S.31 (1A) All tea brought into a Special Economic Zone Enterprise or an Export Processing Zone shall be declared to the Board in the prescribed form"*		Unrestricted importation is allowed in EPZ facilities. The facilities also fall outside the purview of Tea Board of Kenya regulation according to Government foreign trade policy and the law, under the Export Processing Zones Act. The declaration should therefore be limited to the purposes of information to the Board, in order not to conflict with the law and trade policies on EPZ operations.
4.	**Clause 7 amending Section 32 by deleting "limited company"** ***Registration of a tea broker*** *"(4) The remuneration paid to a tea broker by a tea factory ~~limited company~~ and a tea buyer or exported for services rendered shall not exceed zero-point seven five percent of the gross sales by the broker"*	➢ Expands broker registration requirements and limits on payments to brokers (Maximum of 0.75% of gross sales of tea) to the entire industry and not just tea factory limited companies (KTDA factories)	The proposal/provision should be set out in Regulations to allow for appropriate stakeholder consultation of affected players before setting the quantum. This will also further expeditious and effective periodic reviews of the remuneration in the event of changes in circumstances. It is acknowledged that the remuneration should sufficiently cover the cost of service and benefits derived from brokerage services. Alternatively, amend the proposal to read; **"The remuneration paid to a tea broker by a tea factory may be reviewed through Regulations, as appropriate"**
5.	**Clause 8 amending Section 34 (2) by deleting "limited company"**	➢ Requires registration of all management agents and not just KTDA-related management services. ➢ All management agreements to be submitted to TBK for scrutiny	Proposals to be included in Regulations as the matters pertain to specific issues appropriately addressed by other laws such as the Companies Act, the

	Registration of management agent *"(2) a management agent shall sign a management agreement with each tea factory ~~limited company~~ that they intent to offer management services to."*	and approval before execution by parties. ➢ Limits the duration of management agreements to five years after which renewal may be done at discretion of the tea factory.	Competition Act and the Law of Contracts Act; and are restricted to operations of a specific segment of industry. Further, perceived non-compliance by affected segment can be addressed through enhanced monitoring of overall compliance with the law by the Regulator without blanket stipulation of duplicated requirements to be applicable industry-wide. Global best practice on the issues sought to be addressed, is entrenched in the above cited laws governing all organizational governance, financial reporting and competition practices and matters for all enterprises. For example, there exist corporate governance codes for declaration of interest by directors of companies and breaches are enforceable through fines and jail terms indicated in the Companies Act. **This section should be specific to factories owned by small holder farmers managed by KTDA (MS) and not privately-owned factories.**
6.	**Clause 8 amending S. 34** *"(4) The remuneration for services rendered by a management agent to a tea factory limited company shall not exceed one point five per*	➢	Delete these proposals from the Act. Include in Regulation. Enhanced oversight by Tea Board of Kenya through regulatory requirement for review and approval of the Agreement by the Tea Board of Kenya will

	centum of the net sales value of the tea sold per year.		address the concerns/mischief sought to be addressed by these requirements.
	(5) The staff costs for personnel seconded to the tea factory limited company by a management agent shall be borne by the management agent.		Transfer to the Regulations or the Management Agreement as appropriate.
	(6) Company Secretarial services shall be excluded from services to be offered by a management agent to a tea factory limited company.		**This section should be specific to factories owned by small holder farmers managed by KTDA (MS) and not privately-owned factories.**
	(7) A tea factory shall recruit its own in-house Company Secretary or outsource the service.		
	(8) Despite subsection (7), a tea factory may enter into an arrangement with one or more tea factories to have a joint in-house Company Secretary.		
	(9) A director of tea factory shall not serve as a director in another company having a direct or indirect commercial relationship with the tea factory where the person is serving as a director.		
	(10) Where the provisions of subsection (9) apply, a director of a		

	tea factory shall forthwith relinquish his or her position."		
7.	**Clause 9 introducing Section 34A** ***Tea sales*** *"(1) Kenyan tea shall be traded through — (a) the auction; or* *(b) direct sales.* *(2) All tea processed and manufactured in Kenya for the export market shall be registered with the Board prior to exportation"*	➢ Sale of tea to be either by auction sale or direct sales ➢ All tea for the export market to be registered.	The proposal is agreeable and is covered by current practice.
8.	**Clause 10 amending Section 36** ***Tea Sales*** *"(1) Tea processed and manufactured in Kenya for the export market may be offered for sale at the tea auction floor.* *(2) A tea factory intending to participate in a tea auction shall—* *(a) register with the Board and the auction organizer; and* *(b) participate in the auction directly and or through a management agent...."* *"(8) The Cabinet Secretary shall, in consultation with the county*	➢ Each tea factory intending to participate at the auction to register with the Board and Organizer ➢ Setting up of auction centers in tea growing counties ➢ CS to consult Counties in stipulating regulations for auction sales	The scope of the Agent's functions can be adequately stipulated in the Management Agreement and enforced through Regulations. Delete **"not"** under 2(b) on participation by the factory in the auction directly and insert **"or"** The proposal will compromise the benefits of a centralized auction location and platform in terms of the convenience of accessibility and attraction of many buyers. Consultations for development of regulations by the CS and Counties to be specific and in as far as they are intended for the auction centers established in the

	governments prescribe regulations for the procedure for auction sales of tea and for the establishment of auction centres in the tea growing counties"		Counties and NOT the EATTA auction that is serving East and Central African Countries.
9.	**Clause 11 introducing Section 36A** ***Direct sales of tea*** *"36A. (1) A licensed factory or any other entity representing growers may undertake direct sales.* *(2) The prices offered at the direct sales shall be competitive and shall be sold at a price above the prevailing reserve price at the auction.* *(3) If the tea fetches a higher price at the auction than the direct sales price offered, then the prospective direct sale buyer shall have pre-emptive rights to purchase the tea at the auction price failing which the tea will be sold to the highest bidder.* *(4) The Cabinet Secretary shall, in consultation with county governments, prescribe regulations for the procedure of direct sales of tea."*	➢ Prices for direct sales to be above the prevailing reserve price at the auction ➢ Regulations to govern procedure of direct sales to be prescribed by the CS in consultation with County Governments	The proposal will be impractical to implement for the following reasons: Will all teas be required to be presented at the Auction floor for the assessment of the price? This will increase logistical and administrative costs and occasion marketing inefficiencies. If forward contracts are entered and then the market moves upwards or downwards, it will not be possible to adjust the contract stipulated terms of direct sales agreements. Administering the changes in price retrospectively will be impossible/impractical. It is also not possible to project forward contracts' prices. The competitiveness of price for tea sold through direct sales has been achieved by ensuring the specific requirements of the buyers are met and the producer ensures that their costs are effectively catered for to ensure business sustainability. Profitability is the essence of all business enterprises. It cannot be assumed that producers can elect to sell teas at a less than the best possible price

			Other proposals for consideration are: • Alternatively, average sale price over a historical period can be recommended for direct sales contract negotiations running for a period of over three months and weekly auction top hammer price for any grade for weekly spot offers. • HOWEVER, it was observed that previous (2021) Price stipulation at the Auction has not worked, so price should not be stipulated and market factors should determine price with business playing competitively to ensure sustainability and profitability. • Maximum and minimum price of leaf should also not be set. • The producer has a prerogative to sell their tea at an appropriate price/set price. • This stipulation would restrict free trade. • The proposal will disadvantage a Kenyan producer in competing with regional producers. For instance, other countries will not stipulate such minimum price requirements for direct sales. • Ways of meeting the objective? • E.g set a price pegged on a previous sale as the benchmark for direct sales. **On prescription of procedure for direct sale, delete clause as it is**

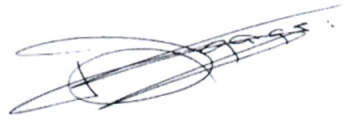
			restrictive of trade. Allow free trade.
10.	**Clause 11 introducing Section 36B** **Tea proceeds** *"36B (1) The proceeds from the sale of tea whether through an auction or through a direct sale shall be deposited in a Direct Settlement System.* *(2) The Direct Settlement System provider shall remit tea sales proceeds to the tea growers and settle statutory charges, service provider's fees and other liabilities within five working days from the receipt of the proceeds of sale of tea.* *(3) The Cabinet Secretary shall make regulations to providing for the operation of a Direct Settlement System and requirements to be met by commercial banks which express an interest in the establishment of a Direct Settlement System"*	➢ Establishing the Direct settlement system for processing of proceeds of all tea sales (auction and direct sales). All proceeds of tea sale to be deposited in the DSS ➢ DSS provider to disburse payments to growers; settle statutory fees; service provider fees and other liabilities and levies	The proposal presumes that all proceeds of tea sales are for small holder farmers whose leaf is processed by KTDA (MS). There are producers with own estates running consolidated operations with internal financial operations. The proposal is overly financially intrusive and impractical considering the varied financial and statutory practices of the private industries. Mechanisms exist for financial reporting, monitoring and prudence. Mischief sought to be cured can be solved through a less restrictive avenue. Distinguish industry players- KTDA vs. other private producers/players and apply appropriate measures to address the mischief through the Regulator where necessary.
11.	**Clause 13 amending Section 53** **Tea Levy** *"(2) The levy imposed under subsection (1) shall be collected by the Board at a rate not exceeding three shillings, eighty-five cents per kilo of made tea exported in bulk; and at such times, being not earlier than one month after the date of publication of the notice, in such a manner, as is specified in the notice."*	➢ Proposes amount of tea levy at maximum of Kes. 3.85 per kilogram of **made tea exported in bulk.** Levy to be restricted to bulk export tea while utilization is for entire industry operations i.e. TBK, TRF, infrastructure development. ➢ Apportionment of 40% of tea levy to income or price stabilization ➢ Exemption of specialty or value-added teas from tea levy restricted to 10kgs packaging	Adoption of quantum based (kg) levy is acceptable but Kes 3.85 is too high and will effectively negatively impact incomes of small-holders, a key segment whose proceeds the Bill indicates it intends to preserve. We propose inception of the quantum at KShs.1 per kilo of made tea and progressive improvement through regulation based on budgetary requirements of TBK and TRF

	"(2A) Specialty tea and value-added tea packed into packets or containers holding not more than ***ten kilograms" shall be exempted from tea levy.*** *"* *"(5) The tea levy collected under subsection (2) shall be apportioned as follows —* *(a) forty per centum shall be applied by the Board for income or price stabilization;* *(b) thirty per centum shall be applied by the...."*		Apportion higher percentages to TBK (40%) and TRI (40%) which offer services to entire industry. Allocate funds for Market based research by TRF and implementation of marketing strategy by TBK as key strategic issues that industry requires support on and which will further industry development for overall national economic growth. Installation of product research machinery at TRF to best inform industry on new product trends and demands. Allocate 20% of the levy to (improvement, maintenance) of tea catchment road networks (unclassified) where 20% is channeled directly to the tea growing Counties and the other 80% is allocated to Tea Roads Management Committees (TRMC) comprising the tea stakeholders in a certain geographical zone/region akin to the former Cess Committees. FAO report indicates that price stabilization is not practical. Where it has been attempted, it has proved unfeasible. Focus should therefore be placed on assisting small-holder farmers to replace their old unproductive tea bushes with newer high yielding clones. We propose an allocation of 10% of the 40% allocated to TBK and only beneficiaries of the income stabilization scheme should contribute to the amounts to be

			applicable to the income stabilization program. Delete the phrase *"packed into packets or containers holding not more than ten kilograms"* as per justifications above so that the exemption is applicable to all value-added teas. This will overall incentivize value addition ventures.
12.	**Clause 15 amending Section 76.** **Assets of TBK, TRF** *" (2) All immovable assets of the former Tea Board of Kenya and the former Tea Research Foundation of Kenya which were vested in the Agriculture and Food Authority and Kenya Agricultural and Livestock Research Organization upon the commencement of the Crops Act and the Kenya Agricultural and Livestock Research Organization Act shall by virtue of this paragraph vest in the Board and the Foundation respectively."*	Reversion of assets of TBK and TRF from AFA and KALRO back to TBK	**Proposal was agreeable to the Stakeholders.** **Additionally, we support the annexed submissions of the Tea Research Institute which will strengthen the institutional framework for industry regulation and development.**

We request for your positive consideration of the above inputs and intervention by Committee to secure business sustainability and growth and secure the much-needed foreign exchange earnings provided by the industry.

Presented on behalf of KTGA by:



Apollo Kiarii

CHIEF EXECUTIVE OFFICER

TEA BOARD OF KENYA

Realizing the Tea Promise

Ref: TBK/Tea Act/VOL.1/2023 **1st March 2023**

Mr. J.M. Nyegenye, CBS.,
Clerk of the Senate,
The Senate,
Clerk's Chambers, Parliament Buildings,
P.O. Box 41842-00100,
NAIROBI.

Dear Mr Nyegenye

RE: STAKEHOLDERS SUBMISSION ON THE TEA (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 1 OF 2023)

This is to acknowledge receipt of your letter Ref: SEN/DSEC/SCA/CORR/SCH/020/02/2023 (08) dated 27th February 2023 to the Tea Board of Kenya to submit representations by way of written memoranda on the above Senate Bill pursuant to the provisions of Article 118 of the Constitution and Standing Order No. 145 (5) of the Senate Standing Orders.

We hereby submit the attached written memorandum with respect to the proposed amendments contained in the Tea (Amendment) Bill, 2023 (attached) for your consideration.

Yours Sincerely

PERIS MUDIDA
Ag. CHIEF EXECUTIVE OFFICER

Encl.

Copy to: **Hon. Mithika Linturi,**
Cabinet Secretary,
Ministry of Agriculture and Livestock Development,
Kilimo House,
NAIROBI.

Dr. David K. Mburu, PhD,
Chairman,
Tea Board of Kenya,
NAIROBI.

TEA BOARD OF KENYA

Realizing the Tea Promise

MEMORANDUM ON THE PROPOSED AMENDMENTS TO THE TEA ACT, 2020

TEA (AMENDMENT) BILL, 2023

March 2023

BACKGROUND

This submission is in response to invitation to submit Memorandum published by the Clerk of the National Assembly Ref: SEN/DSEC/SCA/CORR/SCH/020/02/2023 (08) dated 27th February 2023 which was pursuant to the provisions of Article 118 of the Constitution and Standing Order No. 145 (5) of the Senate Standing Orders.

As the Chairman of the Board for the Tea Board of Kenya which is a creation of the Tea Act, 2020 and having been involved in the implementation of the Act, I hereby submit as follows:-

SECTION	PROPOSED AMMENDMENTS	TBK'S POSITION	JUSTIFICATION
2	(b) by deleting the definition of the word "import" and substituting therefor the following new definition— "import" means to bring tea or cause tea to be brought into Kenya from a foreign country, a Special Economic Zone Enterprise or an Export Processing Zone;	Concur but remove the word "*Enterprise*" appearing after the words "Special Economic Zone".	To align the definition with other relevant legislation's.
	(d) in the definition of the word "value addition" by inserting the words "into a packet or a container holding not more than ten kilograms" appearing immediately after the word "branding";	Concur but replace the word "ten" with the word "three".	To align the definition to be in the context used in the global tea industry.
2	(e) by inserting the following new definitions in the proper alphabetical sequence- "direct settlement system" means a banking facility provided by a commercial bank regulated by the Central Bank of Kenya for the clearing and settlement of tea sales proceeds;	Concur but amend to read as follows: "direct settlement system" means a banking facility provided by a commercial bank regulated by the Central Bank of Kenya for the clearing and settlement of proceeds from the sale of tea;	To provide clarity to the term as used in the tea industry and align the definition to Section 36 of the Tea Act, 2020;
	"tea factory limited company" means a tea factory collectively owned through shares by small scale tea growers.	Concur but add the words "and medium scale tea growers" immediately after the	To provide clarity as used in the context of

		words "small scale tea growers" **Additional amendments:** Amend the definitions of small scale and medium scale tea growers to read as follows; i. "small scale tea grower" means a person cultivating tea in a parcel of land of less than ten acres supplying green leaf to a tea factory limited company; ii. "medium scale tea grower" means a person cultivating tea in a parcel of land supplying green leaf to a tea factory limited company;	the Tea Act, 2020. To provide for the medium scale tea growers who deliver their green leaf and are also shareholders to a tea factory limited company To align the definitions in the context it is used in the tea industry and ascribe the correct meaning to the amended on "tea factory limited company" above.
31	Section 31 of the principal Act is amended by inserting the following new subsection immediately after subsection (1) — (1A) All tea brought into a Special Economic Zone Enterprise or an Export Processing Zone shall be declared to the Board in the prescribed form.	Concur but remove the word "Enterprise".	To facilitate collation of tea industry data and for the purposes of monitoring local and global supply and demand situation;
34	The principal Act is amended by inserting the following new Sections immediately after Section 34— 34A. (1) Kenyan tea shall be traded through — (a) the auction; or (b) direct sales.	Concur with the content of the amendment, but to be included in Section 36.	Section 34 makes reference to management agreement and not auction process.

34	(2) All tea processed and manufactured in Kenya for the export market shall be registered with the Board prior to exportation.	Concur but to be introduced under Section 36	Section 34 makes reference to management agreement.
36	Section 36 of the principal Act is amended – (a)by deleting subsection (1) and substituting therefore the following new subsection — (1) Tea processed and manufactured in Kenya for the export market may be offered for sale at the tea auction floor.	Concur with the proposed amendment but incorporate the amendments proposed in Section 34(A) to read as follows: (1)"All Tea processed and manufactured in Kenya shall be traded through — (a) the auction; or (b) direct sales. (2) All tea processed and manufactured in Kenya for the export market shall be registered with the Board prior to exportation. **Additional amendments:** Amend the short title by substituting the words "auction process" with the words "tea sale process."	To provide for an alternative channel for selling Kenya tea apart from the tea auction; To ensure all teas exported including direct sales overseas are regulated to prevent any trade malpractices. To provide for both the auction process and direct sales process;
36	(c) by deleting subsection (5)	Do not concur	The proposed amendments removes the responsibility of tea brokers, buyers and auction organizers in ensuring that the proceeds from the sale of tea are remitted to factory

			accounts which may cause delays in payment to tea growers.
36	(d) by deleting subsection (6)	Do not concur	The proposed amendments remove the responsibility of tea factories in ensuring that the proceeds from the sale of tea is paid to tea growers without delays.
36	(e) by inserting the following new subsection immediately after subsection (7) — (8) The Cabinet Secretary shall, in consultation with the county governments prescribe regulations for the procedure for auction sales of tea and for the establishment of auction centers in the tea growing counties.	Do not concur	Establishment of tea auction centres in tea growing areas may not attract enough buyers to ensure competitive prices and timely purchases;
36	The principal Act is amended by inserting the following new sections immediately after section 36 — **36A.** (1) A licensed factory or any other entity representing growers may undertake direct sales.	Do not concur.	The "any other entity" is not defined in the Act and it will bring ambiguity and confusion and open up the sale of teas to entities that are not defined or regulated under the Tea Act, as such may bring about conflict of interest.
36	(2) The prices offered at the direct sales shall be competitive and shall be sold at a price above the prevailing reserve price at the auction.	Concur but amend to read "The prices offered for direct sales shall be competitive and shall	To ensure that fairness and competitive prices are realized through

		be sold at a price above the prevailing auction price for similar tea on the same date of the auction". **Additional amendments:** 36A (3) All direct sales forward contracts shall commit to quantities with the prices being left to be determined by the prevailing auction prices as provided for under Section 36A (2).	direct sales channel. Tea growers benefit from higher prices than the prevailing reserve price realized at the auction. To ensure that fairness and competitive prices are realized through forward contracts committed through direct sales channel.
36	(3) If the tea fetches a higher price at the auction than the direct sales price offered, then the prospective direct sale buyer shall have pre-emptive rights to purchase the tea at the auction price failing which the tea will be sold to the highest bidder.	Do not concur.	Giving pre-emptive rights to the buyer carries a risk of suppressing competition at the auction.
36	(4) The Cabinet Secretary shall, in consultation with county governments, prescribe regulations for the procedure of direct sales of tea.	Do not concur.	Tea is majorly an export crop as 95% of tea produced is exported to the international markets. International Trade remains the role of National Government with respect to Trade according to the Fourth Schedule of the

			Constitution, 2010.
36	**36B** (1) The proceeds from the sale of tea whether through an auction or through a direct sale shall be deposited in a Direct Settlement System.	Concur but amend to read as follows "(1) The proceeds from the sale of tea through an auction shall be deposited in a Direct Settlement System".	Proceeds from direct sales are paid directly into the factories account and there is no need to introduce another intermediary since it will attract unnecessary charges e.g. commissions and cause undue delays thus affecting growers earnings.
36	(2) The Direct Settlement System provider shall remit tea sales proceeds to the tea growers and settle statutory charges, service provider's fees and other liabilities within five working days from the receipt of the proceeds of sale of tea.	Concur but amend as follows: "(2) The Direct Settlement System provider shall remit tea sales proceeds to the tea factories account within five working days from the receipt of the proceeds of sale of tea".	It is not feasible for the direct settlement system to pay proceeds directly to the growers, due to the following:- 1. Payment to the tea grower is usually net of the cost of production and marketing at the factory level . 2. Proceeds from sale of tea is based on made tea while growers are paid based on green leaf delivered. 3.This would cause undue delay in payment to tea

			growers since the lead time between manufacture and sale is about 45 days. Currently, tea growers are paid deliveries for the preceding month by 5th of the following month.
36	(3) The Cabinet Secretary shall make regulations to providing for the operation of a Direct Settlement System and requirements to be met by commercial banks which express an interest in the establishment of a Direct Settlement System.	Concur but amend as follows: "(3) The Cabinet Secretary shall prescribe regulations providing for the operation of a Direct Settlement System".	The regulations shall entail other aspects governing operations of the electronic trading platform other than requirements to be met by commercial banks which express an interest in the establishment of a Direct Settlement System.
53	Section 53 of the principal Act is amended by — (a)deleting subsection (2) and substituting therefor the following new subsection — (2) The levy imposed under subsection (1) shall be collected by the Board at a rate not exceeding three shillings, eighty-five cents per kilo of made tea exported in bulk; and at such times, being not earlier than one month after the date of publication of the notice, in such a manner, as is specified in the notice.	Concur but delete the words "in bulk" appearing after the words "made tea exported".	Considering that the Tea Act, 2020 requires value addition of tea to a level of 40% within a period of eight years, the industry requires enhanced resources for price income stabilization, promoting value addition and market access, research and infrastructure.

53	(b)inserting the following new subsection immediately after subsection (2)— (2A) Specialty tea and value added tea packed into packets or containers holding not more than ten kilograms" shall be exempted from tea levy.	Do not concur	Considering that the Tea Act, 2020 requires value addition of tea to a level of 40% within a period of eight years, the industry requires enhanced resources for price income stabilization, promoting value addition and market access, research and infrastructure.
53	(c) deleting subsection (5) and substituting therefore the following new subsection— (5) The tea levy collected under subsection (2) shall be apportioned as follows — (a) forty per centum shall be applied by the Board for income or price stabilization; (b) thirty per centum shall be applied by the Board in the furtherance or exercise of any function or power of the Board; (c) twenty per centum shall be remitted directly to the Tea Research Foundation; and (d) ten per centum shall be applied for infrastructure development in the tea subsector on a pro rata basis.	Concur with 53(5)(a) and (b). Concur with 53(5)(c) but delete the word "twenty" appearing before the words per centum and replace with "fifteen". Concur with 53(5)(d) but delete the word "ten" appearing before the words per centum and replace with "fifteen".	The role of developing agriculture at the county level is devolved according to the Fourth Schedule of the Constitution. To enable counties improve infrastructure in tea growing areas, we propose increasing proportion of the Levy disbursed to counties be increased from ten per centum to fifteen per centum.

To: **Senate of Kenya**
C/O The Clerk of the Senate
Parliament Buildings P.O Box 41842 - 00100, Nairobi, Kenya

REPRESENTATTIONS ,BY WAY OF MEMORANDUM,ON THE TEA AMENDMENT BILL(SENATE BILLS NO.1 OF 2023

PRESENTED PURSUANT TO ARTICLE 118 OF THE CONSTITUTION AND STANDING 0RDER 145(5) OF THE SENATE STANDING ORDERS

WE, the undersigned,

Citizens of Kenya, and small holder tea growers from Kirinyaga County

DRAW the attention of the House to the following:

CLAUSE 4 THE BILL

1. Clause 4 of the Bill proposes to amend Section 22(4) of the Tea Act, 2020 (the Principal Act).
2. It is our humble submission that the said Section 22 of the Principal Act calls for more reform than the apt description of the Board in subsection 4.
3. To put it in better perspective, we humbly, ask that the Honorable Senators consider the history and the intention behind Section 22 of the Principal Act. It is our humble submission that Section 22 of the principal act was deployed to cure the mischief of poor governance in the tea factories. The mischief that was intended to be cured was;
   (a) The undemocratic governance of tea factories
   (b) The exclusion of small scale tea growers, who are the majority, from the leadership and decision making. This

exclusion has been perpetuated by large scale tea growers, greedy and corrupt elements within the tea factories, and with the complicity of the Kenya Tea Development Agency (KTDA)

(c) The burgeoning economic exploitation and impoverishment of small scale tea growers by the conduct of the bad elements in paragraph (b) above.

4. Honourable Senators, it is our most humble submission that by legislating Section 22 of the Principal Act Parliament appreciated that although Tea Factories take the form of limited companies under the Companies Act, their business and functions are of extreme public interest. It is for this reason, that Parliament expanded the regulation of Tea Factories beyond the general regulation of Companies under the Companies Act.

5. Whereas we appreciate the noble intention of Parliament in Section 22 of the principal Act, we submit that the bad elements in the tea sector have taken advantage of the expansive latitude of self-regulation as well as the general nature of the Section 22 of the Principal Act to perpetuate the evils of undemocratic governance that the section intended to cure. In particular;

(a) Shrewd directors and factory management ,with the complicity and aid of KTDA have used opaquely and hurriedly convened general meetings to sanitize their undemocratic decisions;

(b) Directors have cunningly used the Articles of Association of the Tea Factories and the opaque nature of general meetings to extend their terms of office(**Annexed herewith is a notice of a Resolution from Thumaita tea factory suspending elections for two years**);

(c) Directors and factory management threaten small scale tea growers with deregistration at the slightest suspicion of dissent or independent thought. De-registration for these small scale tea growers is the ultimate sanction as it means no sale of green thus denying the farmer income.

THEREFORE, we humbly pray:

6. That this honorable house further amends Clause 4 of the Bill by further amending Section 22 of the principal Act by;

a) Setting the term of office of Directors of tea factories ;

b) Providing for greater participation and sensitization of small scale tea growers prior and during the general meetings;

c) Making provision for officers of the county government to play a supervisory role during the general meetings of tea factories.

Memorandum and dated at Kutus this 2nd day of March, 2022

NOTICE OF THE ANNUAL GENERAL MEETING

NOTICE is hereby given that the 43rd Annual General Meeting of the Shareholders of THUMAITA Tea Factory Company Limited will be held at **THUMAITA Tea Factory Grounds** on **Tuesday 06th December 2022** at **9.30 a.m.** to transact the following business:-

1) **NOTICE, PROXIES AND QUORUM**
   - To read the notice convening the meeting, table the proxies received and confirm the presence of a quorum.

2) **SPECIAL BUSINESS**
   Shareholders are requested to consider and if deemed fit pass the following special resolution:-
   "Article 90 of the Articles of Association of ***Thumaita Tea factory Company Ltd*** *and it's application be and is hereby suspended until the Annual General meeting for the year 2024 and this suspension do take effect immediately upon being passed by members in this Annual General Meeting".*

3) **ORDINARY BUSINESS**
   i) To receive, consider and, if thought fit, adopt the Audited Financial Statements of the Company for the FinancialYears ended 30 June 2022 together with the Chairman's, Directors' and Auditors' Reports thereon.
   ii) To approve the payment of the recommended first and final dividend at a rate of **Kshs. 4,603,130** to all class "B" (commercial) Shareholders of the Company for the Financial Year ended 30 June 2022.
   iii) To approve the payment of Directors' fees for the Financial Years ended 30 June 2022
   iv) To approve the appointment of **Kiarie Kangethe & Co.** ***Certified Public Accountants*** as the auditors of the company with effect from 1st July 2022 in accordance with Section 721 (4)(a) of the Companies Act, and to authorize the Directors to fix their remuneration.
   v) To consider any other business of which due notice has been received.

BY ORDER OF THE BOARD

CS. WACHIRA KIBANYA(P/CPSB/1030,ICPSK Reg. No. 2283)
COMPANY SECRETARY

Dated: 01st November 2022

Note:
1. In accordance with Section 298 (1) of the Companies Act, 2015, a member entitled to attend and vote at this meeting is entitled to appoint a proxy to attend and to speak and vote on his/her behalf. A proxy need not be a member of the Company.

2. To be valid, a Form of Proxy must be duly completed by the member and must be lodged at the Company's Offices inThumaita Tea Factory, or Email:info.thumaita@ktdateas.com not later than 48 hours before the time of the meeting or any adjournment thereof.

NB: COVID19 PROTOCOLS WILL BE STRICTLY OBSERVED AND ENFORCED.

	NAME	TEA MEMBER NO.	ID NO.	PHONE NO.
	FREDRICK G. MUGUCHU	TM10 158	9302189	0706500014
2.	SAMUEL M. MUNENE	TM10 305	23689074	0729456283
3.	ALEXANDER NJOGU	TM10 194	9719951	0713505407
4.	LUCY WAITHIRA	TM10 390	22630281	0706694095
5.	FREDRICK M. MUGO	TM10244	13564619	0723547205
6.	WINNIE W. MURIGU	TM10 313	31236627	0724 775134
7.	MICHA WAMBURA	TM10 480	23161173	0712710129
8.	STEPHEN GACHOKI	TM10 559	33352428	0748636349
9.	Josiah K. Mucuu	TM10-172	9186931	0740838477
10.	Antony. K. Gicobi	TM10-564	38145747	0746009783
11.	CATHERINE W. MWARE	TM10 339	10160066	0728597852
12.	CATHERINE NJOKI	TM10 356	3124924	0746075184
13.	MUNGE KARANGI	TM10 42	0807091	0702943373
14.	JOYCE M. KIGUNDA	TM10 26	13562492	0727273361
15.	STEPHEN K. KAMAU	TM10 502	25993323	0723136298
16.	DANIEL KAMAU	TM10 90	0806923	0706849651
17.	ALBERT RIUA	TM10 127	5744836	0725265858
18.	ESTHER WANJIKU	TM10 469	3127564	0725390381
19.	HARON ALBERT	TM10 418	26139587	0728953167
20.	NORMAN GITARI	TM10 461	28991436	0702869719
21.	ENOS GITARI	11 578	30963688	0700861681
22.	JANE WANJA	TM10 435	0806153	0728380753
23.	JOSPHAT K. GICOBI	TM10 441	20161647	0728612894
24.	JOSEPH K. GATIMU	TM10 0242	10895555	0701132720
25.	CYPRIAN G. MUCHIRI	TM09 007	3125593	0702153812
26.	ROSALIA N. KARUTHI	TM09 006	3122266	0728911922
27.	NJAGI NJAU	TM10 28	3124550	0700822299
28.	JOHN M. NJAGI	TM10 448	28377483	0768285071
29.	FRANCIS K. NJAGI	TM10 449	24063304	0725939026
30.	JAMES K. NJAGI	TM10 447	24441016	0713052593
31.	ROSE NJOKI MBOGO	TM10 434	3123600	0719418574
32.	DAVID KARIUKI MUCHIRI	TM09 65	23584012	0721496358
33.	STEPHEN NYAGA	TM24 022	10193845	0717208795
34.	DAVID MITHAMO	TM10 240	20536753	0708557376
35.	SAMUEL K. NJAGI	TM18 044	21091142	0710324390
36.	GERLARD MUNENE	TM24 16	3390638	0722456677
37.	GRACE WANJIKU MIANO	TM10451	22045865	0702100811
38.	FRANCIS GITARI MUNGE	TM10154	10499702 9	0791806616

NO	NAME	TEA MEMBER NO.	ID NO.	PHONE NO.
1.	David Murere	0017 139	22192032	0713709560
2.	Albert Gichobi	0017 040	8796940	0701470588
3.	Ephartus M. Namon	0021-72	7075945	0719326531
4.	Benson Munithi	002-721	08099902	0718266411
5.	HILLERY MUCHIRA	0021-137	11065182	0724084346
6.	HARISON MURIMI	003-994	25938751	0790711306
7.	CYRUS K. MUNENE	003-737	10332721	0757519725
8.	JAMES gitan	0016-383	381287	
9.	Fausto KIURA	0016 834	27086141	0792087820
10.	ESTHER KIURA	0016 757	10864974	0700798787
11.	Petrick Mibo	M716 345	Petrick	0792087726
12.	Julius Njuguna	TM 11 265	22848280	0727809606
13.	Kamitti Mbebo	M110 86	3126597	0726994945
14.	HON. JOSIAH MUNENE	TM43-62	8796912	0741093812
15.	JAMES M NSIDI	TM43-21	9186010	0715812566
16.	CAROLYNE NJERI	TM 11	26508960	0790159214
17.	Sophie B Mango	TM 11 089	0806088	0792192694
18.	Pete B Mango	TM11 0115	5775302	0724506839
19.	Nicasio M Muceru	TM11 0493	26960497	0725375551
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NO	NAME	TEA MEMBER NO.	ID NO.	PHONE NO.
1.	JOHN NGARI WAMBU	1071 (06)	20656878	0721-795-166
2.	CHARLES KATHURI	712 (06)	11599891	0106281328
3.	Francis Njogu Karangi	507 (10)	20380443	0751-383-734
4.	Lucy Wambui	969	23050870	0702272402
5.	NAOMI WAMBUI	511 TM 026	26656403	0723 4125 449
6.	PETER MWANIKI NYAMU	144 TM026	44400309	0701249339
7.	CYPRIAN MWANIKI NUGO	296 TM 06	3381555	0708747008
8.	Cyrus Kabiru Nagondu	593 TM 06	11698657	0729714447
9.	David NJamu Kirusumi	705 TM06	10649844	0725536394
10.	Simon Kamau Kathuri	673 TM 06	21609256	0734 350 661
11.	DAVID NYAGA Wachira	147 TM 06	22601541	0702378721
12.	Michael Kagwe njogu	639 TM 06	20524150	0703459175
13.	James mwangi	538 TM 06	11288801	0712 042003
14.	Haron nyaga Mwithiga	600 TM06	10497960	0702 895 117
15.	Esther wambui Kwiriga	726 TM06	23074157	0716 828723
16.	Rose waithira munene	1056 TM 06	26156058	0727 518745
17.	John gicuhi Karithi	63 TM 33	10496742	0726 980182
18.	Dane r Chabi	910 TM 06	232400894	0796 661816
19.	David M Gacoki	878 TM06	24974634	0707 800470
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NO	NAME	TEA MEMBER NO.	ID NO.	PHONE NO.
1.	JOHN K MUCHIRA	TM06 913	25185588	0790516785
2.	LILIAN WANJIRU NJAGI	TM06 712	26315021	0714573121
3.	SYMON KAMAU	TM06 673	2460 9256	—
4.	HABON MWAURA	TM06 1069	26007804	0725046029
5.	SYMON K NJAMBIRI	TM06 606		0701558800
6.	NANCAN KONJI	TM06 569	13239807	0710 560 202
7.	CHARITY GICHAGU	TM06 621		
8.	Symon mwangi	TM06 305		
9.	KATHURI MUTHEGE	TM06 262	33807877	0706255513
10.	Moses Mutangi	TM06 708		
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NO	NAME	TEA MEMBER NO.	ID NO.	PHONE NO.
1.	Robert Kinyua Kagai	Tm3 1132	29075791	0701 290740
2.	SYMON NYAGA KIURA	TM3 1201	29755008	0711154457
3.	[illegible] m Karuga	Tm3 732	22136715	0723909895
4.	GIBSON G KIMWEA	TM3 515	3127791	0717182319
5.	[illegible] K MURAGE	TM3 1185	31786769	0717663957
6.	Phil · Njeru Muchira	Tm3 1159	26021016	0741462588
7.	Esther M. Mwirichi	TM03 1155	31048307	0705 324 526
8.	ISAAC M MWIRICHI	TM3-1313	22072081	0112618726
9.	JAMES K. KIMUNYI	TM030783	9872893	0724662274
10.	ISABELLA WACHOKA NJERU	TM003 0938	23522208	0701267615
11.	KIMUNYI GITURU	TM003 0161	5123766	0716907737
12.	JACINTA M. KIMUNYI	TM003 0782		0722482893
13.	JOSEPH MWANDAWA	TM003 568	13845737	0729666259
14.	MAINA MUCHIRA	TM003 694	14503118	0734327771
15.	JOSEPH MUCHIRI	TM003 719	31228779	0701748522
16.	Salome Michele Ngondi	TM003 1128	31031836	0711941791
17.	Patrick Bundi	TM003 1350	30771522	0792223096
18.	Jane Njeri	TM003 698	20461623	0706712169
19.	Joseph Kiura	TM003 643	1335573	0798056118
20.	Jane Wanjiku Ndegwa	TM3 1078	13771768	0711304345
21.	Catherine Wambui	TM03 795	22836531	0705302136
22.	Jane Njagi	TM003 961	5775870	0726601924
23.	Mercy Wawira	TM003 890	14505911	0718946850
24.	ALICE WANJA	TM003 1191	24069926	0701290758
25.	Dorica Murage	TM003 1261	26325541	0743902050
26.	Nancy Ndegwa	TM003 [illegible]	21241[illegible]	0726871259
27.	LUCY NJAGA	TM03 1052	25957178	0706542063
28.	ELIAZER KABANI	TM003 778	21509977	0737975810
29.	Mary W. Gakono	TM03 1445	11599788	0112877632
30.	ELIZABETH W KIURA	TM003 1351	9411254	0716887595
31.	JANE GICHUGU KILGE	TM005 1213	08079490	0718196607
32.	NAHASON GACENGE	TM003 1307	25407921	0746854817
33.	SAMSON CHOMBA NDEGE	TM003 636	13471618	0725653186
34.	TULIUS NJOGU	TM003 1109	26158281	0710539058
35.	Zipporah Njeri Wanjiru	TM003 1327	33606079	0792090670
36.	FRANCIS BUSI	TM003 437	0581936	0727076200
37.	Richard Mumbi Busi	TM003 900	24424126	0711270072
38.				

A CRITIQUE OF THE TEA (AMENDMENT) BILL, 2023

1. Introduction

The objective of the Bill is to amend the Tea Act,2020 on aspects to provide for direct sales of tea and the payment of tea proceeds.

The Tea Act, 2020 catered for the directs sales albeit through regulations. The Act provided that, the Cabinet Secretary may, in consultation with the Tea Board, make regulation of the conduct of tea auction including the volumes of tea to be sold through auction or through direct sales. Therefore, the Act did not provide for; the definition of direct sales, direct sales as a way of trading tea, players in the tea value chain to engage in direct sales, setting of tea prices sold by direct sales and the procedure of direct sales of tea.

On the payment of tea proceeds, the Tea Act,2020 catered for payment of tea proceeds through the auction process. The section 36 of the Act provided that, all teas processed and manufactured in Kenya for the export market with the exception of orthodox and specialty teas shall be offered for sale exclusively at the tea auction floor. The section went on to provide for the conditions to be met by tea factories to participate in the auction, prohibiting tea factories to participate in the auction through the management agent, platform for auctioning of tea, payment of auctions bids and timelines of remitting the auction proceeds to the tea factories.

In the consolidated petitions challenging reforms in the tea industry, prohibition of direct sales and provisions on the sale of tea exclusively at the auction, are hotly contested issues.

2. The Tea (Amendment) Bill, 2023 Explained

a) Direct Sales and Auction Process

The amendments introduce direct sales as an additional method of trading tea besides the auction process. Direct sales to mean a contractual arrangement between a factory and an overseas buyer or local buyer for the sale of made tea based on mutually accepted terms and conditions enforceable in law. Since direct sales basically allows access of oversea or foreign market for tea, the Bill drastically amends the Act's provisions on exports, which was only limited to take tea or cause tea to be taken out of the Kenya customs territory or out of an Export Processing Zone. The Bill expands the scope as to take tea or cause tea to be taken out of Kenya into a foreign country, a Special Economic Zone or an Export Processing Zone. Conversely, the scope of import has been expanded to bring tea or cause tea to be brought into Kenya from a foreign country, a Special Economic Zone Enterprise or an Export Processing Zone.

By introducing the concepts of direct sales overseas to mean bulk tea sales exported directly by a tea factory to an export market and direct settlement system means a banking facility provided by a commercial bank regulated by the Central Bank of Kenya for the clearing and settlement of tea sales proceeds, the Bill aims to ensure sufficient and effective financial and other control on direct sales.

The Bill provides that, a licensed factory or any other entity representing growers may undertake direct sales. The prices offered at the direct sales shall be competitive and shall be sold at a price above the prevailing reserve price at the auction. If the tea fetches a higher price at the auction than the direct sales price offered, then the prospective direct sale buyer shall have pre-emptive rights to purchase the tea at the auction price failing which the tea will be sold to the highest bidder. To implements provisions on the direct sales, the Cabinet Secretary in consultation with the County Governments shall develop regulations.

The Bill establishes the Direct Settlement System provided by a commercial bank where proceeds of auction process or direct sales shall be deposited. A commercial bank providing direct settlement system remits tea sales proceeds to the tea growers and settle statutory charges, service provider's fees and other liabilities within five working days from the receipt of the proceeds of sale of tea.

Under the Bill, there is a possibility of establishing auction centres in tea growing counties.

b) The Tea Factory Company Limited

The Bill changes the definition of tea factory, under the Act was based on the activities of processing and manufacturing tea leaf into made tea. The Bill introduces the phrase tea factory limited company and it is a tea factory collectively owned through shares by small scale tea growers.

A tea factory intending to participate in a tea auction shall register with the Board and the auction organizer and participate in the auction directly and not through a management agent.

c) Tea Board of Kenya, County Governments and Cabinet Secretary

In establishing the other tea auctions in tea growing counties, it shall the duties of the Cabinet Secretary and the respective county government. The county governments and Cabinet Secretary shall develop regulations on direct sales.

A person who intends to carry on the business of commercial green leaf transporter shall register with their respective county government. Under the Act, they were to register with the Board.

The Board under the Bill shall register all tea processed and manufactured in Kenya for the export market prior to exportation. The levy imposed by the Cabinet Secretary shall be collected by the Board.

Methods of membership to the Board has changed. In the Act, four representatives of small scale and medium scale tea growers from East and West Zones, representatives of large scale tea growers and tea traders were to be elected. In the Bill, they are nominated by the Cabinet Secretary.

Finally, to ensure effective and accountable transition from Agriculture and Food Authority and other institutions under the Crops Act, the Bill provides that, all immovable assets of the former Tea Board of Kenya and the former Tea Research Foundation of Kenya which were vested in the Agriculture and Food Authority and Kenya Agricultural and Livestock Research Organization upon the commencement of the Crops Act and the Kenya Agricultural and Livestock Research Organization Act shall by virtue of this paragraph vest in the Board and the Foundation respectively.

3. Weaknesses of the Amendments

(i) Creation of multiple regulatory agencies with almost or similar functions

Section 5 of the Tea Act provides for functions of the Tea Board to include; make recommendations to the Cabinet Secretary on the formulation of policies, plans and strategies for the regulation of the tea sector; register among others commercial green leaf transporters, exporters and importers; regulate the sale, import and exports of tea; and promote demand and consumption of tea locally and internationally.

The Bill introduces the county governments as critical regulators of the tea industry on matters of direct sales, registering commercial green leaf transporters and developing regulations on establishing auction centres in tea growing counties.

Certainly, this set up will lead to conflicting of mandate and possible legal tussles that may seriously undermine the tea industry.

(ii) Limited definition of tea factory company limited

Tea factory limited company is defined as a tea factory collectively owned through shares by small scale tea growers. This definition based on a wrong assumption that the tea factory company limited are those managed by KTDA.

However, there are tea factories in Kenya which are not owned small scale growers. Section 5 of the Act, the Board registers among others small scale tea growers, medium scale tea growers and large scale tea growers, a sign that, there are other tea factory companies limited not owned by small scale tea growers.

(iii) Membership to the Tea Board

By scrapping election as way of filing the slots for four representatives of small scale and medium scale tea growers from East and West Zones, representatives of large scale tea growers and tea traders, the reforms and gains made by the election through a democratic system of one grower, one vote, will eroded.

The Cabinet Secretary having power to pick such representatives, it will create another opaque and undemocratic system where the stakeholders in the sector will not have a say. As it has happened with KTDA system, the Tea Board of Kenya may end being packed by unpopular and self-serving characters with no interests of the players in their hearts.

4. Conclusion

The direct sales and the Direct Settlement System adds the volume of tea sales and hence the proceeds of tea farmers. The system supplements the auction process which as framed and conceived in the Tea Act was susceptible to overwhelming. By introducing banks to offer Direct Settlement System the industry will benefit from their expertise on currency and other financial matters.

18th May 2023.

Alfred Njagi

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Nairobi

alfred.njagi@gmail.com

The Clerk of the Senate

Parliament Buildings

Nairobi

clerk.senate@parliament.go.ke

agriculturelfcommittee.senate@parliament.go.ke

RE: REPRESENTATION ON THE TEA (AMENDMENT) BILL, OF 2023

I, being am a small holder tea farmer; a tea professional and citizen of our beloved Country hereby make the following representation on the Tea (Amendment) Bill. This is what I verbally presented in person on Tuesday 16th May 2023 at ACK St Emmanuel Church Kigari, Embu during the public participation forum.

Clause	Tea Act 2020	Proposed Amendment	Impact
34 A	**New**	Kenyan tea shall be traded through — (a) the auction; or (b) direct sales. (2) All tea processed and manufactured in Kenya for the export market shall be registered with the Board prior to exportation.	This introduces Direct Tea Sales. The Direct Sales had been outlawed by by former CS Munya through the Tea Act 2020 which stoppage has resulted in a great loss of business to the smallholder tea sector. The tea leaders had tried in vain to have the clause that all teas be sold through the auction deleted in the Tea Act 2020. The Bill proposes that that the Direct Sales outlet be allowed for the benefit of tea farmers. This is a beneficial amendment that should be supported.
36	**New**	A tea factory intending to participate in a tea auction shall—(b)participate in the auction directly and not	This proposed amendment that each factory sells its tea in its name and not in the name of the managing agent is unnecessary as this is the current situation. That's why each

		through a management agent.	factory achieves its own distinct price and the funds are remitted to each factory account. The factories sell their teas in their names at the auction and not through KTDA. This proposal may thus be superfluous.
		(8) The Cabinet Secretary shall, in consultation with the county governments prescribe regulations for the procedure for auction sales of tea and for the establishment of auction centres in the tea growing counties.	The proposed establishment of tea auctions in tea producing counties may not achieve the desired benefits considering Kenya exports more than 95% of the tea it produces. If Kenya was consuming most of the tea it produces like India does, then it would be facilitative to establish many tea auctions, like in India has. As it is, many auctions will increase the costs for the buyers making Kenyan tea buying less favorable in an environment where other countries eg Tanzania are introducing their own auctions to move away from Mombasa. More than 95 % of Kenyan tea is exported hence an auction center at the coast is convenient and facilitative to the buyers. 10 other countries' teas are also sold there. If Kenya was consuming most of its tea, establishing auction centers in tea growing area would have been impactful.
	New	(1).The proceeds from the sale of tea whether through an auction or through a direct sale shall be deposited in a Direct Settlement System. (2) The Direct Settlement System provider shall remit tea sales proceeds to the tea growers and settle statutory charges, service provider's fees and other liabilities within five working days from the receipt of the proceeds of sale of tea. (3) The Cabinet Secretary shall	The proposed direct settlement system of paying farmers within 5 days of receipt of funds for the sale of tea, though well intentioned is fraught with operational difficulties given the 'cooperative' nature of small holder farmers. Every consignment of tea sold either at the auction or through the proposed direct sales outlet doesn't contain teas from each of the thousands of farmers from a small holder factory. It takes 45 to 60 days for tea plucked today to be sold at the auction.

		make regulations to providing for the operation of a Direct Settlement System and requirements to be met by commercial banks which express an interest in the establishment of a Direct Settlement System.	Therein lies one of the challenges, whose tea was in the consignment that was sold and paid for and hence should be paid for their green leaf. Secondly, it's not clear how the production costs will be settled from the Direct Settlement account, and each factory has a different cost structure. Thirdly, where farmers are shareholders of their factory like the KTDA managed, they receive an advance monthly pay and a final one so called bonus when the annual accounts are finalized. This structure can be tweaked to suit prevailing conditions since the factory pays the entire tea sales proceeds including some as dividends. Currently, each factory sells its tea in its name and the money is remitted through an electronic bill board system that pays service providers (Brokers and Warehouses) and the balance is remitted to a factory account. The factory settles the cost of production and operations and the balance is paid is paid to the farmers. The Direct Settlement System as framed in the Amendment Bill may therefore be unnecessary for KTDA managed factories and certainly difficult to operationalize. Thus this proposed clause requires further review.
53	**53**	Section 53 of the principal Act is amended by — (a) deleting subsection (2) and substituting therefor the following new subsection — (2) The levy imposed under subsection (1) shall be collected by the Board at a rate not exceeding three shillings, eighty-five cents per kilo	This is a very high rate. In the current price situation, it is higher than the 1% in the Tea Act and drains farmers' incomes. The proposal to replace the 1% tea levy with with one of a rate not exceeding Kshs. 3.85 per Kg of made tea exported in bulk to fund Tea Board, Tea Research Foundation, Price or Income Stabilization Fund and Infrastructure is too high and equivalent to each farmer paying about Ksh 1 per kilo of their green

		of made tea exported in bulk; and at such times, being not earlier than one month	leaf and should be reduced to avoid it being punitive for the farmer. The Tea Task Force of 2007 had recommended that this levy be capped at Ksh 1 per kg of made tea. The 1% tea advalorem levy is punitive to the high quality better priced tea from small holder tea farmers and should similarly be replaced with the equalizing Ksh 1 per kg of made tea for all tea producers. Further, the University of Nairobi in 2016 advised on the impracticability of a price stabilization fund for a freely traded community and issued a report on income stabilization for small holders. Further due care should be exercised as these mechanisms have not succeeded where hitherto attempted, eg India, and may just be a drain on farmers' incomes.

These are my views as a farmer and an experienced tea professional.

Alfred Njagi

Mungania Tea Factory Grower No. MU0630085

KTDA Holdings Shareholder Member No.MU0630085

APPENDIX 6

STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK, AND FISHERIES

STAKEHOLDER VIEWS ON THE TEA (AMENDMENT) BILL, 2023

CLAUSE	STAKEHOLDER	PROPOSAL	RATIONALE	COMMITTEE OBSERVATIONS/ COMMENTS AND DETERMINATION
2 Interpration	ekaterra Tea Kenya PLC	The Definition of value addition should not be restricted to tea packaging of not more than 10 kilograms	There are value-added tea products such as tea extracts that are packed in drums, therefore going by this definition would exclude these forms of value addition as initially defined by the Act.	
	East African Tea Trade Association (EATTA)	The Definition of value addition should not be restricted to tea packaging of not more than 10 kilograms	This definition will limit other value added tea that is packed in drums.	
		Delete the definition of the words **"direct sales overseas"**	The words are already defined in the definition of the words "direct sales". There is no need for two definitions on the same words.	
	Kenya Tea Growers	Propose to retain the definition of the words **"value addition"**	Restricting the definition to not more than 10 kilograms and	

	Association (KTGA)		disregards, other value added teas that occasion investment into value addition but are not packaged as specified.	
		Include the words **"or its appointed agent"** after the word **"factory"**	Allows factories to use agents in direct sales	
		Delete the definition of the words **"direct sales overseas"**	The words re already defined in the definition of the words "direct sales".	
		Delete the word "professional" in the definition of the words **"management agent"**	This caters for business practice.	
	Kenya Tea Development Agency Holdings Limited (KTDA)	Proposes deletion of the definition of **"tea factory limited company"** in paragraph (e)	Section 2 of the Act is sufficient in the definition of the word "tea factory". KTDA would like this retained to apply to all tea processing factories whether small holder or otherwise.	
	Murang'a Tea Factory	Propose the addition of the phrase **"and which is not destined to a producer warehouse for auction purposes"** in the definition of the		

		word "export" immediately after the phrase "a special economic zone enterprise or an export processing zone"		
		Propose the definition '**Tea Distribution Hub'** means "to warehouse Kenyan tea, either in value added or bulk form in an importing country for purposes of selling it to local traders and packers in that country for local sales or re-exports. Introduce '**Direct Settlement System provide**r' is a financial or technology service organization appointed by a contract agreement between it and a tea factory.		
	TBK	2(b) Concur but remove the word 'Enterprise' appearing after the words 'special economic zone'	To align the definition with other relevant legislations. Agreed	

		2(d) Concur but replace the word 'ten' with the word 'three'	To align the definition to be in the context used in the global tea industry	
		2(e) Concur but amend to read as follows: 'Direct settlement system' means a banking facility provided by a commercial bank regulated by the Central Bank of Kenya for the clearing and proceeds from the sales of tea.	To provide clarity to the term as used in the tea industry and align the definition to section 36 of the Tea Act 2020	
		In the definition of the word "tea factory limited company", the TBK proposes to include the words "medium scale tea growers"	To provide clarity in the manner the word is used in the Act.	
		TBK proposes to amend the definition of two definitions as follows: i."small scale tea grower" means a person cultivating tea in a parcel of land of	To provide clarity in the manner the word is used in the Act.	

		less than ten acres supplying green leaf to a tea factory limited company; ii. 'medium scale tea grower' means a person cultivating tea in a parcel of land supplying green leaf to a tea factory limited company;		
	BOMET TEA FARMERS	Amend the definition of by deleting the definition of tea factory limited Company	The new definition limits the application to small scale tea growers and as such the definition in Section 2 of the Tea Act should remain.	
3 Membership of the Board	Oraro & Company Advocates	In clause 3, incorporate the following: "members of the Board to be appointed by the Cabinet Secretary through a transparent and competitive process; and The names of the appointed people to be published in the Kenyan Gazette and	The publishing of the appointees' names ensures the public are informed of the appointments made. The transparent and competitive recruitment process reduces the likelihood of bias in the hiring process and supports diversity and inclusion.	

		newspaper of national circulation"		
	EATTA	Proposes to retain the clause as it initially was.	The amendment in clause 3 removes the principle Act's position requiring the Cabinet Secretary to appoint the Principal Secretary responsible for National Treasury or a representative nominated by the Principal Secretary by notice in the Gazette and further said appointment not to be subjected to compliance with gender, regional and other diversities of Kenyan people. It is imperative that this appointment remains as so being a public appointment. There is no rationale for this amendment.	
		Proposes that the composition of the Board should include a representative of the Independent Tea Producers Association of Kenya.	The Independent Tea Producers Association of Kenya account for 90 million kilos of made tea per year and support 210,000 farmers and hence need representation at the Board.	

	Tea Farmers of Momul Factory	Amend Clause 3(2) by deleting it	Cabinet Secretary has been given more powers than stakeholders of the Company and its directors	
4 Appointment of Board members	KTGA	Delete the words **"on account of good performance"**	This requirement is ambiguous, subjective. Nominated persons are already successful principals in their respective organizations that nominate them to the Board.	
	EATTA	The provision "on account of good performance be expunged from the clause	There exists no objective criteria to determine what constitutes good performance.	
	Murang'a Tea Factory	In clause 4 of the Bill, the Factory proposes to redraft the clause as follows: 'All tea processed, manufactured **and value added** in Kenya for the export market shall be registered with the Board prior to exportation.'		
5 Board members of a				

Tea Factory				
6 Tea Imports	KTGA	Add **"subject to the approval of the Ministry of Trade"** after the phrase "in the prescribed form	Unrestricted importation is allowed in EPZ facilities. The facilities also fall outside the purview of Tea Board of Kenya regulation according to Government foreign trade policy and the law, under the Export Processing Zones Act. The declaration should therefore be limited to the purposes of information to the Board, in order not to conflict with the law and trade policies on EPZ operations.	
	EATTA	The requirement for Tea Board to require an EPZ enterprise to declare imports of tea into the EPZ contradicts the EPZ Act and negates the benefits that EPZ are accustomed to.	The EPZ Act part VIII Section 29(f) provides that EPZ enterprises enjoy exemption from quotas or other restrictions or prohibitions on importer export trade with the exception of trade in firearms, military equipment or other illegal goods; There is a contradiction	

			between the EPZ Act and the Bill. EPZ's benefit from unrestricted imports and are therefore outside the mandate of the Tea Board.	
	TBK	Propose to remove the word 'enterprise'		
7 Registration of Tea Broker	KTGA	Proposes to expand broker broker registration requirements and limits on payments to brokers (Maximum of 0.75% of gross sales of tea) to the entire industry and not just tea factory limited companies (KTDA factories) Alternatively, amend clause 7(4) to read **"the remuneration paid to a tea broker by a tea factory may be reviewed through Regulations, as appropriate"**	The proposal/provision should be set out in Regulations to allow for appropriate stakeholder consultation of affected players before setting the quantum. This will also further expeditious and effective periodic reviews of the remuneration in the event of changes in circumstances. It is acknowledged that the remuneration should sufficiently cover the cost of service and benefits derived from brokerage services.	
	RONO	Amend Clause 7 of the Bill by deleting it	The words Limited Company should be	

			retained	
	EATTA	Clause 32(4) of the Tea Act should be limited to Tea Regulations as it sets remuneration limits for service providers in the Act.		
8 Management Agent Agreement	KTGA	Proposes to retain Section 34 (2) of the Act to limit its application to only small-scale factories (KTDA factories) and not privately owned factories.	This section should be specific to factories owned by small holder farmers managed by KTDA (MS) and not privately-owned factories. At most, the Regulations should provide for specific matters such as matters to be contained in the management agreement, duration of the same, conditions for renewal et cetera.	
			Perceived non-compliance by affected segment can be addressed through enhanced monitoring of overall compliance with the law by the	

			Regulator without blanket stipulation of duplicated requirements to be applicable industry-wide.	
	RONO	Amend Clause 8 of the Bill by deleting it	The words Limited Company should be retained	
	KTGA	Delete the proposals from sub clause 4 5 6 7 8 9 10. Include them in the regulation or the management agreement as appropriate	Enhanced oversight by Tea Board of Kenya through regulatory requirement for review and approval of the Agreement by the Tea Board of Kenya will address the concerns/mischief sought to be addressed by these requirements.	
	EATTA	Section 34(3)(a) and 34(4) of the Principal Act requires a further amendment as it pertains to issues of remuneration of management agents.	These two provisions should be captured in the regulations. Secondly the matters of concern pertain to specific issues appropriately addressed by other laws such as the Companies Act, the Competition Act and the Law of Contracts Act; and are restricted	

			to operations of a specific segment of industry. Further, perceived non-compliance by affected segment can be addressed through enhanced monitoring of overall compliance with the law by the Regulator without blanket stipulation of duplicated requirements to be applicable industry-wide.	
		The Act should be further amended to remove the requirement to submit the management agreements to the Board.	The Tea Board of Kenya cannot review contracts made by companies out of their own volition. Allowing this, more specifically by law restricts the freedom of contracts protected under Law of Contract and the Constitution.	
9 Tea Sales	ekaterra Tea Kenya PLC	Oppose clause 2 the registration requirement to register all teas prior to exportation.	The clause is unclear on whether this will be a license to be provided by the Tea Board, or whether there will be an additional registration of every tea for export. The practicality of such a process is also in	

			question as it is not clear whether there will be physical inspections or any other verification activities. The tea produced for export currently is registered with all relevant government authorities including the Kenya Revenue Authority. It is the position of eTK that the addition of another body may lead to increased bureaucratic processes and additional expenses, which may make process of tea production unsustainable.	
	TBK	Concur with the content of the amendment but to be included in section 36.	Section 34 makes reference to management agreement and not auction process.	
	KTGA	The proposal is agreeable and is covered by current practice.		
	RONO	Amend Clause 9 to delete 34A 1 (b)	Opening a route for direct sales is akin to	

		delete direct sale.	openly embracing under dealings	
	ERICK KIMUTAI LANGAT	Maintain the Clause 9 as is.	Factories had un successfully petitioned for this in the Tea Act 2020	
	ALFRED NJAGI	Maintain the Clause 9 as is.		
10 Auction Process	KTDA	Proposes to redraft clause 10(2)(b) to provide for the mandatory use of management agents in the14uctionn process.	Management agents enhance farm management practices, facilitate stronger negotiation positions and access to new and favourable markets. Through their professional management services, farmers can control the costs of operations, increase productivity, improve tea quality and ultimately realise increased profit margins that lead to economic viability. This provision imposes huge costs for the farmers. The exclusion of Management Agents during direct sales by the tea factories will	

			have an impact on the tea market to the detriment of farmers. They will bear the brunt of risks and costs, therefore reducing farmer earnings.	
	BOMET TEA FARMERS	Amend Clause 10(2)(b) to include Participation through management Agents	Management agents enhance farm management practices, facilitate stronger negotiation positions and access to new favourable markets a such they should be allowed. Company should be allowed to choose if they want to sell directly or trough the management Agents.	
	MOMUL TEA FACTORY CO. LTD	Amend Clause 10(2)(b) to include Participation through management Agents	Its implementation and the abandonment of KTDA as a brand name it could impact the sale of tea as a n agent known world over as a brand of tea and has established ready markets.	
	ERICK KIMUTAI LANGAT	Amend Clause 10(2)(b) by deleting it entirely	The factories sell their tea at the Auction in their names and not	

			through KTDA so the amendment in unnecessary.	
	BOMET TEA FARMERS	Amend Clause 10(2)© and (d) by deleting them thereby maintaining Section 36(5) & (6) in the Tea Act	The amendments will erode the benefits farmers are enjoying they are being paid by 5th of every month. Discord will result to separate and individual payment made on different days	
		Opposes deletion of section 36 (5) & (6) provisions on the payment of tea proceeds.	The proposed amendment will erode the benefits the farmers have enjoyed so far. KTDA (H) ensures that payment to growers is made promptly. When the Tea Act was enacted, payments to farmers were made in the third week of the month, but they are now made by the fifth(5th) of the month. This is highly appreciated by farmers. Discord will result from separate and individual payments made on various days.	
		Proposes to redraft 10	With the digitization of	

		(8) as follows: "The Cabinet Secretary shall, in consultation with the Council of Governors prescribe regulations for the procedure for auction sales of tea."	the Tea auction through the Integrated Tea Trading System it is unnecessary to decentralize the auction through the establishment of auction centres in the tea-growing counties. Digitization has improved the efficiency of the tea industry and increased transparency of trade. It has also reduced the trade cycle and administrative costs thus contributing to an increase in the incomes of producers and farmers at the farm level. The Council of County Governors (COG) provides a mechanism for consultation amongst County Governments.	
	Ekaterra Tea Kenya PLC	Opposes the deletion of new subsection 8 which provides for Setting up of auction centres in tea growing counties.	This provision is not clear on the framework, the criteria to be used and whether the option for the commonly used Mombasa Auction will	

			be affected. The cost and convenience of having separate auction centres scattered across tea producing counties will lead to the loss of the economies of scale and competitiveness of a centralized auction.	
	BOMET TEA FARMERS	Amend Clause 10(8) by deleting the amendment	With the digitization of the tea auction through integrated tea trading system it is unnecessary to decentralize the auction through the establishment of auction centres in tea growing counties.	
	SETH AGALA (TEA GROWER)	Amend Clause 10(8) by deleting the amendment	Establishing Auction centres will increase cost of business for the buyer and this may make the buyers move to Tanzania who are establishing a Tea Auction	
	MOMUL TEA FACTORY CO. LTD	Amend Clause 10(8) by deleting the amendment	Establishing different regulations for different tea growing counties will make the Kenyan market un attractive	

			thereby buyers will shift to Tanzania.	
	ERICK KIMUTAI LANGAT	Amend Clause 10(8) by deleting the amendment	95% of Kenyan Tea is exported hence an Auction Centre at the Coast is efficient to the buyer keeping it far from the coast may make the buyers run to Tanzania.	
	GATHUTHI TEA FACTORY FARMERS	Amend Clause 10(8) by including consultation of tea factories		
	Murang'a Tea Factory	Add the phrase **'or through an electronic auction system'** immediately after the phrase 'Tea processed and manufactured in Kenya for the export market may be offered for sale at the tea auction floor' Add the phrase **'relevant stakeholder Associations'** immediately after the phrase 'The Cabinet Secretary shall, in		

		consultation with the county governments' Delete the phrase 'for the procedure for auction sales of tea and' immediately after the phrase 'prescribe regulations'		
	TBK	Concur with the proposed amendment but incorporate the amendments proposed in section 34(A) to read as follows: **(11) All Tea processed and manufactured in Kenya** shall be traded through- (a) The auction; or (b) Direct sales (2) All tea processed and manufactured in Kenya for the export market shall be registered with the Board prior to exportation.	Agreed. To provide for an alternative channel for selling Kenya tea apart from the tea auction.	

	EATTA	Proposes to delete the word "not" in clause 10(2)(b) to allow tea factories to participate in an auction either on their own or through management agents.	To give liberty to tea factories on how they will participate in the auction.	
		Oppose the establishment of auction centres in tea growing counties	The benefits of having a consolidated auction that accommodates all the teas from the region provides economies of scale that translate to lower auction selling costs for the Producer as well as convenience to the Buyer who when blending different origin teas will need the teas to be easily accessible.	
	ALFRED NJAGI	Amend Clause 10(8) by deleting the amendment	The factories sell their tea at the Auction in their names and not through KTDA so the amendment in unnecessary.	
11 Direct sale of Tea/Tea Proceeds	KTDA	Objects to the introduction of the Direct Settlement System in the new proposed section 36B	The introduction of this Direct settlement system is excessive bureaucracy, as it could create additional administrative burdens	

			and costs for the farmers e.g. Operationalization of the DSS will have an expense including a secretariat to provide the services. Tea growers will be required to open and maintain accounts with DSS where proceeds for tea sales will be deposited to recover advance payment at the source. Risk of loss of money in the process of currency exchange dollars and interest charges. Tea is sold in dollars and during the exchange, banks bid competitively. With the DSS, farmers will lose the advantage of the competitive dollar exchange rate. ▪ The interlinkages between and among smallholder tea factories currently being enjoyed,	

			including economies of scale while selling dollars to banks, borrowing and placing deposits, will be lost. ▪ KTDA (H) treasury management has good deposit rates, ensuring that payment to growers is made promptly. ▪ These amendments will disenfranchise the aggregation model that has supported the small scale tea farmers for many years. The model ensures that irrespective of the cash flows of the factory that is dependent on the sales, every farmer is paid by the 5th of every month as a result of the economies of scale enjoyed under the aggregation model. If this arrangement is disrupted, farmers will register high level dissatisfaction. ▪ These proposals introduce loopholes that will be exploited to the detriment of the sector	

			farmers. ▪ The clause already specifies what must be paid, such as statutory fees, service provider fees, and other obligations. These should be delegated to be handled under the Regulations. ▪ The coffee trade was negatively disrupted following the establishment of the Direct Settlement System (DSS). There is need to ensure that similar detrimental upheavals do not impact the tea sector.	
	KTGA	36 A On prescription of procedure for direct sale, delete clause as it is restrictive of trade. Allow free trade. Alternatively, the average sale price over a historical period can be recommended for direct sales contract negotiations running for a period of over three months and weekly auction top	The proposal will be impractical to implement for the following reasons: Will all teas be required to be presented at the Auction floor for the assessment of the price? This will increase logistical and administrative costs and occasion marketing inefficiencies. If forward contracts are entered and then the	

		hammer price for any grade for weekly spot offers. 36B; Propose to Distinguish industry players- KTDA vs. other private producers/players and apply appropriate measures to address the mischief through the Regulator where necessary.	market moves upwards or downwards, it will not be possible to adjust the contract stipulated terms of direct sales agreements. Administering the changes in price retrospectively will be impossible/impractical. It is also not possible to project forward contracts' prices. The competitiveness of price for tea sold through direct sales has been achieved by ensuring the specific requirements of the buyers are met and the producer ensures that their costs are effectively catered for to ensure business sustainability. Profitability is the essence of all business enterprises. It cannot be assumed that producers can elect to sell teas at a less than the best possible price. However, it was	

			observed that previous (2021) Price stipulation at the Auction has not worked, so price should not be stipulated and market factors should determine price with business playing competitively to ensure sustainability and profitability. The producer has a prerogative to sell their tea at an appropriate price/set price. This stipulation would restrict free trade. The proposal will disadvantage a Kenyan producer in competing with regional producers. For instance, other countries will not stipulate such minimum price requirements for direct sale The proposal presumes that all proceeds of tea sales are for small holder farmers whose leaf is processed by KTDA (MS). There are	

			producers with own estates running consolidated operations with internal financial operations. The proposal is overly financially intrusive and impractical considering the varied financial and statutory practices of the private industries.	
	EATTA	Proposes to delete clauses (3) and (4) in new clause 36A	The next clause on the direct sale buyer having pre-emptive rights to purchase the tea at the auction price is confusing because the statement pre-emptive rights means he has the right of first refusal which is not what was intended. It is not common practice for a tea to be offered in the auction and at the same time as a direct sale. This clause also is not practical in cases where producers enter into forward contracts with buyers.	
		The proposal for a direct settlement	EATTA already has a tea sales collection	

		scheme is not clear in terms of who its intended for and it interferes with the freedom of contracts	account with two banks Stanbic bank and Equity Bank. Producers have a choice on whether to be paid through the bank or directly by the Broker. Further, currently EATTA has in place minimum requirements schedule for any commercial bank that expresses interest to participate in the system. Therefore, since the Cabinet Secretary shall be required to make regulations for the operation of a Direct Settlement System will this mean a closure of the current system. The intention of another payment system remains unclear and there may be a problem in implementation. As a key tea value chain player, EATTA needs to be consulted when the regulations for Direct Settlement System are being formulated by the	

			Cabinet Secretary. 2. Tea producers other than the Tea Factory Limited Companies have obligations that may get disrupted by the imposition of the settlement scheme. 3. The requirement that all payments must be disbursed including statutory is impractical as tax obligations already have due dates and schedules. Also, tea companies have negotiated credit terms to suit their operations and this should not be subjected to Bills of parliament.	
	Ekaterra Tea Kenya PLC	Welcomes the amendment introducing direct sales. The Company is however opposed to regulation of direct sales prices.	The imposition of further conditions contained in subsection (3) would result in the unfair regulation of a free market economy. Section 36 (2), (3) and (4) is against the right of freedom of contract. Once a contract is executed, its binds the	

			parties and it would not be possible to change the prices without mutual agreement by both parties in respect of any variation. This system would create uncertainty. Further from a practical perspective no buyer would be willing to purchase the tea at a higher price than what is provided in the contract. Any regulations on direct sales should be restricted to KTDA and not large scale tea growers. Subsection (3) on the direct sale buyer having pre-emptive rights to purchase the tea at the auction price negates the purpose of parties' free right to agree on the price upon which the tea is to be sold. It is also unclear on who will determine the reserve price and whether teas scheduled for direct sales would	

			have to go through the auction for purposes of determining whether the sale price is above the reserve price.	
		Opposes the direct settlement system and proposes that the same be limited to KTDA factories not every company in the value chain.	The provision should only apply to KTDA factories. The provision will unduly interfere with the operations of private companies who may be compelled to reveal their trade secrets, contracts and other proprietary secrets. Ekaterra Tea Kenya PLC is concerned that its obligations will be affected by the imposition of the DSS.	
	Oraro & Company Advocates	Proposes inclusion of the following clauses in clause 11: "Regulatory requirements relating to food safety, marketing requirements and labelling requirements"	These are simply additional changes which were not included in the Bill.	

		Secondly, it should be an offence if a person fails to comply with the requirements stipulated.		
		Regarding the DSS, it is proposed to establish a regulatory authority which will conduct regular inspections and audits of direct settlement system to ensure compliance with legal and regulatory requirements and identify potential risks and vulnerabilities.	This is intended to create oversight to protect growers' proceeds from risks and ensure the safety and efficiency of payment systems.	
	Murang'a Tea Factory	Add the phrase **'contracted through a legally binding agreement'** immediately after the phrase 'A licensed factory or any other entity'	It is not practical and should wait for regulations to be developed	
		Delete the phrase **'representing growers'** immediately before the phrase		

		'may undertake direct sales' Delete clause 11(3) Add the phrase **'tea factories and relevant tea associations'** immediately after the phrase 'The Cabinet Secretary shall, in consultation with county governments' Replace the term 'tea growers' with **'tea factories'** Add the phrase 'This shall not apply in case of a prepayment made to the factory by a buyer whose proceeds shall be processed and made available to the factory within one day'		
	BOMET TEA FARMERS	Amend Clause 11-36B (1) by deleting the amendment	Introduction of DSS is excessive bureaucracy and will create an	

			additional administrative cost to the farmers	
	SETH AGALA (TEA GROWER)	Amend Clause 11-36B (1) by deleting the amendment	Introduction of DSS for all service providers and statutory deductions at source then there is a chance that the farmers will not be paid promptly	
	Tea Farmers of Momul Factory	Amend Clause 11-36B (1) by deleting the amendment		
	ERICK KIMUTAI LANGAT	Amend Clause 11-36B (1) by deleting the amendment	There is no need for DSS as its going to be difficult to operationalize because of the different stakeholders involved.	
	BOMET TEA FARMERS	Amend Clause 11-36B (2) by deleting the amendment	Introduction of DSS is excessive bureaucracy and will create an additional administrative cost to the farmers	
	Tea Farmers of Momul Factory	Amend Clause 11-36B (2) by deleting the amendment		
	THEOPHILUS MIBEI &	Amend clause 11-36B (2) by deleting the		

	GEOFFREY MUTAI	word tea growers and substituting with factory's tea sales account		
	BOMET TEA FARMERS	Amend Clause 11-36B (3) by deleting the amendment	Introduction of DSS is excessive bureaucracy and will create an additional administrative cost to the farmers Farmers to lose money during dollar exchange	
	THEOPHILUS MIBEI & GEOFFREY MUTAI	Amend Clause 11-36B (3) by deleting the word to coming immediately after the word regulations	The wording of he paragraph makes it superfluous.	
	Tea Farmers of Momul Factory	Amend Clause 11-36B (3) by deleting the amendment		
	TBK	Do not concur with clause 11(1)	The "any other entity" is not defined in the Act and it will bring ambiguity and confusion and open up the sale of teas to entities that are not defined or regulated under the Tea Act, as such may bring about conflict of interest.	

		Concur with sub clause 2 but amend to read **"the prices offered for direct sales shall be competitive and shall be sold at a price above the prevailing auction price for similar tea on the same date of the auction"**	To ensure that fairness and competitive prices are realised through direct sales channel. To ensure that tea growers benefit from higher prices than the prevailing reserve price realised at the auction.	
		Add another clause 2A; **'All direct sales forward contracts shall commit to quantities with the prices being left to be determined by the prevailing auction prices as provided for under Section 36A (2)**	To ensure that fairness and competitive prices are realised through forward contracts committed through direct sales channel.	
		Do not concur with sub clause 3	Giving pre-emptive rights to the buyer carries a risk of suppressing competition at the auction.	
		Do not concur with sub clause 4	Tea is majorly an export crop as 95% of	

			tea produced is exported to the international market. International trade remains the role of the National Government with respect to Trade according to the Fourth Schedule of the Constitution of Kenya 2010.	
12 registration of commercial green leaves transporters	KTDA	Proposes a review to eliminate the inconsistency	This amendment duplicates duties by requiring the Tea Board of Kenya and County Government to register commercial green leaf transporters. It also contradicts the function of the Tea Board of Kenya under Section 5 € of the Tea Act, 2020. Counties will establish various levy rates, and there is a possibility that licensing prices could rise.	
13 Establishment of Tea Levy	KTDA	Objects to the new tea levy and proposes a deletion of the amendment in 13 (a) in entirety.	The introduction of an absolute levy of Ksh.3.85 per kg is an actual increase. This will make local produce more expensive for small-scale tea farmers	

			at the Auction. The government should promote the tea industry by lowering the price of agricultural inputs. The proposed amendment would decrease the percentages going to price stability from 50% to 40% while increasing the percentages going to the Tea Board from 15% to 30%. ▪ Further, it suggested lowering from 15% to 10% the allocation for infrastructure in the tea sector. The allocation for tea research doesn't change and stays at 20%. Since the Tea Board of Kenya and the Tea Research Foundation would receive 70% of the levy, this expense of subsidizing government organizations will be	

			expensive for tea growers. ▪ Tea Research is a national function and should be funded by the National Government. ▪ This will disadvantage Factories that are already spending a percentage of their proceeds on road maintenance.	
		Proposes to delete clause 13I and redraft the same as follows: The Principal Act is amended by inserting the following new sub section immediately after section 54(5) (d) "A Fund Management Committee shall be established to manage the funds for infrastructure development in the tea subsector provided that there shall be a representation of the tea factory from the respective county."	There is a risk of accountability of the Tea Levy. To promote transparency, there is a need to introduce a fund management committee with a representative from the tea factories and creation of separate accounts for those funds.	

	BOMET TEA FARMERS	Amend Clause 11-36B (3) by deleting the amendment	Introduction of DSS is excessive bureaucracy and will create an additional administrative cost to the farmers Farmers to lose money during dollar exchange	
	THEOPHILUS MIBEI & GEOFFREY MUTAI	Amend Clause 11-36B (3) by deleting the word to coming immediately after the word regulations	The wording of the paragraph makes it superfluous.	
	Tea Farmers of Momul Factory	Amend Clause 11-36B (3) by deleting the amendment		
	BOMET TEA FARMERS	Amend Clause 11-36B (3) by deleting the amendment	Introduction of DSS is excessive bureaucracy and will create an additional administrative cost to the farmers Farmers to lose money during dollar exchange	
	THEOPHILUS MIBEI & GEOFFREY MUTAI	Amend Clause 11-36B (3) by deleting the word to coming immediately after the word regulations	The wording of the paragraph makes it superfluous.	
	Tea Farmers of Momul Factory	Amend Clause 11-36B (3) by deleting the amendment		
	BOMET TEA FARMERS	Amend Clause 11-36B (3) by deleting the amendment	Introduction of DSS is excessive bureaucracy and will create an	

			additional administrative cost to the farmers Farmers to lose money during dollar exchange	
	THEOPHILUS MIBEI & GEOFFREY MUTAI	Amend Clause 11-36B (3) by deleting the word to coming immediately after the word regulations	The wording of he paragraph makes it superfluous.	
	Tea Farmers of Momul Factory	Amend Clause 11-36B (3) by deleting the amendment		
	BOMET TEA FARMERS	Amend Clause 11-36B (3) by deleting the amendment	Introduction of DSS is excessive bureaucracy and will create an additional administrative cost to the farmers Farmers to lose money during dollar exchange	
	COG	Proposes a revision of 13 I to read as follows: (b)ten per centum shall be applied by the Board in the furtherance or exercise of any function or power of the Board; (d) thirty per centum shall be remitted	This is to align the provisions of the Act to the provisions of Part 2 sections 1 and 7 of the Fourth Schedule to the Constitution which stipulates that the County Governments shall be responsible for development and regulation of agriculture. To achieve this,	

		directly to the tea growing counties to be applied for infrastructure development in the tea subsector on a pro rata basis.	counties need to be adequately resourced, we therefore propose that 30% of the Levy is directly disbursed to counties for development of the tea sector.	
	KTGA	Propose inception of the quantum at Kshs.1 per kilo of made tea and progressive improvement through regulation based on budgetary requirements of TBK and TRF.	Adoption of quantum based (kg) levy is acceptable but Kshs. 3.85 is too high and will effectively negatively impact incomes of small-holders, a key segment whose proceeds the Bill indicates it intends to preserve.	
		Propose to reallocate 20% of the levy to (improvement, maintenance) of tea catchment road networks unclassified) where 20% is channelled directly to the tea growing Counties and the other 80% is allocated to Tea Roads Management Committees (TRMC) comprising the tea		

		stakeholders in a certain geographical zone/region akin to the former Cess Committees.		
		Propose to reduce the amount allocated to the TBK to only 10% instead of 40%.	FAO report indicates that price stabilization is not practical. Where it has been attempted, it has proved unfeasible. Focus should therefore be placed on assisting small-holder farmers to replace their old unproductive tea bushes with newer high yielding clones. We propose an allocation of 10% of the 40% allocated to TBK and only beneficiaries of the income stabilization scheme should contribute to the amounts to be applicable to the income stabilization program.	
		Delete the phrase "packed into packets or containers holding not more than ten kilograms" as per justifications above so that the exemption is	This will overall incentivize value addition ventures.	

		applicable to all value-added teas.		
	Ekaterra Tea Kenya PLC	Objects to charging of levy at the proposed rate of Kshs. 3.85 per kilogram of made tea exported in bulk.	The proposed tea levy that was to be charged at 1% of the auction values for teas sold was suspended by the Court. Adoption of quantum based (kg) levy is too high and an additional cost that may make Kenyan tea uncompetitive.	
	EATTA	Proposes to review the levy charged (kshs. 3.85% per kilo) as it is too high.	The adoption of quantum based (kg) levy accepted but the price of Kes 3.85 is too high. EATTA has always stated that a levy based on quantum of kilos was preferable but the position is that the amount should be a rate of Kshs 1 per kilo. There should be further guidance provided through regulation based on budgetary requirements for TBK and TRF.	
		Proposes a re-allocation of the levy collected as follows:	Studies have shown that price stabilization as a strategy for margin	

		40% of the collected levy to the TBK, 40% to the Tea Research Institute, 20% of the remainder to be shared with the county government, Tea Roads Management Committee and Mombasa County where the Tea Auction is domiciled.	compensation is not sustainable. The allocation of the tea levy to the Tea Board of Kenya should be at a rate of 40% to cover the costs of carrying out their functions. Research is an important aspect for the sustainability of the industry; therefore the Tea Research Institute should be allocated 40% of the funds from the levy. We are of the opinion that the Tea Research Institute should be delinked from Kenya Agricultural and Livestock Research Organization (KALRO) and given autonomy with its own governance structure. The last 20% of the tea levy should go to infrastructure development. It should be shared as follows; **15)** 20% to County government for improvement	

			and maintenance of tea catchment road networks (unclassified) of tea growing Counties, and ii) 80% to Tea Roads Management Committees (TRMC) comprising the tea stakeholders in a certain geographical zone/region akin to the former Cess Committees. iii) A portion of the levy should be allocated to Mombasa County where the Tea Auction is domiciled for improvement of the road infrastructure to ensure that tea reaches the market on time. Precedent has been set whereby Counties that have oil receive a portion of the royalties from extraction.	
15 Transfer of assets and liabilities	Oraro & Company Advocates	Proposes the addition of movable assets in the clause	Incorporating this change will ensure that all movable assets of the former TBK and the Tea Research	

			Foundation are vested in the Board and Foundation respectively.	

OTHER COMMENTS:

Tea Farmers of Momul Factory

1. Tea amendment Bill 2023 was not formally presented to the farmers within the stipulated time as per the Articles of Association of the Company within 21 days and in a language they understand better.
2. Amend the long title of the Bill to include establishment of new rea factory.
3. Reject proposal to pay at least fifty per centum of payment due for green leaf delivered every month.
4. Reject proposal to have the cabinet secretary without consulting tea farmers

County Assembly of Bungoma

5. Clause 34A provides for sale by Auction or direct sales. There is need to put measures to protect the tea growers by cartels.
6. Introduce sanctions to non-compliant duty bearers who fail to remit farmers money during the stipulated time under clause 11-36B (2).
7. Provision to amend the number of directors of a tea company to a minimum of 6 and to ensure gender rules.

Seth Agala (Tea grower in Mudete Tea Factory)

8. Welcomes the introduction of Clause 34A which introduces direct sales.
9. The price variance between the farmers in the East f the rift and those from the west of the rift usually has huge disparity with those from the east getting way more than their counterparts in the West.

Momul Tea Factory

10. Memebership of the board be a maximum of seven members.

11. Reserve prices should be subject to amendments on periodic basis and based on factory performance.

12. Directors term of office should be limited to 5 years.

13.

Gathuthi Tea Factory Farmers

14. Membership of the board be a minimum of five and maximum of eight members.

Small Scale tea farmers in zone 5 (Kirinyaga County)

15. Membership of the board be a minimum of six and maximum of nine members.

16. A tea factory to pay farmers at least a third due for green leaf delivered every month.

17. Delete Section 53 clause 2 and 5.

Joseph N Githui

18. Cash crops(Tea and Coffee) should have direct sales from the processing factories.

19. Ministry of Agriculture should work hand in hand with factories at the grass roots.

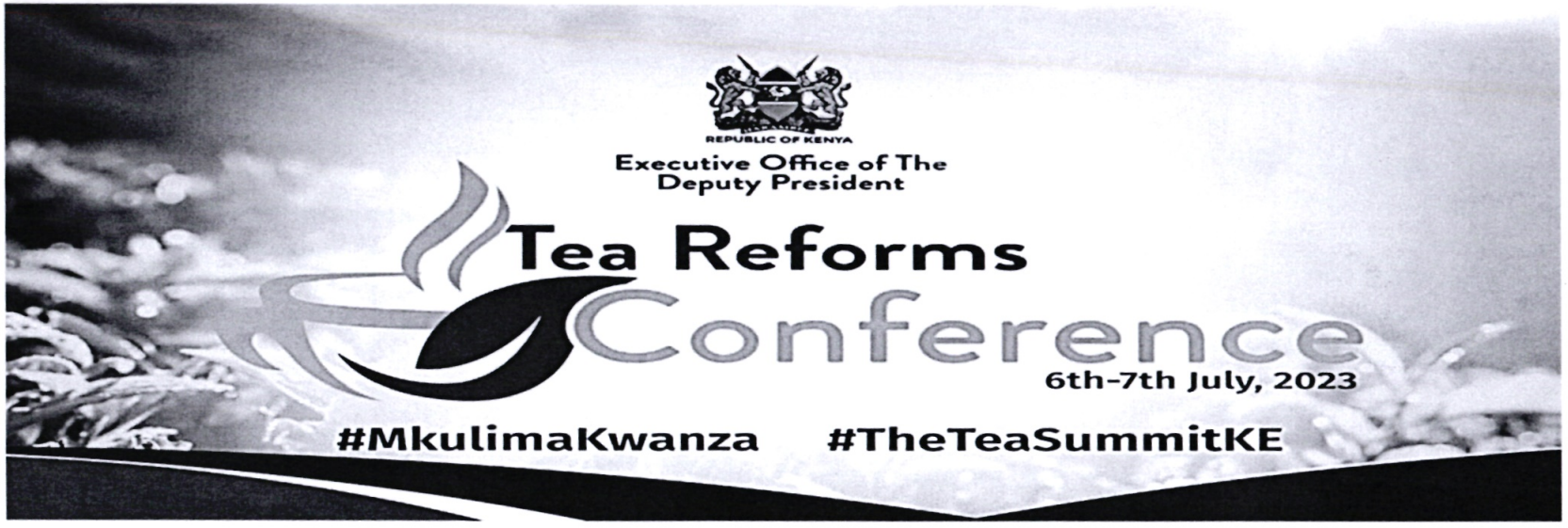
20. Ministry to assist farmers in soi testing.

21. Ministry should assist farmers in obtaining modern species with high yields.

Benson Mbogo

22. Directors of Companies should not have a limited term.

APPENDIX 7





SUMMARY OF ISSUES RAISED ON KEY THEMATIC AREAS DURING THE TEA CONFERENCE HELD IN KERICHO GOLF CLUB 6-7 JULY, 2023

NO.	Thematic area	Guiding Notes	Issues	Recommendations
1	**PRODUCTION LEVEL**	Farm Inputs	• Increased cost of production and low productivity occasioned by High-cost inputs and poor governance • Substandard/uncertified farm inputs; seedlings, pesticides, herbicide • High cost of fertilizers, • Lack of knowledge and access to appropriate and region-specific farm inputs, and inadequate information on their correct usage	• Increase provision of **subsidized and affordable** fertilizers of the **right quality** by the government and in a **timely manner;** • Ensure that the system for procurement of fertilizer is be transparent and open; • Ensure the use of cheapest, effective, efficient means of transport in transporting fertilizers; • Ensure procurement of fertilizer transportation is done competitively; • Establish a fertilizer factory in Kenya; • Improve access to quality inputs by promoting the establishment of localized input supply chains and cooperatives. • Provide training and extension services to farmers on the correct usage and application of fertilizers, pesticides, and seed varieties. • Promote the use of organic and sustainable farming practices to improve soil health and fertility.
		Machinery	• Heavily reliance on manual labor, which is expensive, time-consuming and inefficient compared to mechanized processes • Limited availability, access and affordability to modern and efficient machinery for tea production, including plucking	• Empower small scale farmers to adopt use of technology; • Support small scale farmers to acquire affordable and appropriate modern equipment: • Strengthen collaboration between tea farmers to pool resources and invest in shared machinery;

NO.	Thematic area	Guiding Notes	Issues	Recommendations
			machines, pruning equipment, and processing machinery • High costs associated with machinery procurement, maintenance, and repairs • High cost of importation of Machinery	• Provide affordable machinery financing options for farmers to acquire modern equipment; • Establish machinery rental services or cooperative partnerships to ensure wider availability and utilization of efficient tea production machinery; • Set up local Manufacturers of Tea machines and equipment encourage local fabrication of the machinery; and • Creation of alternative mechanisms /avenues for job creation
		Soil Fertility and Climatic Conditions	• Lack of knowledge about region specific soil fertility and understanding of sustainable soil management practices • Different Climatic conditions and soil fertility leading to differences in the prices between the Eastern region and the western region	• Support research and development of region-specific soil fertility improvement methods for tea plantations. • Provide region specific fertilizer subsidies in accordance with soil fertility • Establish farmer training programs to educate farmers on proper soil management techniques and the importance of maintaining soil fertility.
		Extension services	• Inadequate provision of extension services leading to low productivity of tea.	• County Government to hire extension officers that are well trained on matters Tea.
		Research and Development	• The abolishment for levies slowed the tea research. • Underfunding of the Tea Research Institute	• Fastrack implementation of the Tea Act 2020 • Revitalize and fund the Tea Research Foundation

NO.	Thematic area	Guiding Notes	Issues	Recommendations
				• Enhance Research on region specific Fertilizers • Establishment Tea Science Academy • Promotion of Tea tourism • Enhance research on development of proper Tea clones
		Registration of farmers	• Lack of up to date data on farmers and their farm acreage	• Verification/ registration of all Tea farmers by the Tea Board of Kenya to commence immediately; and • Tea Board of Kenya to ensure development and enforcement of proper database per factory which should be accessible online.
		Health Insurance for farmers	• Access of health care services by the farmers through "Kinga ya Wakulima" has been a major challenge	• KTDA to partner with NHIF to come up with a health insurance cover for farmers
		Tea Cess	• Implementation of Tea Cess fund has been a challenge leading to poor conditions of roads.	• Develop legislations on management of the Tea Cess fund; giving the factories the funds for road maintenance
		Women involvement/ Representation- control of resources	• Women are the laborer but lack the growers membership numbers	• Government to come up with measures to increase the number of women from tea growing households with growers' number
		Diversification in Tea farms	• Restrictions of planting of fruit and trees in the tea farm.	• Development of guidelines on how to farmers can undertake diversification by Tea Board of Kenya
				• Adoption of high yielding Tea should be encouraged

NO.	Thematic area	Guiding Notes	Issues	Recommendations
		Communication between the farmer and KTDA	• Barriers in communication between the farmers and KTDA	• Tea Board of Kenya to Create website/platform where they make information readily available to the farmers
	PROCESSING LEVEL	Focus/Discussions may include the following areas • Aggregation • Human vs Technology interface • Processing, Grading & Packaging Are there gaps (i.e. existing/implementation inhibiting effective & efficiency operations in the tea sub sector	• Losses associated with **Tea handling** right from picking, packing, farmers mode of delivering harvested tea, the distance between the farm and collection Centre may lead to tea spillage. • Loss associated will handling of green leaves right from the collection Centre, delivery to the factory, storage, withering, fermenting all the way to drying. • **Rising cost of processing:** The increase in cost of production is majorly associated to labor cost, high cost of fuel, high electrical fuel cost and packaging material;	• Factories, extension workers and research to work closely with farmers to ensure quality production & delivery to factories; • Develop a framework/regulation for quality assurance for farmers, factories and across the entire value chain • Continuous enhancement of factories and farmers' capacity for better informed decision on production as well as on market. • Product & processing modernization (i.e. Upgrading processing technology) to cut down on cost; • Develop a standardized cost model for tea processing and the entire value chain • Embrace energy efficiency and low-carbon energy sources to reduce emissions and cut on high costs.

NO.	Thematic area	Guiding Notes	Issues	Recommendations
				• Kenya power to Develop a framework to facilitate KTDA to "net-off" while transmitting excess power and to harmonize the in-take & off-take tariff between KTDA & Kenya Power • Government to consider giving a moratorium for zero-rated importation of modern tea processing machineries and spares and packaging materials • Government committed to prioritize licensing/permit tea factories to harvest mature trees and also in support of tree planting; • An evaluation needs to be undertaken to ascertain if the tea packaging materials maintain the quality of tea in storage while in extreme climate conditions • Continuous research on alternative methods of processing tea; • Adopt a coding system where the identity of farmer, factory, buyer and seller are known after sale;

NO.	Thematic area	Guiding Notes	Issues	Recommendations
			• **Cost of procurement of equipment:** Tea factory machinery largely imported with (**** 16% VAT on tea processing machine is never refunded) • **Human capacity**: Poor governance including increased cost associated with salaries for factories (i.e. conflict of interest where some staff are paid higher wages compared to others on the same cadre)	• Lobby for establishment of local Manufacturer or partnership to produce specialized tea machinery & equipment's; • Enforce adherence to procurement process in factories and across the value chain • Outsource services which are not core to the factories and across the value chain • Develop a standardized Human resource policy, renumeration and code of conduct for staff across all tea factories and the entire value chain to enhance accountability
	MARKETING	Focus/Discussions may include the following areas • Pricing & returns	• **Market Diversification**: Kenya heavily relies on a few key export markets for its tea, such as Pakistan, Egypt, the United	• Diversifying into emerging markets is essential to reduce vulnerability and create new avenues for growth

NO.	Thematic area	Guiding Notes	Issues	Recommendations
		• Markets • Product brands • Promotions (local and foreign markets) Are there gaps (i.e. existing/implementation inhibiting effective & efficiency operations in the tea sub sector	Kingdom, and Afghanistan. Overreliance on a limited number of markets exposes the industry to market risks, including political instability, changes in trade policies, and economic downturns. • **Lack of Market Information:** Many Kenyan small-scale tea farmers lack access to timely and accurate market information. This hinders their ability to make informed decisions on when and where to sell their tea. Without proper market insights, farmers may not be able to negotiate fair prices or take advantage of favorable market conditions. • **Promotions**: Lack of targeted marketing campaigns hinder promotional efforts • **Pricing and Returns**: Price discovery and volatility. Fluctuating global tea prices pose a significant challenge for tea marketing in Kenya. The industry is highly dependent on international markets,	• Ambassadors/diplomats in various representative states to be on the frontline marketing tea in the bilateral trade • Promote marketing at both county and national level- Effective promotion of Kenyan tea is vital to create awareness and expand market reach. • Reaching both local and international consumers, and educating them about the taste, health benefits, and versatility of Kenyan tea, requires strategic and well-executed promotional activities. • Produce our own packaging materials. • Certification in parliament entrenched in law to meet international standards. Compliance with internationally recognized sustainability standards such as Fairtrade, Rainforest Alliance, and Organic certifications to access premium markets. • Enhancing Financial Inclusion: Facilitating access to affordable credit and financial services tailored to the needs of tea farmers can help them invest in their farms, adopt modern agricultural practices, and improve productivity. • Provide advanced technology in determination of quality assurance of tea.

NO.	Thematic area	Guiding Notes	Issues	Recommendations
			and when prices decline, it affects the profitability of tea farmers. • **Dependence on Middlemen:** High reliance on intermediaries or brokers who purchase their tea at low prices and sell it at higher prices to tea factories or exporters. This exploitative middleman system reduces the income potential for farmers and limits their bargaining power. • **Lack of proper/advanced technology in quality assurance**: use of traditional methods to determine taste and quality of tea • **Infrastructural Challenges:** Poor transportation/road networks, inadequate storage facilities, and limited access to markets can hinder the timely delivery of tea to global buyers. These issues result in higher transportation costs, longer delivery times, and potential quality deterioration during transit.	

NO.	Thematic area	Guiding Notes	Issues	Recommendations
4.	**VALUE ADDITION**	Discussions/focus may include the following areas • Pre-harvest to post harvest • Blending, Packaging, Branding • Tea financing along the value chain • Are there gaps (i.e., existing/implementation inhibiting effective & efficiency operations in the tea sub sector	• High cost along the value chain	• Develop a framework for costing across the value chain to reduce the high cost including collaboration/partnership with private sector
			• Multiple Certification: The multiple certifications result in additional fees and taxes which burdens the growers	• Develop regulation to guide in certification and licensing by various agencies including consolidating certification levies and fees, and/or reduction/removal of charges for licenses.
			• Identity of Kenyan tea	• Establish a branding based on geographical attributes • Develop a Unified Brand of Kenya Tea
			• Value Addition at the Factory Level	• National & County Government to identify and establish a value addition factory (i.e at County level or regional Block)
			• Adoption of technology in packaging and testing of tea	• Embrace technology in packaging of Tea and produce packaging materials locally • Adopt use of the technology in Tea testing/determination of tea
			• Liberalization of the auctioneer	• Consider review of the Regulation on Mombasa Tea Auctioneer to encourage more competitive tea auction for better return for farmers and decongest the Mombasa auction center
			• Governance across the value chain	• Enforcement of the relevant act to ensure all players along the value chain are held to account
			• Improved efficiency in "Ketepa"	• Need support and resources from the government; • Chai trading should focus on warehousing only.

NO.	Thematic area	Guiding Notes	Issues	Recommendations
			• Research and Development	• Revitalize and fund Tea Research Foundation • Establish Tea Science Academy
			• Affirmative Action	• Sensitize, capacity built and enforce to ensure inclusivity of women and youth along the value chain including participation in high-level gatherings and AGMs, expanding their involvement beyond tea farm work.
5.	**LEGAL ISSUES**	Litigation matters in court New legislation Cooperate Governance	Litigation matters in Court challenging section of the Tea Act 2020 which came into effect in January 11, 2021. They include 9 cases as follows i. Four (4) by KTDA; ii. Two (2) by EATTA iii. Two (2) by KTGA, iv. One (1)by Bomet County Issues raised include i. EATTA challenging regulations 2010 ii. EATTA case challenging the Tea Act iii. KTDA Cases on leadership - Elections ousting former directors were not in accordance with the law Sections held by court orders include: i. S. 5 functions of the board	• Intervention required by former directors • Engage in negotiation with the directors, both former and current, to withdraw the cases with a view to operationalize the Act; • H.E the Deputy President requested to meet the former directors with a view to reaching a consensus to allow fully operationalization of the Act; • Farmers have no problem with former directors vying, • Political backing to avoid a witch-hunt of former directors Bill to be fast-tracked

NO.	Thematic area	Guiding Notes	Issues	Recommendations
			ii. S.21(1) registration of small-scale and medium scale tea growers iii. S. 22 bod of a tea factory iv. S. 25 licensing of private manufactures v. S. 32 reg of tea brokers vi. S.33 reg of a management agent vii. S.34 management agent agreement viii. S. 36 auction process ix. S. 37 reg of commercial green-leaf transporters x. S. 39 Consideration before registering, licensing of fact and renewal xi. S.40 conditions of a licensing xii. S.41Application of renewal of a license xiii. S.42 revocation and alteration xiv. S.45 approval of fees charged xv. S.48 value addition xvi. S.53 establishment of tea levy xvii. S.74Authorith of cs to make regulation of the tea industry **KTGA issues: KTGA is Opposed to;** i. Direct sales,	The bill will address levy and value addition issue i. Engagement with AG KTGA to iron out the issues in a bid to free the Act to be operational. ii. s. 53 Requires legal intervention iii. Proposal for a lean team of stakeholders to be draft the legal intervention to protect all parties involve formed awaiting the Act operationalization. iv. Aligned with KTGA position

NO.	Thematic area	Guiding Notes	Issues	Recommendations
			ii. Prescription for 40% on value addition, in 8 years iii. Tea levy percentage (too costly.)- Requesting for uniform levy. (definite amount per kilo) iv. Apportionment of the levy, v. TRF is owned by farmers, misaligned with tea industry vi. Infrastructure fund needed vii. Application of the stabilization fund	Parties to agree on the fee, made a commercial decision
			EATTA Issues i. s.36 direct sales ii. Value addition, not reasonable to enforce this provision on a buyer. Market destabilization	
			On Tea levy i. s.32 3b tea brokerage no. of gardens a broker should handle; opposed on grounds that EATTA is a regional ii. what is the 0.75% brokerage fee rate based on. Let parties agree/ a commercial decision iii. S.5l prescriptions by the tea board on payment of green	Negotiations are desirable in order to uplift the farmer not only the other stakeholders in the tea sector

NO.	Thematic area	Guiding Notes	Issues	Recommendations
			leaf; should not be prescribed in the Act; some cost components were omitted in the prescription. **COG concerns** Constitutional functions that were devolved had been taken back to minister **Governance Isuues** i. KTDA MS interference with KTDA holdings ii. One farmer 1 vote system of election iii. Advocate for rotation in the regions and the factory.	